

Proposed Change 1 to the Regional Policy Statement for the Wellington Region

Section 42A Hearing Report Hearing Stream 5

Topic: Freshwater and Te Mana o te Wai

Process: Freshwater Planning Process

Prepared by: Kate Pascall (GHD Limited)

Report Date: 20 October 2023

Hearing Date: 20 – 23 November 2023

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Executive Summary

1. This report considers submissions received by Greater Wellington Regional Council ('the Council') in relation to the relevant provisions of Proposed Change 1 to the Regional Policy Statement (RPS) for the Wellington Region ('Change 1') as they apply to the Freshwater and Te Mana o te Wai¹ topic.
2. This topic is following the Freshwater Planning Process of the Resource Management Act 1991 (RMA).
3. A total of 653 submission points and 625 further submission points were received on the provisions relating to this topic. The submissions were wide ranging and seek a range of different outcomes for the freshwater management provisions of the RPS. A significant number of specific policy wording amendments are sought. The matters raised in submissions include:
 - The categorisation of provisions between the FPP and the P1S1 processes for Change 1
 - Providing regional context for the NPS-FM
 - The statutory weight to be given to the mana whenua/tangata whenua statements of Te Mana o te Wai
 - The absence of Freshwater Visions in Change 1, which are required by Clause 3.3 of the NPS-FM
 - The proposed approach to water allocation
 - Provisions that relate to managing the effects of urban development on freshwater and the CMA
 - The respective roles and responsibilities of the regional council and territorial authorities, particularly in relation to managing the effects of urban development and earthworks and vegetation clearance on water bodies and freshwater ecosystem health
 - Managing water takes and use of water relative to the Te Mana o te Wai hierarchy of obligations
 - Protecting and restoring the ecological health of waterbodies
 - Reducing water demand and the roles and responsibilities of the Council and territorial authorities
 - Requirements for territorial authorities to charge financial contributions for stormwater treatment and management.
4. Other issues raised by submitters in relation to this topic are also covered in the report along with a range of consequential amendments that have arisen in responding to submissions.

¹ As set out in Clause 1.3 of the NPS-FM 2020

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5. As a result of analysing the submissions and key issues, I have recommended a number of amendments to the Change 1 provisions to address these concerns. These amendments can be summarised as follows:
 - A new Objective 12 to reflect the concept of Te Mana o te Wai in the regional context
 - The inclusion of a Statement of Te Mana o te Wai from Taranaki Whānui
 - New policies to clarify how the mana whenua/tangata whenua Statements of Te Mana o te Wai should be considered and implemented
 - A number of amendments to policies to clarify the roles and responsibilities of the Council relative to territorial authorities in the region
 - New definitions to support my recommended amendments and/or to address the relief sought by submitters
 - Re-framing the definition of 'hydrological controls' as a policy, with an amended definition
 - A range of more minor but nonetheless important amendments to address specific relief sought by submitters, including alignment with national direction and consistency across RPS provisions.
6. I have also undertaken a Section 32AA evaluation for the amendments I have recommended.
7. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that Change 1 be amended as set out in **Appendix 1** of this report.
8. For the reasons outlined in the Section 32AA evaluation and outlined in this report, I consider the proposed Issues, Objectives and related provisions, with the recommended amendments, will be the most appropriate means to:
 - Achieve the purpose of the RMA and give effect to higher order planning documents, in respect to the proposed objectives, and
 - Achieve the purpose of Change 1 and relevant objectives of the RPS, in respect to the proposed provisions.

Interpretation

9. This report utilises a number of abbreviations as set out in the table below.

Table 1: Abbreviations of terms

Abbreviation	Means
the Act/RMA	Resource Management Act 1991
the Council	Greater Wellington Regional Council
CMA	Coastal Marine Area
FMU	Freshwater Management Unit
FPP	Freshwater Planning Process
NES-F	National Environmental Standards for Freshwater
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 202
NZCPS	New Zealand Coastal Policy Statement
P1S1	Part 1 Schedule 1 of the RMA
Change 1	Proposed Change 1 to the Regional Policy Statement for the Wellington Region
RPS	Operative Regional Policy Statement for the Wellington Region 2013
WWRS	Wairarapa Water Resilience Strategy

Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Ātiawa	Ātiawa ki Whakarongotai Charitable Trust
BLNZ	Beef and Lamb New Zealand
CDC	Carterton District Council

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DGC	Director-General of Conservation
Fish and Game	Wellington Fish and Game Council
Forest and Bird	Royal Forest and Bird Society of New Zealand
The Fuel Companies	BP Oil NZ Ltd Mobil Oil NZ Ltd and Z Energy Ltd
GBI	Guardians of the Bays Incorporated
GWRC	Greater Wellington Regional Council
Hort NZ	Horticulture New Zealand
HCC	Hutt City Council
Kāinga Ora	Kāinga Ora Homes and Communities
Kahungunu	Kahungunu ki Wairarapa
KCDC	Kāpiti Coast District Council
MDC	Masterton District Council
Meridian	Meridian Energy Limited
MPFG	Mangaroa Peatland Focus Group
Muaūpoko	Muaūpoko Tribal Authority
Ngā Hapu	Ngā Hapu o Otaki
Ngāti Toa	Te Rūnanga o Toa Rangatira
PCC	Porirua City Council
PPFL	Peka Peka Farm Limited
Powerco	Powerco Limited
Rangitāne	Rangitāne o Wairarapa
SWDC	South Wairarapa District Council
TKL	Templeton Kapiti Limited
Te Tumu Paeroa	Te Tumu Paeroa Office of the Māori Trustee

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UHCC	Te Kaunihera o Te Awa Kairangi ki Uta Upper Hutt City Council
VUWSA	Te Aka Taura - Victoria University of Wellington Students Association
WFF	Wairarapa Federated Farmers
WCC	Wellington City Council
Wellington Water	Wellington Water Limited
WIAL	Wellington International Airport Limited

1.0 Introduction

1.1 Purpose

10. This report is prepared under section 42A of the RMA. The purpose of this report is to provide the Hearing Panels with a summary and evaluation of the submissions received on this topic and to recommend possible amendments to Change 1 in response to those submissions.
11. I have also had regard to other Section 42A reports including:
 - Hearing Stream 1 - General Submissions
 - Hearing Stream 2 - Integrated Management.
12. This report should be read in conjunction with the Section 42A Overview report (Hearing Stream 1) which provides the background to Change 1, the statutory context, and administrative matters relating to Change 1.

1.2 Scope of this report

13. Change 1 has been notified via two plan-making processes under Schedule 1 of the RMA:
 - The Freshwater Planning Process (FPP) under Part 4, Schedule 1 for the provisions that form the Freshwater Planning Instrument. These provisions are marked in the Change 1 document with the freshwater icon.
 - The standard plan-making process in Part 1, Schedule 1 (P1S1).
14. This report covers submissions on provisions that have been notified entirely within the Freshwater Planning Process.
15. The scope of my report relates to the Freshwater and Te Mana o te Wai aspects of Change 1. The following Change 1 provisions are within the scope of this topic:
 - Freshwater chapter Introduction and Table 4 (Chapter 3.4)
 - Objective 12
 - Statement of Rangitāne o Wairarapa Te Mana o te Wai expression
 - Statement of Kahungunu ki Wairarapa Te Mana o te Wai expression
 - Policies 12 – 18
 - Policies FW.1 – FW.7
 - Policy 40 – 44
 - Methods FW.1 and FW.2
 - Method 35
 - Freshwater Objective 12 Anticipated Environmental Results 1-11
 - Freshwater Objective 13 Anticipated Environmental Results 1-8
 - Freshwater Objective 14 Anticipated Environmental Results 1-4

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- Definitions of 'Hydrological Controls' and Te Mana o te Wai.

1.3 Author

16. My name is Kate Louise Pascall and I am a Senior Environmental Planner at GHD Limited. I hold a Bachelor of Resource and Environmental Planning and a Master of Resource and Environmental Planning, both from Massey University. I am an Intermediate member of the New Zealand Planning Institute.
17. I have 13 years' experience in resource management and planning. For the majority of this time I have worked in local government, specialising in policy planning working on district plan reviews and strategic spatial planning. My most recent local government experience has been at Wellington City Council and Hutt City Council.
18. I was not involved in the development of the provisions for Change 1 however I have familiarised myself with the process that was followed and with the section 32 evaluation report. In addition to my role as section 42A officer for this topic, I have been contracted to Greater Wellington since October 2022 in the role of Programme Lead for Proposed Change 1 to the RPS. In my role as Programme Lead I authored the section 42A Overview report which was part of Hearing Stream 1.
19. I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court in January 2023. I have complied with that Code when preparing my written statement of evidence and I agree to comply with it when I give any oral evidence.
20. The scope of my report relates to Freshwater and Te Mana o te Wai and I confirm the issues addressed in this statement of evidence are within my area of expertise.
21. Any data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.
22. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.4 Supporting Evidence

23. The expert evidence, literature, legal cases or other material which I have used or relied upon in support of the opinions expressed in this report includes the following:
 - The notified Change 1
 - The Change 1 Section 32 report
 - Relevant submissions and further submissions
 - The Operative RPS
 - Natural Resources Plan for the Wellington Region (Operative July 2023)
 - NPS-FM 2020 (updated 2023)
 - National Environmental Standards for Freshwater (2020)

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- Ministry for the Environment's 'Guidance on the National Objectives Framework of the National Policy Statement for Freshwater Management 2020', published 2022
- Ruamāhanga Whaitua Implementation Programme (2018)
- Te Awarua-o-Porirua Whaitua Implementation Programme (2019)
- Te Awarua-o-Porirua Whaitua Implementation Programme: Ngāti Toa Rangatira Statement (2019)
- Te Whanganui-a-Tara Whaitua Implementation Programme (2021)
- Te Mahere Wai o te Kāhui Taiao (2021)
- Wairarapa Water Resilience Strategy (2018)
- *Otago Regional Council v Royal Forest and Bird Protection Society of NZ Inc* [2022] NZHC 1777 decision
- Draft Wellington Region Catchment Inventory (Greater Wellington, June 2010)
- Memorandum of Counsel on behalf of Wellington Regional Council for Proposed Change 1 to the Wellington Regional Policy Statement – amended section 80A of the RMA, 25 August 2023.
- The technical evidence of Mr Stu Farrant on behalf of Greater Wellington for:
 - Upper Hutt City Council's Intensification Plan Change, 19 April 2023 (insofar as it relates to Hydrological Controls); and
 - Evidence prepared for Proposed Change 1 to the Regional Policy Statement for the Wellington Region, Hearing Stream 5 (Freshwater and Te Mana o te Wai), in relation to hydrological controls to be filed by 30 October 2023.

1.5 Key Issues

24. A total of 653 submission points and 626 further submission points were received on the provisions relating to this topic. The submissions are wide ranging and have been grouped into 23 issues for the purposes of this report. The key matters in contention are:

- The categorisation of provisions between the FPP and the P1S1 processes for Change 1
- Providing regional context for the NPS-FM
- The statutory weight to be given to the mana whenua/tangata whenua statements of Te Mana o te Wai
- The absence of Freshwater Visions in Change 1, which are required by Clause 3.3 of the NPS-FM
- The proposed approach to water allocation

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- Provisions that relate to managing the effects of urban development on freshwater and the CMA
- The respective roles and responsibilities of the regional council and territorial authorities, particularly in relation to managing the effects of urban development and earthworks and vegetation clearance on water bodies and freshwater ecosystem health
- Managing water takes and use of water relative to the Te Mana o te Wai hierarchy of obligations
- Protecting and restoring the ecological health of waterbodies
- Reducing water demand and the roles and responsibilities of the Council and territorial authorities
- Requirements for territorial authorities to charge financial contributions for stormwater treatment and management.

25. This report addresses each of these matters within a number of sections that address the provisions to which they relate, along with any other issues raised by submissions.

1.6 Pre-hearing Meetings

26. Pre-hearing meetings were held with representatives of Kahungunu and Rangitāne in relation to their Te Mana o te Wai statements and the submissions that have been received on the provisions that relate to these statements. The purpose of these meetings was to outline the nature of the submissions that were received and to discuss options for how to address them.

27. I did not attend the pre-hearing meeting with Kahungunu but Council staff informed me of the outcomes of that meeting. I attended two meetings with Rangitāne; one with Rangitāne representatives, and one with their planning expert.

28. The outcomes of these meetings have informed my recommendations in section 3.8 of this report.

2.0 Statutory Considerations

2.1 Resource Management Act 1991

29. Change 1 has been prepared in accordance with the RMA and in particular, the requirements of:

- Section 30 Functions of regional councils
- Section 60 Preparation and change of regional policy statements
- Section 61 Matters to be considered by regional council (policy statements)
- Section 62 Contents of regional policy statements
- Section 80A Freshwater planning process
- Schedule 1 Part 4 Freshwater planning process.

2.2 National Direction

2.2.1 *Resource Management Act 1991*

30. Regional Policy Statements must be prepared in accordance with the provisions of Part 2 (section 5, section 6, section 7 and section 8 of the RMA) and the Council functions in section 30 of the RMA, as well the obligation to have particular regard to the section 32 evaluation and any national policy statement or regulations. Section 60 sets the requirement for a regional policy statement and that it must follow a Schedule 1 process and section 61 sets out the matters to be considered by the Council in a regional policy statement. Section 62 of the RMA sets out the required contents.

2.2.2 *National Policy Statement for Freshwater Management 2020 (updated 2023)*

31. The National Policy Statement for Freshwater Management 2020 (NPS-FM) is the primary national direction that relates to this topic. The NPS-FM came into effect on 3 September 2020 and replaced the earlier NPS-FM 2014 (as amended 2017). The NPS-FM was subsequently updated in February 2023. The NPS-FM sets the direction for freshwater management in New Zealand and is underpinned by the fundamental concept of Te Mana o te Wai. At the core of Te Mana o te Wai is the prioritisation of the health and wellbeing of New Zealand's freshwater resources. Te Mana o te Wai includes a hierarchy of obligations that prioritises:

- first, the health and wellbeing of waterbodies and freshwater ecosystems,
- second, the health needs of people, and
- third, the ability of people and communities to provide for their social, economic and cultural wellbeing, now and in the future.

32. All local authorities must give effect to the NPS-FM, although a large proportion of the requirements sit at the regional level. The NPS-FM requires freshwater quality to be maintained (where it meets stated environmental outcomes) or improved over time (where it does not meet stated environmental outcomes) through the National Objectives Framework (NOF). Regional councils must notify regional plans or policy statements to implement the NPS-FM by 31 December 2024².

33. In relation to the Freshwater and Te Mana o te Wai topic, Change 1 gives effect to the NPS-FM in the following key ways:

- Introducing a new objective relating to Te Mana o te Wai (clause 3.2 of the NPS-FM)
- Introducing two Statements of Te Mana o te Wai from two mana whenua/tangata whenua partners in the region
- Setting out the key steps of the NOF that must be implemented through the regional plan (Subpart 2 of the NPS-FM)

² Resource Management Act, section 80A(4)(a)

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- Directing the content of district plans and matters to be considered in resource consent applications for urban development to promote positive outcomes for freshwater and avoid, remedy, or mitigate adverse effects of urban development on the health and wellbeing of water bodies, freshwater ecosystems, and receiving environments (clause 3.5(4) of the NPS-FM).

34. The amendments to the Freshwater provisions of the RPS do not give complete effect to the NPS-FM as they are largely focused on the effects of urban development on freshwater. Future changes to the RPS will give full effect to the NPS-FM.

2.3 Section 32AA

35. I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken, in accordance with section 32AA. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations (1) *A further evaluation required under this Act—*

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

36. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to this topic is included following the analysis of submissions to which the recommended amendments relate.

2.4 Trade Competition

37. Trade competition is not considered relevant to this topic within Change 1. There are no known trade competition issues raised within the submissions.

3.0 Consideration of Submissions and Further Submissions

3.1 Overview

38. This topic consists of a number of objectives, policies, methods, and anticipated environmental results.
39. The total number of submissions and further submissions on this topic are broadly allocated across these provisions as follows:

Provision	Number of submissions and further submissions
Freshwater chapter introduction	8 original, 12 further
Table 4	6 original, 9 further
Objective 12	25 original, 44 further
Statement of Rangitāne o Wairarapa Te Mana o te Wai expression	6 original, 12 further
Statement of Kahungunu ki Wairarapa Te Mana o te Wai expression	6 original, 0 further
Policy 12 - Management of water bodies – regional plans	21 original, 27 further
Policy 13 - Allocating water – regional plans	6 original, 5 further
Policy 14 - Urban development effects on freshwater and the coastal marine area – Regional plans	32 original, 30 further
Policy 15 - Managing the effects of earthworks and vegetation disturbance – district and regional plans	20 original, 25 further
Policy 17 - Take and use of water for the health needs of people – regional plans	21 original, 21 further
Policy 18 – Protecting aquatic and restoring ecological function health of water bodies – regional plans	88 original, 51 further
Policy FW.1 - Reducing water demand – regional plans	14 original, 16 further
Policy FW.2 – Reducing water demand – district plans	32 original, 13 further
Policy FW.3 - Urban development effects on freshwater and the coastal marine area – district plans	28 original, 9 further
Policy FW.4 - Financial contributions for urban development – district plans	18 original, 9 further
Policy 40 - Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems – consideration	31 original, 35 further

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Provision	Number of submissions and further submissions
Policy 41 - Controlling the effects of earthworks and vegetation disturbance – consideration	24 original, 23 further
Policy 42 - Effects on freshwater and the coastal marine area from urban development – consideration	28 original, 18 further
Policy 43 - Protecting aquatic ecological function of water bodies – consideration	5 original, 2 further
Policy 44 - Managing water takes and use to give effect to Te Mana o te Wai – consideration	25 original, 27 further
Policy FW.5 - Water supply planning for climate change and urban development – consideration	18 original, 19 further
Policy FW.6 - Allocation of responsibilities for land use and development controls for freshwater	13 original, 10 further
Policy FW.7 - Water attenuation and retention – non-regulatory	26 original, 24 further
Method FW.1 - Freshwater Action Plans	9 original, 10 further
Method FW.2 - Joint processing urban development consents	13 original, 9 further
Method 35 - Prepare a regional stormwater action plan	5 original, 2 further
Method 48 - Water allocation policy review	14 original, 15 further
Freshwater Objective 12 Anticipated Environmental Results	2 original, 1 further
Freshwater Objective 13 AER 1	5 original, 9 further
Freshwater Objective 14 AER 1	3 original, 5 further
Definitions	6 original, 5 further

3.2 Report Structure

40. The issues raised in submissions are addressed by sub-topics within this report. Some submissions cross several sub-topics and are therefore addressed under more than one sub-topic heading.
41. Clause 49(4)(c) of Schedule 1, Part 4 of the RMA allows the Freshwater Hearings Panel to address submissions by grouping them either by the provisions to which they relate, or the matters to which they relate. On this basis, I have undertaken my analysis and evaluation on an issues and provisions-based approach, rather than a submission-by-submission approach.

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42. This report should be read in conjunction with the submissions and the summary of those submissions. **Appendix 2** sets out my recommendations on whether to accept or reject individual submission points based on the analysis contained within the body of the report.
43. Where I have recommended amendments to provisions as a result of relief sought by submitters, I have set this out in this report, with a further evaluation provided within the section of the report that addresses that issue. I have also provided a marked-up version of the provisions with recommended amendments in response to submissions in **Appendix 1**.

3.3 Format for Consideration of Submissions

44. For each sub-topic, my analysis of submissions is set out in this report as follows:

- Matters raised by submitters
- Assessment and analysis
- Section 32AA evaluation and
- Recommendations.

3.4 Issue 1: Categorisation of provisions into the Freshwater Planning Instrument

45. At the time of notification of Change 1, Section 80A of the RMA provided the relevant tests for determining which parts of Change 1 should form part of the FPI:

(1) The purpose of this subpart is to require all freshwater planning instruments prepared by a regional council to undergo the freshwater planning process.

(2) A freshwater planning instrument means—

(a) a proposed regional plan or regional policy statement for the purpose of giving effect to any national policy statement for freshwater management:

(b) a proposed regional plan or regional policy statement that relates to freshwater (other than for the purpose described in paragraph (a)):

(c) a change or variation to a proposed regional plan or regional policy statement if the change or variation—

(i) is for the purpose described in paragraph (a); or

(ii) otherwise relates to freshwater.

(3) A regional council must prepare a freshwater planning instrument in accordance with this subpart and Part 4 of Schedule 1. However, if the council is satisfied that only part of the instrument relates to freshwater, the council must—

(a) prepare that part in accordance with this subpart and Part 4 of Schedule 1; and

(b) prepare the parts that do not relate to freshwater in accordance with Part 1 of Schedule 1 or, if applicable, subpart 5 of this Part.

46. The Natural and Built Environments Act (NBEA) received Royal Assent on 23 August 2023 with some parts of that legislation taking effect the next day. Schedule 15 of the NBEA sets

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out amendments to s80A of the RMA. The Council's legal counsel provided a memorandum to the Panels on 25th August 2023 advising that the amendments to s80A do not have retrospective effect to Change 13. Based on that advice, I have not considered the amended version of s80A as part of this assessment, and instead have assessed the relevant FPI provisions against the version of s80A as it was when Change 1 was notified.

47. The process the Council followed in determining which provisions should be notified as part of the FPI and which provisions should be part of the P1S1 process is set out in detail in Ms Zollner's rebuttal evidence⁴ for Hearing Stream 1 and as such I do not repeat it in this report.
48. Submitters have raised concerns regarding the categorisation of provisions to the FPI. Winstone Aggregates, Forest and Bird, WIAL and WFF attended Hearing Stream 1 to speak to these. The primary concerns raised were that too many provisions were notified as part of the FPI and that the justification for inclusion in the FPI was not clear enough in light of the High Court decision in *Otago Regional Council v Royal Forest and Bird Protection Society of NZ Inc* [2022] NZHC 1777. This report section has been included in response to these concerns, and to assist the Hearing Panels in considering the categorisation of provisions.

3.4.1 Matters raised by submitters

49. CDC [S25.009] (supported by Hort NZ [FS28.019]) considers that it is inappropriate to apply the FPP to provisions where freshwater is not the primary issue. CDC seeks that the FPP only be used for provisions within the Freshwater chapter where freshwater is the primary issue, and that the Schedule 1 process is used for all remaining provisions.
50. Robert Anker [S31.001] (opposed in part by Rangitāne [FS2.128]), Philip Clegg [S62.007], and Dr Sarah Kerkin [S96.003] consider that for many provisions the linkage to the NPS-FM is tenuous and the submitters are concerned that the process and logic undertaken by the Council in categorising provisions may not have been applied consistently. The submitters seek that the document be re-examined, and the FW symbol is removed from those parts of the document where it fails to meet the criteria that there be a direct relationship to freshwater quality or quantity and for these provisions to fall under a P1S1 process.

3.4.2 Analysis

51. I have assessed each provision addressed by this report according to the two tests that were applied to categorise each provision in Change 1 to either the FPP or to standard Schedule 1 process at the time of notification, consistent with the Council's understanding of s80A at the time and the outcome of the *Otago Regional Council v Royal Forest and Bird Protection Society of NZ Inc* [2022] NZHC 1777 decision.
52. The result of my assessment is provided in **Appendix 3**. In summary, I agree with the categorisation of the majority of the freshwater provisions to the FPP undertaken before notification of Change 1. I disagree with the categorisation of three provisions, being Policy 15, Policy 41 and Freshwater Objective 12 AER 6. I therefore recommend accepting in part the relief sought by CDC, Robert Anker, Philip Clegg, and Dr Sarah Kerkin, and accepting in part the further submissions of Hort NZ and Rangitāne.

³ [GWRC-Memorandum-of-Counsel-as-to-section-80A-amendments.pdf](#)

⁴ [Final Rebuttal Evidence - Mika Zollner - HS1 \(gw.govt.nz\)](#)

3.4.3 Recommendations

53. As a result of the assessment undertaken in **Appendix 3**, I recommend that the following provisions be moved from the FPP into the standard P1S1 process:
- Policy 15 – Managing the effects of earthworks and vegetation disturbance
 - Policy 41 - Controlling the effects of earthworks and vegetation disturbance – consideration
 - Freshwater Objective 12 AER 6.
54. My assessment in Appendix 3 notes that, as notified, Policy 14, Policy FW.3, and Policy 42 do not, in my view, relate directly to the protection and enhancement of freshwater quality or quantity, as these policies would apply to the CMA in its entirety. However, as a result of my recommended amendments to clarify the scope of these policies (addressed in section 3.11 of this report), I recommend Policy 14, Policy FW.3, and Policy 42 continue to proceed through the FPP. However, should the Panel disagree with those amendments, I recommend moving Policy 14, Policy FW.3, and Policy 42 into the P1S1 process.
55. I recommend that submissions and further submissions are accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.5 Issue 2: General Submissions

3.5.1 Matters raised by submitters

56. A total of 62 submissions and 44 further submissions of a general/overarching nature were received in relation to the Freshwater topic.

General submissions specific to the Freshwater Topic

Support

57. Chelsea Kershaw [S17.002], Tegan McGowan [S22.002], Helen Payn [S24.002], Oliver Bruce [S35.005], Jennifer Van Beynen [S37.005], Khoi Phan [S51.006], Grant Buchan [S60.006], Patrick Morgan [S61.006], Ruby Miller-Kupelov [S92.002], Isabella Cawthorn [S93.002], Michelle Ducat [S152.007] and Megan Lane [S164.005] support the provisions for uplifting Te Mana o te Wai and seek the provisions be retained, refined and enhanced.
58. Parents for Climate Aotearoa [S71.004], Philippa Yasbek [S28.003], Ellen Legg [S53.005], Alicia Hall [S73.003], Finn Hall [S74.003], GBI [S94.010], VUWSA [S75.003], TKL [S126.008] and Generation Zero [S141.007] seek the retention of the provisions as notified.
59. Teresa Homan [S98.006] considers that all district plans need to identify natural taonga and heritage sites such as peat swamps, native trees, forest, birds, and native fish. Ms Homan considers Te Awa Kairangi and all water catchments must be protected and revitalised as priority in any district plan. No specific amendments are sought to Change 1.
60. Ātiawa [S131.004] (supported by Ngā Hapu o Otaki [FS29.208] and supported in part by BLNZ [FS30.006], Wellington Water [FS19.001] and Hort NZ [FS28.021]) is concerned about the interim effect of RPS Change 1 where proposed provisions are dependent on other provisions that are yet to be determined through a freshwater plan change process.

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61. Rangitāne [S168.005] (supported by Hort NZ [FS28.024] and Sustainable Wairarapa Inc [FS31.019] and supported in part by BLNZ [FS30.050]) seeks amendments to provisions in Change 1 that are a replication or paraphrase of provisions in the NPS-FM, so that they appropriately give effect to those NPS-FM provisions in terms that reflect the regional context.

Support in part

62. Wellington Water [S113.020] (with a not stated/neutral stance from WCC [FS13.0010]), considers there is an overlap between the regional council and territorial authorities regarding the control of land use for water quality. Wellington Water seeks clarification of the district, city and regional councils' roles and functions regarding water quality, including the extent of mutual responsibilities.

63. Rangitāne [S168.006] (supported by Sustainable Wairarapa Inc [FS31.020]) strongly objects to the statement in the section 32 report that the Whaitua regions will be identified as Freshwater Management Unit's (FMU's). Rangitāne seeks additional provisions which clearly set out the timing and process for co-designing and incorporating FMUs into the RPS, and from there, the inclusion of mana whenua voices (as outlined in Recommendation 1 of the Ruamāhanga WIP) in the freshwater visions for each FMU.

64. Ian Gunn [S139.003] seeks the development of best practice management between DOC, iwi and councils to reduce flood risk and improve water resilience. In a separate submission point, Mr Gunn [S139.013] also seeks a requirement in the RPS for district plans to include a permitted activity rule to enable wetlands, bunds and dams to form a network of nature-based solutions.

Not stated/neutral

65. WIAL [S148.005] is concerned some of the provisions that seek to give effect to the NPS-FM in Change 1 also refer to the coastal marine area/coastal environment and WIAL seeks that any reference to the coastal marine area/coastal environment is deleted from those provisions which seek to directly give effect to the NPS-FM.

66. In a number of separate submission points, Rangitāne⁵ raises concerns about the freshwater provisions of Change 1. Generally, these matters are broad statements about the Change 1 freshwater provisions and do not seek specific relief. These concerns are as follows:

- That the section 32 report states that Change 1 does not fully implement the NPS-FM and that Change 1 is focused on 'objectives/visions which the NPS directs to be included in the RPS'. There is no specific relief sought.
- That in order to give effect to the NPS-FM, the proposed policies should provide for a Te Ao Māori view of how we enact kaitiakitanga (often referred to as 'integrated management' of freshwater) for all development in all areas.

⁵ [S168.007] (supported by Sustainable Wairarapa Inc [FS31.021]), [S168.009] (supported by Sustainable Wairarapa Inc [FS31.023], opposed in part by Hort NZ [FS28.025], with a not stated/neutral stance from BLNZ [FS30.051]), [S168.010] (supported by Sustainable Wairarapa Inc [FS31.024]), [S168.011] (supported by Sustainable Wairarapa Inc [FS31.035]), [S168.012] (supported by Sustainable Wairarapa Inc [FS31.046] and opposed in part by Hort NZ [FS28.026]).

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- Concern about wastewater management within the Change 1 provisions and considers that any wastewater solutions need to give effect to Te Mana o te Wai and holistically be approached as per integrated management. Rangitāne hope that this issue will be addressed in future plan changes as it has not been addressed in Change 1.
- That introducing a set of freshwater provisions for urban development only continues to provide compartmentalised solutions and does not address integrated catchments.
- That the disjointed policy approach facilitates the continued degradation of their wai and amendments to Change 1 are required to include a set of high level but coherent, concise freshwater provisions that apply to all development.

Oppose in part

67. Taranaki Whānui [S167.028] (supported in part by Rangitāne [FS2.118] and Wellington Water [FS19.039]) is concerned that Change 1 has not overtly responded to Te Mahere Wai o Te Kāhui Taiao (a mana whenua whaitua implementation plan for Te Whanganui-a-Tara) and further work is required to give effect to this through the Freshwater chapter and other freshwater related provisions of the RPS. Taranaki Whānui also considers it is unclear how the proposed amendments have responded to other key sections of the NPS-FM, namely section 3.4 Tangata whenua involvement and wish to work in partnership with the Council to identify and address these concerns through this and future plan changes. Taranaki Whānui seeks amendments to address these concerns.
68. Wairarapa Water Users Society [S145.001] (supported in part by Hort NZ [FS28.027] and opposed by Rangitāne [FS2.117]) seeks the removal of the Freshwater chapter from Change 1 or if it is retained, that the introduction should recognise the Ruamāhanga Whaitua Implementation Plan and the Wairarapa Water Resilience Strategy (WWRS).

Oppose

69. Muaūpoko [S133.004] (supported in part by Rangitāne [FS2.125] and opposed by Ngāti Toa [FS6.068] and Ātiawa [FS20.351]) consider that as currently drafted, the freshwater provisions do not adequately incorporate the local expressions of Te Mana o te Wai. Muaūpoko considers a thorough review of the provisions needs to be undertaken to ensure the expressions are reflected accurately and appropriately and achieve the desired outcomes for iwi and the region. Muaūpoko have sought that all freshwater provisions be reconsidered and updated to better incorporate Te Mana o te Wai expressions and include Muaūpoko values, attributes and outcomes.
70. Anders Crofoot [S80.004] (supported by BLNZ [FS30.003] and opposed by Rangitāne [FS2.135]), Dairy NZ [S136.002] (supported by BLNZ [FS30.008] and opposed by Rangitāne [FS2.4]) and [S136.022] (supported by BLNZ [FS30.024] and Hort NZ [FS28.022] and opposed by Rangitāne [FS2.111]), and WFF [S163.022] (supported by Dairy NZ [FS15.0010] and BLNZ [FS30.095], opposed by Rangitāne [FS2.113], Wellington Water [FS19.051], Forest and Bird [FS7.066], Ātiawa [FS20.188], Ngā Hapu [FS29.039]), seek the deletion of the amendments to the Freshwater chapter and related provisions and consider these matters would be better in their entirety in the 2024 RPS review. Dairy NZ also considers that Change 1 should include

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other components the NPS-FM including freshwater visions and supporting values, and related objectives and policies and that further clarity is required about how Te Mana o te Wai applies in the regional context and further consultation be undertaken to determine this.

Overarching submissions on Change 1 as a whole

Support in part

71. Outdoor Bliss [S11.023] seeks the use of stronger language across Change 1 and the replacement of "information", "promote", "support" and "encourage" with "implement" or "incentivise" (or better word) and the replacement of "consideration" with "essential". Replace "non-regulatory" with "regulatory". This relief is sought on the basis that the language as notified is too passive.
72. KCDC [S16.097] considers many of the objectives in Change 1 are not drafted clearly with regard to what outcome is sought, and some do not appear to be achievable within the scope of an RPS. KCDC seeks relief to ensure that all objectives are specific, state what is to be achieved where and when, clearly relate to (or state) an issue, and can be determined through implementation and monitoring whether the objectives have been met.
73. WCC [S140.002] considers the title of regulatory policies as 'consideration' policies set out in Chapter 4.2 creates confusion for their statutory weighting and this should be amended. WCC seeks an amendment to the wording of the title of the regulatory policies as outlined in Chapter 4.2 from 'Consideration' to 'Give particular regard'.

Not stated/neutral

74. PCC [S30.0116] (supported by PPFL [FS25.033] and [FS25.159]), and PCC [S30.0120] (supported by PPFL [FS25.038]), is concerned about the many provisions in Change 1 that either duplicate or are inconsistent with matters now comprehensively addressed by national direction. PCC seeks greater alignment with national direction. PCC also seeks the withdrawal of much of Change 1 or otherwise that the Council works with other councils in the region on a variation to significantly amend most of its content.
75. PCC [S30.0117] (supported by PPFL [FS25.034]), raises concerns over jurisdictional issues in relation to the discharge of contaminants to water and considers some provisions are ultra vires in terms of the roles and functions of regional councils and territorial authorities under section 30 and section 31 of the RMA. PCC do not seek any specific relief in this submission point, and this appears to be an overarching statement of their submission, with more substantive submission points in relation to specific provisions.
76. Kāinga Ora [S158.001] (supported in part by Waka Kotahi [FS3.032] and opposed by Ngāti Toa [FS6.013] and Ātiawa [FS20.031]) considers that all of the policies in Chapter 4.2 (Consideration Policies) have been worded to read as assessment criteria for consideration within other resource management approval processes such as resource consents and notes the RPS are to contain methods, but not rules (or the associated assessment criteria). Kāinga Ora seeks that Chapter 4.2 is deleted from the RPS in full or that the policies are reworded to state the intended outcome such that regional and district plans giving effect to the RPS are

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suitably informed of the desired outcomes to address identified resource management issues.

77. Meridian Energy [S100.029] considers that amendments may be necessary to Table 4 where changes are made to the titles of policies and methods and seek amendments to the titles of the policies and methods referred to in Table 4 where necessary to reflect any amendments made as a result of their submission points.

Oppose in part

78. Forest and Bird [S165.060] (opposed by BLNZ [FS30.319]) is concerned that the Chapter 4.2 introduction and table of contents incorrectly states the weight to be given to the chapter's policies when changing or varying regional and district plans.

Oppose

79. In five submission points KCDC [S16.0100, 0102, 0103, 0104, 0106] raises a range of objections and seeks review and deletion where appropriate. These include:

- The continual use of "and/or" throughout the Change 1 provisions.
- Too many examples in the explanations to Policies and Objectives, and inappropriate verbs in Objectives and Policies not in accordance with the RMA and relevant statutory planning documents.
- Deletion of all provisions not supported by the RMA, statutory planning documents, or robust evidence, including plan-wide provisions which fail to recognise that district plans and resource consent decisions are dependent on legislation.
- That the provisions do not account for territorial authorities' inability to regulate the free market on some issues addressed in Change 1.

80. In seven opposing submission points UHCC [S34.0111, 0113, 0115, 0116, 0117, 0118, 0120] notes:

- Duplication of national direction in Change 1.
- A lack of high-level statutory planning documents to support provisions and a lack of consideration of scale and practicality of provisions.
- Concern that many of the provisions attempt to require city and district councils to carry out some of the functions of regional councils or require district plans to address matters that are outside the statutory functions of territorial authorities.
- That a full legal and planning review of provisions (with specific provisions identified in Table 1) is required.
- That the section 32 assessment is not sufficiently robust to determine the practicality of many of the regulatory provisions and advise that these provisions should be deleted and considered in a later plan change.
- Their objection to many of the issues being framed in "negative language" and seeks that they are re-written in neutral language with a "balanced approach" to the relevant issue.

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81. PCC [S30.0123] opposes all 'consideration' policies as they often duplicate or conflict with 'regulatory policies' and will create unnecessary regulatory costs, assume a level of knowledge and expertise that consent authorities may not have, and in some cases are a transfer of functions to territorial authorities. PCC does not provide any specific relief sought in relation to this submission point, however I note they have made similar points in relation to specific provisions through separate submission points.

3.5.2 Analysis

General submissions specific to the Freshwater Topic

82. I note the concern from Ātiawa that Change 1 introduces provisions that, in order to be achieved, are reliant on provisions that have not yet been established, such as target attribute states, particularly in light of whitua processes that are still progressing. However, I consider it is appropriate the RPS is amended to set out the requirements that must be included in the NRP and district plans prior to those changes occurring. This approach ensures when those plan changes are progressed, there is higher order direction for the content relating to freshwater management. Where target attribute states have not been established through the whitua process, and subsequent changes made to the NRP, the RPS direction would not apply in those circumstances. I also consider that this concern is alleviated by some of my recommended amendments to policies in response to similar concerns raised by other submitters on specific policies. Those amendments aim to address the policy gaps that might occur where matters such as target attribute states have not yet been established. Ātiawa have not sought any specific relief in relation to this submission point and it appears that this is a summary statement for the Council to note. As such, I make no recommendation in relation to this submission point nor the relevant further submissions.
83. In relation to the concern of some submitters that the freshwater provisions replicate national direction, I have addressed this where possible in my recommended amendments to specific provisions. I do note however there is likely to still be a need to use the same or similar language to the NPS-FM as much of the detail about how these matters will be addressed will be developed as part of upcoming NRP changes with Plan Change 1 to be notified in the near future.
84. I agree with Wellington Water that some provisions within the Freshwater topic do not clearly differentiate the roles and responsibilities of the regional council from territorial authorities. Again, I have considered this in recommending amendments to provisions in response to other submission points specific to those provisions. Accordingly, I recommend accepting in part the relief sought by Wellington Water and the further submission of WCC.
85. With regard to Rangitāne's concerns about statements in the Section 32 report that Whitua boundaries will form the FMUs for the region, this matter is addressed in more detail in section 3.9 of this report in relation to Policy 12, which addresses FMUs specifically.
86. Similarly, the concern of WIAL in relation to references to the CMA or coastal environment within freshwater provisions is addressed in more detail in relation to the specific provisions where these references occur. I am recommending amendments to clarify these references

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to address WIAL's concerns in this regard. Accordingly, I recommend accepting the relief sought by WIAL.

87. In relation to Rangitāne's relief sought to amend Change 1 to include a set of high level, coherent and concise freshwater provisions that apply to all development, I acknowledge the concern, but I hold the opinion that no changes are required or within the scope of Change 1. Change 1 gives partial effect to the NPS-FM and further changes to the RPS will be necessary to address a wider range of effects on freshwater and give effect to the remainder of the NPS-FM. Accordingly I recommend the relief sought by Rangitāne is rejected, the further submission of Hort NZ is accepted in part, and the further submission of Sustainable Wairarapa Inc is rejected.
88. Several of Rangitāne's submission points relating to the Freshwater topic generally do not seek specific relief and appear to be observations or statements, rather than seeking specific amendments to Change 1. For these submission points, the concerns are noted but I make no recommendation.
89. I acknowledge the concerns of Taranaki Whānui that Change 1 does not fully address the matters contained in Te Mahere o Wai o Te Kāhui Taiao ('Te Mahere Wai'). Te Mahere Wai was developed by mana whenua/tangata whenua as part of the Te Whanganui-a-Tara Whaitua process and it is a set of recommendations in its own right. I agree that Te Mahere Wai is a core part of freshwater management in Te Whanganui-a-Tara and its contents must be reflected in the region's planning framework. However, I consider that as the RPS is a region-wide document that addresses the overarching resource management issues and the policy framework for addressing those issues, it should not contain the level of detail that is included in the Whaitua Implementation Plans (WIPs) that have been developed. Instead, that detail will inform the Whaitua-specific chapters of the NRP in future plan changes. I therefore recommend rejecting the relief sought by Taranaki Whānui and the further submissions of Rangitāne and Wellington Water.
90. I acknowledge the concern of Muaūpoko in relation to a review of the freshwater provisions in Change 1 and ensuring local expressions of Te Mana o te Wai are incorporated. In analysing the submissions in this topic and making recommendations on submissions, I have considered the mana whenua/tangata whenua expressions of Te Mana o te Wai and how these could be better provided for. My recommended replacement Objective 12 and associated new policies seek to address this issue, as detailed in section 3.8 of this report. I also acknowledge Muaūpoko's request to include their values, attributes and outcomes in the RPS. However, I note that Muaūpoko has not provided any detail in their submission about what these values, attributes and outcomes are. On this basis, I recommended accepting in part the relief sought by Muaūpoko and accepting in part the further submissions of Rangitāne, Ngāti Toa and Ātiawa.
91. I note the submission points from Ian Gunn seeking the development of best practice management to reduce flood risk and improve water resilience. I agree that such measures should be progressed by these parties, alongside the community, mana whenua/tangata whenua and stakeholders. However, I do not consider this needs to be included in the RPS and can be progressed by these parties through non-regulatory measures outside of the RMA.

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92. In relation to a permitted activity rule in district plans for the creation of a network of nature-based solutions, I note that such a rule would be within the remit of a regional plan, not district plans. Notwithstanding this Change 1 already includes policy direction for regional and district plans to include provisions that support the creation of 'climate-resilient urban areas'. This includes policy direction to incorporate nature-based solutions into new development and infrastructure. These matters have been addressed in the Climate Change – Nature Based Solutions topic which was heard in Hearing Stream 3. As such, I do not recommend any further amendments to the Change 1 provisions, and I recommend rejecting the relief sought by Mr Gunn.
93. I disagree with the relief sought by several submitters that the freshwater component of Change 1 should be deleted and deferred to a later review of the RPS. The freshwater provisions of Change 1 are part of an integrated approach to respond to and manage increased urban development in the region and in doing so commence the Council's obligations to give effect to the NPS-FM by 31 December 2024. In my opinion, a delay to including these provisions would put the region on the backfoot in terms of addressing the region's already degraded water bodies and the impacts of urban development. In my opinion, these provisions provide higher-order direction that necessitates a change in urban development practices that is already overdue. I therefore recommend rejecting the relief sought by these submitters.
94. In regard to Dairy NZ's request for further consultation about how Te Mana o te Wai applies to freshwater in the region, I note that the Council's whitua implementation programme has involved mana whenua/tangata whenua and community representatives in the development of a Whitua Implementation Programme for each whitua as well as the opportunity for community feedback. The WIPs completed to date, alongside the Te Mana o te Wai Statements of mana whenua/tangata whenua that are included in Change 1, have informed the Te Mana o te Wai provisions of Change 1. As such, I do not consider further consultation is required.
95. I note the alternative relief sought by Wairarapa Water Users Society that if the Freshwater chapter is retained in Change 1, then the introduction should recognise the Ruamāhanga Whitua Implementation Plan (WIP) and the Wairarapa Water Resilience Strategy. I agree that the chapter introduction should include reference to the Ruamahanga WIP, as well as the WIPs that have been completed to date as part of the Council's Whitua Implementation Programme. I therefore recommend adding reference to the Ruamāhanga WIP, Te Awarua-o-Porirua WIP and the Ngāti Toa Rangatira Statement, Whitua Te Whanganui-a-Tara WIP and Te Mahere Wai o te Kāhui Taiao to the introductory text of Chapter 3.4, as shown in paragraph 100. However, I do not consider it necessary to reference the Wairarapa Water Resilience Strategy in the chapter introduction because the strategy is one of several actions from the Ruamāhanga Whitua process. In my opinion, the inclusion of reference to the Ruamāhanga WIP in the chapter introduction is sufficient. I also note that I am making recommendations to amend Policy FW.7 to make it clear that the policy implements the WWRS which in my view provides sufficient recognition of the importance of the strategy in the RPS. That issue is discussed in section 3.19.

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96. On this basis I recommend accepting in part the relief sought by Wairarapa Water Users Society.

97. With regard to concerns about Change 1 providing insufficient direction about the local expression of Te Mana o te Wai, these concerns are noted and addressed in more detail in Section 3.8 of this report.

Overarching submissions on Change 1 as a whole

98. In relation to these overarching submissions, these concerns have been raised or addressed in response to specific provisions for this topic. As such, I do not consider any further analysis is required on these submission points.

3.5.3 Section 32AA Evaluation

99. The only amendments I am recommending as a result of submissions in relation to Issue 2 are amendments to the Chapter 3.4 recommendations. As the introduction is not a provision for the purposes of section 32 of the RMA (it does not give effect to any objectives), a section 32AA evaluation is not required.

3.5.4 Recommendations

100. I recommend the following amendments to the Introductory text of Chapter 3.4:

Since 2018, the regional council has been progressing whitua processes with mana whenua/tangata whenua and community representatives across the Wellington Region to develop Whitua Implementation Programmes (WIPs) to improve the health of freshwater. There are five whitua (catchments) in total being Ruamāhanga, Te Awarua-o-Porirua, Whitua Te Whanganui-a-Tara, Kāpiti, and Wairarapa Coast. The following WIPs have been completed to date:

- Ruamāhanga Whitua (2018)
- Te Awarua-o-Porirua Whitua and the Statement of Ngāti Toa Rangatira (2019)
- Whitua Te Whanganui-a-Tara and Te Mahere Wai o Te Kāhui Taiao (2021)

The WIPs include freshwater values, objectives, outcomes and recommendations which inform freshwater provisions of the RPS and the direction provided to regional and district plans.

101. I recommend the submissions and further submissions be accepted, accepted in part, rejected, or noted as no recommendation as detailed in Appendix 2.

3.6 Issue 3: Freshwater Introductory text and Table 4

3.6.1 Matters raised by submitters

102. A total of 14 submissions and 21 further submissions were received on the introductory text to Chapter 3.4 and Table 4.

Support

103. Te Tumu Paeroa [S102.040] supports the introductory text and seeks that it be retained as notified.

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104. Forest and Bird [S165.014] (opposed by BLNZ [FS30.139]) supports Table 4 as notified and seek its retention.

Support in part

105. Outdoor Bliss [S11.006] seeks a correction to page 30 on the basis that in Upper Hutt a main highway divides people from the river creating a disconnect. The submitter seeks a change to the wording from 'Flood management' to 'Environmental protection'. Outdoor Bliss [S11.024] also seeks an amendment to Table 4 to swap Policy 17 and Policy 40.
106. Ātiawa [S131.028] (supported by Ngā Hapu [FS29.299]) considers further changes are required to the Introduction to further align wording with current legislation and to reflect best practice and approaches to freshwater management in the region. Ātiawa seeks that mana whenua and the Council work together to redraft the chapter introduction, which could be addressed as part of the plan change process to give full effect to the NPS-FM by 31 December 2024.
107. Forest and Bird [S165.013] (supported by Rangitāne [FS2.127] and Ātiawa [FS20.058] and opposed by BLNZ [FS30.319]) is concerned the margins of rivers, lakes and wetlands often fall through the cracks and these areas must also be recognised under s6(a) of the RMA. Forest and Bird seeks the following amendment to the first paragraph:

Fresh water is integral to our health, wellbeing, livelihood and culture. Freshwater is essential for our economy and defines our landscape and sustains ecosystems. People value clean fresh water for many reasons - economic, recreational, aesthetic, ecological and cultural. It is a matter of national importance to protect wetlands, lakes, rivers, streams and their margins from inappropriate use and development.

108. MDC [S166.011] seeks an amendment to the introductory text on the basis that Rathkeale College no longer discharges to freshwater. The following specific amendment is sought:

There are ~~eight~~ seven major discharges of treated sewage to fresh water in the region - one from the treatment plant at Paraparaumu, ~~one from Rathkeale College in Masterton~~, with the rest from the Wairarapa towns of Masterton, Castlepoint, Carterton, Greytown, Featherston and Martinborough.

109. Rangitāne [S168.031] (supported by Sustainable Wairarapa Inc [FS31.141]) considers the current text in paragraph 2 does not put the health and wellbeing of water bodies and freshwater ecosystems first and foremost. The language used reflects competing values i.e. "multiple resource users with differing values". Rangitāne also considers that statements such as "Māori consider fresh water to be a significant taonga (valued resource) that plays a central role in both spiritual and secular realms" implies that Māori tikanga and mātauranga is a religious endeavour when what they do is not religious, it is cultural practice from multiple generations of observing, learning and listening to our taiao. Rangitāne seeks amendments to the introductory text to:

- Clarify the hierarchy of obligations in Objective 2.1 of the NPS-FM and to remove implications that Māori are acting in a religious realm.
- Add lack of integrated management of freshwater ecosystems to the list of regionally significant issues.

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110. UHCC [S34.067] (supported in part by Hort NZ [FS28.032]) seeks an amendment to provide an explanation for Method 36 as shown in Table 4 and to develop this explanation in conjunction with submitters. UHCC is concerned that it is unclear whether this is a regulatory or non-regulatory method and there are no clear regulatory mechanisms for councils to use.
111. Waka Kothai [S129.020] seeks that Policy 45 in Table 4 be clarified to ensure the function and operational needs of infrastructure are recognised and provided for.

Oppose in part

112. Taranaki Whānui [S167.029] (supported in part by Rangitāne [FS2.119]), considers the proposed wording of the introductory text does not reflect the intention of Taranaki Whānui to include a Freshwater Vision and Expression of Te Mana o Te Wai through the submission process and requires subsequent amendments. Taranaki Whānui also considers the issues of significance for iwi have not been revised and do not respond to the issues outlined in Te Mahere Wai o Te Kāhui Taiao, which should be adopted as the issues of significance for Taranaki Whānui. Taranaki Whānui seeks the inclusion of their Freshwater Vision and Expression of Te Mana o Te Wai and revision of the issues of significance for iwi outlined in Te Mahere Wai o Te Kāhui Taiao.

Oppose

113. WFF [S163.023] (supported by Dairy NZ [FS15.012], BLNZ [FS30.096], and opposed by Rangitāne [FS2.114], Forest and Bird [FS7.067], Ātiawa [FS20.189] and Ngā Hapu [FS29.040]) consider the amendments to the Chapter 3.4 Introduction should be considered as part of planned regional plan changes in 2023 (urban whaitua) and 2024 (rural whaitua). WFF seeks the deletion of the proposed amendments to the introduction.
114. Dairy NZ [S136.003] (supported by BLNZ [FS30.009] and opposed by Rangitāne [FS2.109]) and WFF [163.024] (supported by BLNZ [FS30.097] and opposed by Rangitāne [FS2.115], Forest and Bird [FS7.068], Ātiawa [FS20.190] and Ngā Hapu [FS29.041]) seek the deletion of the changes to Table 4 and that they are addressed through a full review of the RPS.

3.6.2 Analysis

115. I acknowledge the concerns raised by mana whenua/tangata whenua in relation to the chapter introduction, that it has not been updated since the RPS was made operative and that it does not accurately reflect that Māori freshwater practices and aspirations are cultural practices, rather than religious.
116. The amendments to the introductory text in Change 1 are limited to reflect that Change 1 is a first step towards fully giving effect to the NPS-FM in the RPS.
117. Notwithstanding this, I agree that changes are required to address the concerns of Rangitāne, specifically in relation to a greater recognition of the Te Mana o te Wai hierarchy of obligations and to clarify that Māori tikanga and mātauranga are cultural practices rather than religious. I have recommended additional text and amendments to the Chapter 3.4 introduction to address Rangitāne's concerns.
118. In relation to Rangitāne's request to include an additional issue statement relating to a lack of integrated management for freshwater ecosystems, I consider this is already covered through Overarching Issue 1 of Change 1, which sits in Chapter 3. I therefore recommend

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accepting in part the relief sought of Rangitāne and the further submission of Sustainable Wairarapa Inc.

119. I note Ātiawa's request for clarity on the timing on the outstanding provisions that have not been reviewed through Change 1. I acknowledge the concern that such processes place significant pressure on mana whenua/tangata whenua. I understand the Council has not yet confirmed the timing for further changes to the RPS to give full effect to the NPS-FM. However, I note that the Council is required to publicly notify changes to give effect to the NPS-FM no later than 31 December 2024 under s80A of the RMA. I agree with Ātiawa that any further changes to the Chapter introduction should be undertaken in partnership with mana whenua/tangata whenua. As the submitter has not sought any specific amendments to Change 1 itself, I make no recommendation.
120. I agree with Forest and Bird that the margins of rivers, lakes and wetlands should be recognised in the introductory text. I agree with the suggested amendment and recommend that this relief be accepted. I also agree with the relief sought by MDC to remove the reference to Rathkeale College from the list of major discharges of treated sewage to freshwater in the region.
121. I note the relief sought by Taranaki Whānui regarding recognition of their statement of Te Mana o te Wai and Freshwater Vision in the introductory text. This matter is further addressed in Issue 4 (section 3.7) and Issue 5 (section 3.8) of this report. As I am recommending the inclusion of Taranaki Whānui's Statement of Te Mana o te Wai in the RPS, I also recommend amendments to the introductory text to reflect the addition of this statement. Accordingly, I recommend accepting in part the relief sought by Taranaki Whānui and the further submission of Rangitāne.
122. I also acknowledge Taranaki Whānui's concern that the resource management issues do not reflect Te Mahere Wai. I consider that the RPS is an overarching document which expresses the resource management for the region, rather than specific parts of the region. The NRP includes whaitua-specific chapters which will address the specific issues identified in WIPs, including Te Mahere Wai. In my opinion this is the appropriate location to address this detail.
123. In relation to the relief sought by Outdoor Bliss, I have not been able to identify the specific wording in the introductory text that is referred to in the submission. I also consider that no change is required to the ordering of Policy 17 and Policy 40 as shown in the table, as the table is not intended to provide a hierarchy of policies but is simply to show which policies give effect to Objective 12 and which methods give effect to each policy. I therefore recommend rejecting the relief sought by Outdoor Bliss.
124. In relation to UHCC's relief sought regarding Method 36, and Waka Kotahi's relief sought in relation to Policy 45 in Table 4, I consider these submission points are out of scope because these operative RPS provisions are not proposed to be amended by Change 1.
125. I disagree with the relief sought by WFF to delete the amendments in the Chapter 3.4 introductory text. I consider these amendments are necessary to support the other proposed amendments to the freshwater provisions.

3.6.3 Section 32AA Evaluation

126. As the Chapter 3.4 Introduction is not a provision for the purposes of section 32 of the RMA (it does not give effect to any objectives) an evaluation under section 32AA is not required.

3.6.4 Recommendations

127. I recommend the following amendments to Chapter 3.4 Introduction:

Chapter introduction

Fresh water is integral to our health, wellbeing, livelihood and culture. Freshwater is essential for our economy and defines our landscape and sustains ecosystems. People value clean fresh water for many reasons – economic, recreational, aesthetic, ecological and cultural. It is a matter of national importance to protect wetlands, lakes, rivers and streams and their margins from inappropriate use and development.

The region's fresh water has to meet a range of uses valued by the community. There is a range of differing uses and values associated with fresh water. The resource needs to be available to meet the needs of both current and future generations. This range of uses and values leads to multiple pressures on the quantity and quality of the fresh water which can cumulatively impact on the availability and value of the resource for use. This is a complex issue that involves multiple resource users with differing values. A whole of catchment approach is particularly useful for understanding and managing these complexities. It is also important that the flow of water is managed appropriately.

The concept of Te Mana o te Wai is central to freshwater management, as set out in the NPS-FM. Te Mana o te Wai includes a hierarchy of obligations, as follows:

- First, the health and wellbeing of water bodies and freshwater ecosystems is the first priority
- Second, the health needs of people (such as drinking water)
- Third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.

This hierarchy of obligations, and the broader concept of Te Mana o te Wai, demonstrates the primacy of water and that the health and wellbeing of water impacts the wider environment. Under the NPS-FM, freshwater management must be undertaken in accordance with this hierarchy and principles.

Māori consider fresh water to be a significant taonga (valued resource) that plays a central role in ~~both spiritual and secular realms.~~ In the Māori world view, ~~w~~Water represents the life blood of the land. The condition of water is a reflection of the state of the land, and this in turn is a reflection of the health of the people.

[...]

There are ~~eight~~ seven major discharges of treated sewage to fresh water in the region – one from the treatment plant at Paraparaumu, ~~one from Rathkeale College in Masterton,~~ with the rest from the Wairarapa towns of Masterton, Castlepoint, Carterton, Greytown, Featherston and Martinborough. Treated sewage often contains high levels of disease-causing organisms that can make the rivers unsafe for recreational use, as well as nutrients, which can promote nuisance aquatic weed and algal growth. Discharges of wastes into water bodies are of particular concern to

tangata whenua because waste, particularly sewage waste, degrades the mauri (life force) of the water body.

3.7 Issue 4: Freshwater Visions

3.7.1 Matters raised by submitters

128. A number of submitters have noted in their submissions that Change 1 does not include long-term freshwater visions, as required by Clause 3.3(1) of the NPS-FM.
129. GWRC [S137.002] (supported in part by Rangitāne [FS2.104], DCG [FS22.001] and Wellington Water [FS19.014] and opposed by Dairy NZ [FS15.008] and BLNZ[FS30.026]) and GWRC [S137.003] (supported in part by Rangitāne [FS2.105], DCG [FS22.002], and Wellington Water [FS19.015] and opposed by BLNZ [FS30.027] and Dairy NZ [FS15.009]) note that freshwater vision statements for Te Whanganui-a-Tara and Te Awarua-o-Porirua were not included in Change 1 due to the desire to enable a truly partnered approach to the development of the RPS change, which was ultimately constrained by time. GWRC now seeks the inclusion of two freshwater vision objectives, one for Whaitua Te Whanganui-a-Tara and one for Te Awarua-o-Porirua Whaitua, which have come from the relevant whaitua processes, with input from community and mana whenua/tangata whenua. GWRC seeks the inclusion of the following new objectives in the RPS:

Objective 12A: Freshwater vision for Te Awarua-o-Porirua

The health and wellbeing of Te Awarua-o-Porirua and all of the waterbodies and ecosystems within Te Awarua-o-Porirua Whaitua are restored, their waters are healthy and future generations are sustained, physically and culturally. Such that within 20 years:

(a) The harbour, waterbodies and coast are clean and brimming with life and have diverse and healthy ecosystems,

(b) The harbour, waterbodies and coast can be used to gather and catch kaimoana and mahinga kai,

(c) The harbour, waterbodies and coast flow naturally and with energy, attracting people to connect with them,

(d) The harbour, waterbodies and coast are safe and accessible for people to enjoy and undertake recreational activities,

(e) Te Awarua-o-Porirua is recognised (acknowledged and protected) as an ancestral treasure of Ngāti Toa Rangatira,

(f) Ngāti Toa Rangatira are able to exercise its kaitiakitanga and are integral to a partnership model for the ongoing protection of the harbour and its waterways, and

(g) Land is developed, used and managed to maintain or restore natural hydrology and habitat, reduce contaminant losses and minimise creation of contaminants.

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Objective 12B: Freshwater vision for Whaitua te Whanganui-a-Tara

All freshwater bodies in Te Whanganui-a-Tara are wai ora and estuarine areas are healthy and functioning within 100 years, including:

(a) The āhua of the Korokoro, Kaiwharawhara, Te Awa Kairangi, Wainuiomata, and Ōrongorongo Awa and Parangārehu Lakes is fully restored

(b) Mana Whenua are the lead agency and regulator for protection and restoration of wai ora in 20 to 50 years' time

(c) Tamariki support mātua, tuākana and whānau, hapū and iwi to restore and protect awa using tools like iwi kaitiaki plans within 20 years.

(d) Pakeke are active in paid mana whakahaere roles overseeing monitoring, management, and improvement of wai ora in 20 years.

(e) Taiohi are active kaitiaki and kaikohikai in the wider catchment and are inducted into wai ora monitoring programmes like Ngā Mangai Waiora (ambassadors for water) within 20 years.

(f) All waterbodies in Te Whanganui-a-Tara are suitable for primary contact/kaukau (swimming) by 2041.

(g) Native fish have access to move freely up and down the entire length of the catchment to complete their life cycle within 20 years.

(h) Iwi can safely harvest and eat (identified species) of local mahinga kai throughout the catchment in 20 years.

(i) Mahinga kai species are plentiful enough in all catchments for long term harvest including for manuhiri and to exercise manaakitanga within 20 years.

(j) The mauri/mouri and life-supporting capacity of water in Te Whanganui-a-Tara enables the customary practices of Mana Whenua such as tohi, whakarite, whakawātea manaakitanga at a range of places throughout the whaitua.

(k) The mana of water as a source of life is restored including regarding and respecting all waterbodies (including āku waiheke), repo (wetland) and estuaries as living entities,

(l) All freshwater bodies are allowed to exhibit their natural rhythms, natural form, hydrology and character, including through a range of flows over the seasons.

(m) There are sufficient flows and levels to support connectivity throughout mai i uta ki tai and between rivers and their banks to support spawning fish.

(n) Key areas such as te mātāpuna (headwaters), estuaries and repo (wetland) are protected and restored so that they support healthy functioning ecosystems.

130. GWRC [S137.001] (supported in part by Rangitāne [FS2.122]) also considers a map of whaitua boundaries is necessary to support the freshwater visions for each whaitua and seeks the insertion of the map shown in Appendix 2 of their submission into the RPS.

131. Forest and Bird [S165.018] (supported by Ātiawa [FS20.062] and opposed by BLNZ [FS30.319]) and [S165.019] (supported by DCG [FS22.007], supported in part by Rangitāne [FS2.78], opposed by BLNZ [FS30.054], Hort NZ [FS28.023], Dairy NZ

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[FS15.011], Waka Kotahi [FS3.013], Ātiawa [FS20.063], and BLNZ [FS30.319], and opposed in part by Wellington Water [FS19.032]) seeks the inclusion of long-term visions for freshwater at the FMU level from Te Mahere Wai o Te Kāhui Taiao, insofar as these give effect to the objective and policies of the NPS-FM.

132. Forest and Bird seeks the insertion of the following 'overarching vision' to apply to all FMUs in Greater Wellington:

All of Greater Wellington catchment vision

By no later than 2040, in all Greater Wellington catchments:

(1) Water bodies are protected, or restored to a state of good health, well-being and resilience,

(2) Activities relating to water support the health, well-being and resilience of affected waterbodies,

(3) The natural form and function of water bodies, including with respect to water quality, sedimentation and flows, mimics that of their natural behaviour,

(4) Ecosystem connections between freshwater, wetlands and the coastal environment are protected and restored,

(5) Wetland, estuary and lagoon extent has been restored as much as practical where it has been lost, and their quality is protected and restored,

(6) The habitat of indigenous freshwater species is protected and restored, and indigenous species are able to migrate easily within and between catchments, except where it is desirable to prevent the passage of some fish species in order to protect indigenous species, their life stages, or their habitats,

(7) Food is available to be harvested from water bodies and is safe to consume,

(8) People have abundant, quality opportunities to connect with and safely undertake recreational activities within or close to a wide range of water bodies,

(9) There are no direct discharges of wastewater to water bodies.

133. Taranaki Whānui [S167.001] (supported by Rangitāne [FS2.137] and DCG [FS22.0010]) and [S167.031] provided their Freshwater Vision and Te Mana o te Wai expression as part of their submission and seek that these be inserted into the RPS.

134. Ngāti Toa [S170.001] (supported by DCG [FS22.011] and Ngā Hapu o Otaki [FS29.001]) also provided their 'Statement of Ngāti Toa Rangatira – Freshwater Vision' as part of their submission and seek its inclusion in the RPS.

3.7.2 Analysis

135. I acknowledge the concerns and relief sought by submitters in relation to freshwater visions and their absence from Change 1 and I agree the visions are an important part of giving effect to the NPS-FM. Clause 3.3 of the NPS-FM requires the Council to develop long-term visions for freshwater and include these as objectives in the RPS. Freshwater vision objectives inform the subsequent steps in the NOF process of developing environmental outcomes, identifying values, and setting target attribute states (amongst other requirements of the NPS-FM).

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136. The Council did not include freshwater vision objectives in Change 1 due to time constraints and has subsequently sought these are included as part of its submission on Change 1. At the same time, the Council is preparing to notify changes to the NRP by the end of 2023 to include environmental outcomes, values, and target attribute states which are reliant on freshwater vision objectives under the NPS-FM. It is therefore important that these vision objectives have some statutory weight in the RPS to inform the necessary changes to the NRP. This means that the vision objectives must at least be at the public notification stage of the plan change process. The submissions on Change 1 do not have statutory weight in the NRP process until such time as decisions are made on those submissions. Plan change 1 to the NRP is due to be notified in late 2023, but decisions are not expected on Change 1 to the RPS until mid-2024.
137. As a result of this, since the close of submissions on Change 1 the Council has considered the options available to ensure that the upcoming NRP Plan Change 1 is informed by proposed Freshwater Vision objectives. The Council has prepared Variation 1 to Proposed Change 1 of the RPS which includes freshwater vision objectives for Te Awarua-o-Porirua Whaitua and Te Whanganui-a-Tara Whaitua. Submissions on Change 1 in relation to freshwater visions have informed the Council's development of Variation 1 and further engagement has been undertaken with mana whenua/tangata whenua and territorial authorities throughout 2023.
138. The Council publicly notified Variation 1 to Proposed Change 1 on 13th October 2023 and submissions will close on 13th November 2023.
139. On this basis, I consider that it would be confusing and inefficient to further pursue freshwater vision objectives through the Change 1 hearings process and instead these should be addressed through the Variation 1 submissions and hearings process. I therefore recommend rejecting the relief sought by GWRC, Forest and Bird, and Ngāti Toa.
140. I recommend accepting in part Taranaki Whānui's relief sought as they have requested insertion of both their freshwater vision and their Te Mana o te Wai expression. The Te Mana o te Wai statement is addressed in more detail in section 3.8. For the reasons outlined above, I do not recommend including Taranaki Whānui's freshwater vision, however I am recommending the insertion of their Te Mana o te Wai expression which is discussed further in section 3.8 of this report.

3.7.3 Section 32AA Evaluation

141. As I am not recommending any changes to this part of Change 1, a section 32AA evaluation is not required.

3.7.4 Recommendations

142. I recommend accepting, accepting in part, or rejecting the submissions on Issue 2 – Freshwater Visions as detailed in Appendix 2.

3.8 Issue 5: Objective 12 and Te Mana o te Wai Statements

3.8.1 Matters raised by submitters

143. A number of submission points were received on Objective 12 and the associated statements from Rangitāne o Wairarapa and Kahungunu ki Wairarapa. The majority of

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these submissions support the intent of the Objective and the statements but seek amendments to provide regional context to the objective and to clarify the status of the mana whenua/tangata whenua statements.

Objective 12

144. KCDC [S16.046], VicLabour [S89.007], WCC [S140.016], Forest and Bird [S165.015] (supported by Ātiawa [FS20.059] and opposed by BLNZ [FS30.319]) and Kahungunu [S169.003] (supported by Sustainable Wairarapa Inc [FS31.004] and supported in part by BLNZ [FS30.048]) support Objective 12 and seek that it is retained as notified. SWDC [S79.008] supports in part Objective 12 but also seeks that the objective be retained as notified.
145. PCC [S30.012] (supported by Fulton Hogan Ltd [FS11.002] and PPFL [FS25.037] and supported in part by Rangitāne [FS2.130] and Hort NZ [FS28.028]) opposes Objective 12 as notified. PCC seeks amendments to the objective to provide clarity about the outcomes sought. HCC [S115.013] (supported in part by Rangitāne [FS2.123] and supported by the Fuel Companies [FS10.009], Wellington Water [FS19.016] and Powerco [FS24.006]) seek amendments to Objective 12 to give effect to the NPS-FM in the regional context.
146. UHCC [S34.054] (supported in part by Rangitāne [FS2.134]) opposes in part Objective 12 on the basis that the provisions included are inconsistent with the NPS-FM. The submitter seeks an amendment to clause (c) to accurately reflect the NPS-FM.
147. Irrigation NZ [S86.001] (supported by Hort NZ [FS28.029] and Wairarapa Water Users Society [FS9.013] and opposed in part by Rangitāne [FS2.112] and opposed by Wellington Water [FS19.018] and Ātiawa [FS20.027]) partially supports Objective 12 and seeks amendments to better reflect the needs of primary industries in the Wellington Region.
148. Fish and Game [S147.007] (supported in part by BLNZ [FS30.059] and Ātiawa [FS20.109] and opposed by Wellington Water [FS19.071]) supports in part Objective 12 and seeks that the objective is replaced with a single, integrated, and succinct expression about how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.
149. Rangitāne [S168.004] (supported by Sustainable Wairarapa Inc [FS31.018]), seeks amendments to Objective 12 to provide for tangata whenua/mana whenua to be actively involved by taking a lead role in making and implementing decisions about freshwater.
150. Wellington Water [S113.005] (supported by Hort NZ [FS28.030], supported in part by Rangitāne [FS2.132], and opposed by Ngāti Toa [FS6.006]) supports in part Objective 12. While Wellington Water supports mana whenua expressing how effect will be given to Te Mana o te Wai in their rohe, they do not support the inclusion of the entire statements within Objective 12. The submitter is concerned that it is not clear how the objectives within statements within Objective 12 should be applied, relative to Objective 12, and that some of the content within the statements is not suitable for objectives, including visions, issues, values, expectations and other matters. Wellington Water seeks amendments to either:

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- relocate the statements in their entirety elsewhere within the RPS, making clear how the content of the statements is to be applied relative to other parts of the RPS; or
- retain the 'objective-type' material within Objective 12, and other content from the statements relocated like-with-like within the RPS (i.e. placing policies with policies, explanations with explanations, issues with issues and so on).

151. Rangitāne [S168.003, S168.033, S168.034, S168.035, and S168.002] (supported by Sustainable Wairarapa Inc [FS31.017, FS31.143, FS31.144, FS31.145, and FS31.016]), supports in part Objective 12 and their Te Mana o te Wai statement, but also raises concerns about how their statement will be practically adopted and given effect to. Rangitāne seeks that the RPS be amended, working with Rangitāne, to ensure that the elements in Objective 12 are fit for purpose, are appropriately located in the RPS, and can be readily interpreted and applied.

Deleting Objective 12

152. DairyNZ [S136.004] (supported by BLNZ [FS30.0010] and opposed by Rangitāne [FS2.110] and Wellington Water [FS19.008]) opposes Objective 12 and seeks that it be deleted. WFF [S163.025] (supported by BLNZ [FS30.098] and opposed by Rangitāne [FS2.32 and FS2.116], Forest and Bird [FS7.069], Ātiawa [FS20.191] and Ngā Hapu [FS29.042]) also opposes the objective and seeks its deletion. Both DairyNZ and WFF consider that the changes to the RPS should be delayed until 2024 to align with upcoming changes to the NRP.

Te Mana o te Wai Statements of Mana Whenua/Tangata Whenua

153. UHCC [S34.070], VicLabour [S89.008], Te Tumu Paeroa [S102.042], and Forest and Bird [S165.016] (supported by Ātiawa [FS20.060] and opposed by BLNZ [FS30.319]) support the statement of Rangitāne o Wairarapa Te Mana o te Wai expression and seek its retention. WCC [S140.015] (supported by Horticulture New Zealand [FS28.031]) supports in part the statement of Rangitāne and seeks clarification about the regulatory weighting of the expressions of Te Mana o te Wai.

154. Robert Anker [S31.013] (opposed by Rangitāne [FS2.129]), opposes the statement of Kahungunu ki Wairarapa Te Mana o te Wai expression on the basis that KkW Policy 10 would require an unlawful action and that it is inappropriate for the Council to align itself with this policy. The submitter seeks the deletion of KkW Policy 10 within the Statement.

155. Dr Sarah Kerkin [S96.011] (opposed by Rangitāne [FS2.131]) and Philip Clegg [S62.015] support in part the statement of Kahungunu ki Wairarapa but consider that KkW Policy 10 of the statement is inconsistent with the Freshwater Fisheries Regulations. The submitters seek amendments to KkW Policy 10 to resolve inconsistencies with the Freshwater Fisheries Regulations.

156. UHCC [S34.071], Te Tumu Paeroa [S102.043], Forest and Bird [S165.017] (supported by Rangitāne o Wairarapa Inc [FS2.77], Ātiawa [FS20.061], and opposed by BLNZ [FS30.319]), Kahungunu [S169.005 and S169.002] (supported by Rangitāne [FS2.42] and

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Sustainable Wairarapa Inc [FS31.006 and FS31.003], and supported in part by BLNZ [FS30.049 and FS30.047]) support the Statement of Kahungunu ki Wairarapa.

157. PCC [S30.012] (supported by Fulton Hogan Ltd [FS11.002] and PPFL [FS25.037] and supported in part by Rangitāne [FS2.130] and Hort NZ [FS28.028]) is concerned about how future Mana Whenua statements that may be added to the RPS are to be achieved and implemented. The submitter seeks:

- clarity about the status and purpose of the Mana Whenua statements, including their weighting and status compared to other freshwater objectives and how any conflicts would be managed;
- that any new statements that are added to the RPS via submission or a variation to the RPS are able to be achieved and implemented.

158. Rangitāne [S168.0197] (supported by Sustainable Wairarapa Inc [FS31.128]), seeks to amend part of their Te Mana o te Wai statement to remove the following whakataukī and the supporting text:

"A notable example of this is from the writings of Whatahoro Jury: Ko Waiōhine ko Ruamāhanga ēnei e wairua tipu mai i Tararua maunga e oranga e te iwi. These are Waiōhine and Ruamāhanga. They are like mother's milk flowing out of the Tararua mountains for the prosperity of the people. Nā Whatahoro Jury 1841-1923"

159. CDC [S25.010] (supported by HNZ [FS28.020] and supported in part by Rangitāne [FS2.102]) support the mana whenua/tangata whenua statements in Change 1 but seeks better linkages between the statements and the remainder of the RPS. DGC [S32.004] (supported in part by Ātiawa [FS20.004] and opposed by BLNZ [FS30.282]) similarly seeks amendments to clarify how the iwi statements are to be applied.

160. Te Tumu Paeroa [S102.041] (supported in part by Rangitāne [FS2.100]) supports in part Objective 12 and seeks an amendment to ensure the statements of Kahungunu ki Wairarapa and Rangitāne o Wairarapa are considered appropriately when implementing the RPS. The submitter seeks the following amendment to Objective 12:

'~~...And~~The Statements of Kahungunu ki Wairarapa and Rangitāne o Wairarapa are recognised and provided for.'

161. Ātiawa [S131.029] (supported by Ngā Hapu [FS29.300]) seeks a plan change to insert their own statement at the appropriate time.

162. Muaūpoko [S133.005] (supported by Rangitāne [FS2.126] and opposed by Ātiawa [FS20.352]) opposes in part Objective 12 on the basis that it does not adequately incorporate mana whenua/tangata whenua expressions of Te Mana o te Wai and would like the opportunity to provide an expression of Te Mana o te Wai which could be added to other iwi expressions. The submitter seeks an amendment to the objective to incorporate local expressions into other parts of the plan to better express elements of Te Mana o te Wai and the removal of repetition of the NPS-FM, including the six principles.

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163. Taranaki Whānui [S167.001] (supported by Rangitāne [FS2.137]) and [S167.030] have provided their Te Mana o te Wai Expression as part of their submission and seek its insertion into Change 1 and an amendment to Objective 12, as follows:

'And the statements of Taranaki Whānui, Kahungunu ki Wairarapa, and Rangitāne o Wairarapa'

3.8.2 Analysis

164. While there is broad support for the intent of Objective 12 and the statements of Rangitāne o Wairarapa and Kahungunu ki Wairarapa, submitters have raised a number of concerns relating to the clarity of the objective drafting, the status of the content of the statements in relation to the objective, and the repetition of the NPS-FM description of Te Mana o te Wai.

Objective 12

165. I agree with submitters who raise issues with the repetition of content from the NPS-FM in Objective 12. I also agree with PCC and Wellington Fish and Game Council that Objective 12 should be clear about the outcome that is sought and articulate a clear objective about the application of Te Mana o te Wai in the region.

166. Clause 3.2(3) of the NPS-FM requires regional councils to insert an objective into the RPS that describes how the management of freshwater in the region will give effect to Te Mana o te Wai. The NOF Guidance⁶, published in 2022, states that this objective:

'...does not need to 'define' Te Mana o te Wai but it must describe how management will give effect to it. This could include outcomes for the freshwater itself, how decision-making should occur, or how to enhance or restore relationships with freshwater.'

167. The guidance is also clear that determining how to apply Te Mana o te Wai locally must occur in order to give effect to Te Mana o te Wai in a particular location. It is an important part of the NOF process.

168. In my view, both the NPS-FM clause 3.2(3) and the guidance make it clear that this objective should be regionally focussed. Whilst the content from clause 1.3 of the NPS-FM, which sets out the fundamental concept of Te Mana o te Wai, provides a useful starting point, it is important that the RPS provides direction on how to apply this in the regional context. In response to the relevant submission points, I am recommending the replacement of Objective 12 with a new, regionally-specific objective, as shown in paragraph 198.

169. The notified version of Objective 12 would then be deleted, and two new policies are recommended to provide direction about how those statements should inform decision-making. This new policy direction is addressed further in section 3.8 of this report.

⁶ Ministry for the Environment (2022), *He Ārahitanga mō Te Anga Whāinga ā-Motu o te NPS-FM Guidance on the National Objectives Framework of the NPS-FM*, pg. 15.

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170. This recommended objective draws on the common themes of the mana whenua/tangata whenua expressions of Te Mana o te Wai. I have also considered the WIPs from the relevant whaitua processes to ensure the recommended objective aligns with the outcomes sought in those processes. On this basis, I recommend the submissions of PCC, HCC, UHCC, Rangitāne o Wairarapa Inc, and Fish and Game be accepted in part.

171. I agree with Rangitāne o Wairarapa Inc that the current drafting of Objective 12 does not sufficiently provide direction about the role of mana whenua/tangata whenua in decision-making, governance, and management of freshwater. Te Mana o te Wai includes six principles relating to the role of mana whenua/tangata whenua and the wider community in freshwater management, including the principle of 'mana whakahaere' described in the NPS-FM as follows:

'the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of and their relationship with, freshwater'.

172. Objective 12 as notified includes the six principles from the NPS-FM verbatim. In preparing a recommended replacement objective, I have considered the principle of mana whakahaere, informed by the statements of mana whenua/tangata whenua (both in Change 1 and those provided in submissions), and I consider that clauses (a), (b), (d), (e), and (f) in my recommended replacement Objective 12 address the concern raised by the submitter. In relation to Rangitāne's request to work with Council to amend the RPS to ensure the elements of Objective 12 are fit for purpose, I have engaged with representatives of Rangitāne in this regard, and the outcomes of that engagement are reflected in my recommended amendments to Objective 12. On this basis I recommend that the submission by Rangitāne o Wairarapa Inc be accepted in part.

173. I note that several submitters (for example KCDC, VicLabour, and WCC) supported Objective 12 as notified and sought that it be retained as notified. As I am recommending a replacement objective, I recommend these submissions be rejected.

The Te Mana o te Wai hierarchy of obligations

174. Objective 12, as notified, repeats this hierarchy of obligations. Both Irrigation NZ and UHCC have raised concerns about the hierarchy. Irrigation NZ requests recognition of primary industries in the hierarchy, while UHCC is concerned that clause (c) as notified does not accurately reflect the NPS-FM.

175. The concept of Te Mana o te Wai sets out a hierarchy of obligations that must be applied by those involved in the management of freshwater. The hierarchy is set out in clause 1.3(5) of the NPS-FM as follows:

There is a hierarchy of obligations in Te Mana o te Wai that prioritises:

- (a) First, the health and wellbeing of water bodies and freshwater ecosystems*
- (b) Second, the health needs of people (such as drinking water)*
- (c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.*

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176. I disagree with Irrigation NZ that the Te Mana o te Wai hierarchy of obligations should include recognition of irrigation systems and their relationship to the health needs of people. While I acknowledge that irrigation systems are an important part of the food production industry, I agree with the further submission of Ātiawa that the Te Mana o te Wai hierarchy is set by national direction and cannot be 'amended' by lower order documents. Primary industries would be covered by clause (c) of the hierarchy "the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future". On this basis I recommend rejecting the relief sought by Irrigation NZ.
177. In terms of UHCC's relief sought, it is unclear what the submitter considers to be inconsistent with the NPS-FM. The submitter notes that 'clause c) may be an issue for parts of the communities, especially for those reliant on/the users of irrigation and bore water'. It is assumed that this is in reference to clause (c) of the hierarchy of obligations. As noted above, the hierarchy of obligations is set out in national direction and must be implemented by local authorities. It cannot be amended through the RPS. Accordingly, I recommend rejecting the relief sought by UHCC.

Deleting Objective 12

178. I do not recommend deleting Objective 12 in its entirety, as requested by Dairy NZ and WFF. The Council is required to make amendments to its RPS and Regional Plan to give effect to the NPS-FM no later than 31 December 2024, and in any case must do so 'as soon as reasonably practicable'⁷. In giving partial effect to the NPS-FM the Council has taken an integrated approach to Change 1 to not only give effect to the NPS-UD but to ensure that urban development that occurs as a result of the more permissive planning regime under the NPS-UD and medium density residential standards does not occur in isolation from broader resource management issues, such as freshwater degradation.
179. The Council is undertaking a plan change to also give effect to the relevant aspects of the NPS-FM. As the RPS directs the NRP, direction is required in the RPS (either operative or proposed) prior to changes to the NRP being undertaken. On this basis, I recommend that the submissions of DairyNZ and WFF and the further submissions of BLNZ, be rejected, and that the further submissions of Rangitāne, Wellington Water, Forest and Bird, Ātiawa, and Ngā Hapu are accepted.
180. On the basis of the above analysis, I recommend that the submission from UHCC, and the further submission of Rangitāne, be rejected, the submission from Irrigation NZ and further submissions of Hort NZ, and Wairarapa Water Users Society be rejected, and the further submissions of Rangitāne, Wellington Water and Ātiawa are accepted in part, given the recommended replacement objective.

Te Mana o te Wai Statements of Mana Whenua/Tangata Whenua

181. A number of submitters support the intent of including the statements from Rangitāne o Wairarapa and Kahungunu ki Wairarapa but have raised concerns about their legal status in relation to Objective 12, and how they are to be implemented in practice.

⁷ NPS-FM, clause 4.1(1)

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182. As notified, Objective 12 is intended to provide a statutory 'hook' for the Mana Whenua/tangata whenua Te Mana o Te Wai statements, by virtue of the final wording "And the statements of Kahungunu ki Wairarapa and Rangitāne o Wairarapa". The Statements are then included within the body of Chapter 3.4, following Table 4. However, I agree with submitters that as notified there is a lack of clarity about how the statements are to be implemented and the statement at the end of Objective 12 does not provide sufficient direction. I agree with the suggestion of Te Tumu Paeroa to include the words 'recognised and provided for' in referencing the mana whenua/tangata whenua statements.
183. In my view, to ensure the statements are given the consideration they require – that is to direct an action on behalf of those implementing the RPS – it is more appropriate to provide policy direction about the statements, rather than doing this through an objective. Objectives provide the outcome, whereas policies provide the means to achieve the objective. I therefore recommend two new policies are added to the RPS to provide policy direction about how the mana whenua/tangata whenua statements of Te Mana o Te Wai must be considered in plan changes, notices of requirement, and resource consent processes. These recommended policies are set out in paragraph 198.

Amending the content of the mana whenua/tangata whenua Te Mana o te Wai statements

184. Some submitters (e.g. Wellington Water, PCC) have raised concerns about the content of the statements themselves. This relates to the inclusion of objectives, policies, methods and other provisions which are the same 'types' of provisions that typically form the RPS. With respect to Wellington Water's suggested relief sought, I do not consider that it is appropriate for anyone other than mana whenua/tangata whenua to amend the content of the statements and I understand that this is also the position of Rangitāne and Kahungunu.
185. Taking into account my view that the statements should remain intact, I do agree with the relief sought by Wellington Water that the statements should be relocated elsewhere in the RPS. I note the concern of Ngāti Toa in their further submission, that moving the statements is inappropriate, however I consider the location of the statements is important to avoid confusion about the status of the 'objectives' and 'policies' in the statements relative to the substantive RPS content. As such, I recommend these statements are moved to an appendix and appropriately linked via the new policies I am recommending for inclusion in Chapters 4.1 and 4.2 that relate specifically to these statements. This approach has been discussed with Rangitāne and Kahungunu through pre-hearing meetings, and both partners have indicated that this is a suitable solution, alongside the new policy direction I am recommending.
186. On this basis, I recommend accepting in part the relief sought by Wellington Water, accepting in part the further submissions of Rangitāne, and Hort NZ, and rejecting the further submission of Ngāti Toa.
187. Similarly, I disagree with submitters who have sought the deletion of or amendments to Policy 10 of Kahungunu's Te Mana o te Wai Statement which reads:

For Kahungunu ki Wairarapa indigenous species and tangata whenua values come first: Management of Trout and Salmon shall be consistent with the values of

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tangata whenua. Indigenous species shall have the priority to be abundant, which may mean trout and salmon shall be removed.

188. Some submitters (e.g. Robert Anker, Dr Sarah Kerkin) consider this policy is inconsistent with the Freshwater Fisheries Regulations and therefore the direction in the Kahungunu statement may incur additional compliance costs. I disagree with the relief sought by these submitters. Policy 9 of the NPS-FM states that 'the habitats of indigenous freshwater species are protected' and Policy 10 directs that 'the habitat of trout and salmon is protected, **insofar as this is consistent with Policy 9**' (emphasis added). On this basis, I consider KkW Policy 10 is consistent with the direction of the NPS-FM and for the same reasons I have noted above in paragraph 184 I do not recommend any change to the content of Kahungunu's Te Mana o te Wai Statement. I therefore recommend rejecting these submissions.
189. I agree with Rangitāne's relief sought to delete a whakatauki from their Statement of Te Mana o te Wai. I therefore recommend that this submission be accepted.

Including additional Statements of Te Mana o Te Wai in the RPS

190. Muaūpoko has requested an opportunity to provide an expression of Te Mana o te Wai in the RPS. I note the Council took a partnership approach with the six mana whenua/tangata whenua partners in the region in developing Change 1. At this time, Muaūpoko's mana whenua status in the Wellington Region has not been established. This issue was addressed in Hearing Stream 1, and I refer the Panels to the Officer's section 42A report for the General Submissions topic within that hearing stream which noted:

'...with the exception of proposed amendments to Chapter 3.4, the provisions refer to mana whenua/tangata whenua rather than naming specific iwi. Determining which iwi fall within this definition is not necessary for Change 1, but it may be relevant for determining subsequent resource consent applications....This is a complex matter with diametrically opposed further submissions from Rangitāne (supporting) and Ngāti Toa and Ātiawa (opposing).... While the Hearing Panels are not required to make a recommendation on these submissions, the panels may need to consider relevant evidence and reach a conclusion on other submissions from Muaūpoko on specific provisions in Change 1. The Hearing Panels may wish to seek their own legal advice to support their decision-making on this matter.⁸

191. Legal submissions were also provided by Buddle Findlay on this matter, who noted that the introductory text to Chapter 3.4 (Freshwater) is the only place within Change 1 that refers to 'six iwi' rather than 'mana whenua/tangata whenua', the latter being the terminology throughout the remainder of Change 1⁹. This reference to 'six iwi' may require the FHP to

⁸ Section 42A Officer's Report, General Submissions, Hearing Stream 1, pages 22-23 [RPS Change 1 HS1 - Section 42A Report - General Submissions - Final.docx \(gw.govt.nz\)](#)

⁹ Legal Submissions of Buddle Findlay on behalf of Greater Wellington Regional Council, 8 June 2023, [Providing-for-mana-whenuatangata-whenua-in-Change-1-Paul-Beverley-and-David-Allen-Buddle-Findlay.pdf \(gw.govt.nz\)](#)

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engage with the issue of mana whenua status, which, as noted in the Officer's section 42A report on General Submissions, would require an evidential assessment and would be a complex assessment given the opposing views of other iwi.

192. Buddle Findlay suggested amendments to the introductory text of Chapter 3.4 to provide a broader reference to the expressions of Te Mana o Te Wai, thereby removing the need to engage with the issue of mana whenua status through Change 1. The suggested amendments were as follows:

The Te Mana o Te Wai objective is required by the NPS-FM (3.2(3)). ~~Each iwi of the region have~~ can expressed what Te Mana o Te Wai means to them in their own words. These expressions of Te Mana o Te Wai form part of this objective.

The NPS-FM requires that freshwater is managed in a way that gives effect to Te Mana o te Wai. The regional council "must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai" (NPS-FM 3.2 (3)). The Te Mana o Te Wai objective in this RPS repeats the requirements of the NPS-FM, and then provides how each iwi of the region wishes to articulate their meaning of Te Mana o Te Wai.

Note: ~~There are six iwi wishing to express their meaning of Te Mana o Te Wai as part of this objective.~~ There are two expressions of Te Mana o Te Wai in this RPS at this time from Rangitāne o Wairarapa and Kahungunu ki Wairarapa. Others will be added either through the Schedule 1 process or in future plan changes.

All policies and methods in this RPS relating to freshwater must contribute to achieving this objective.

193. I agree with these suggested amendments and recommend that these amendments are made to Chapter 3.4.
194. I agree with Muaūpoko's relief sought to ensure the local expressions of Te Mana o te Wai are incorporated into the provisions of Change 1, insofar as this relates to the expressions that have been provided to date. I have considered this in making recommendations on submissions on this topic. However, in terms of Muaūpoko's request to include their own expression of Te Mana o te Wai in Change 1, I note that they have not provided any further detail in their submission of what this expression would be. As such, I recommend accepting in part Muaūpoko's relief sought, and accepting in part the further submissions of Rangitāne and Ātiawa.
195. Taranaki Whānui have provided their statement of expression of Te Mana o te Wai as part of their submission on Change 1 and are seeking this be added to Change 1. I agree with this request and recommend the statement be added to Change 1.

3.8.3 Section 32AA Evaluation

196. In accordance with section 32AA, I consider the replacement text I am recommending for Objective 12 is the most appropriate for the following reason(s):

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- The objective provides a clear outcome about what will be achieved when Te Mana o te Wai and the direction of the NPS-FM is given effect to.
- The replacement text provides a clearer articulation of what Te Mana o te Wai means when applied in the regional context. In doing so, the objective incorporates key principles and outcomes articulated in the mana whenua/tangata whenua statements of Te Mana o te Wai.

197. In accordance with section 32AA, I consider that my recommended new policies to incorporate the mana whenua/tangata whenua Statements of Te Mana o te Wai are the most appropriate means of achieving the objective, including my recommended new Objective 12, for the following reasons:

- The policies provide clarity for users of the RPS about how they should consider the mana whenua/tangata whenua Statements of Te Mana o te Wai when undertaking plan changes, variations, and assessing resource consents and notices of requirement.
- The new policies make it clear which statements are to be applied in different jurisdictions across the region.
- The new policies will improve the effectiveness of achieving Objective 12 because there is greater clarity about how these statements should be applied.
- The new policies, alongside the recommended new Objective 12, will be more effective in ensuring the mana whenua/tangata whenua Statements of Te Mana o te Wai are applied and considered in regulatory processes, in line with the expectations of mana whenua/tangata whenua.
- 'Recognise and provide for' is directive and I acknowledge this is a significant change from the notified provision (where there was no such direction provided). However, I consider this direction is appropriate within the context of the Te Mana o te Wai framework set out in clause 1.3 of the NPS-FM, particularly the six principles of freshwater management, and Policy 2 of the NPS-FM which requires that tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for. In my opinion, the content of the statements provides substance to the high-order direction of the NPS-FM and is consistent with the partnership approach the Council has taken with mana whenua/tangata whenua since the early drafting stages of Change 1.
- The new policy direction will have significant environmental, social and cultural benefits for mana whenua as it ensures that their expressions of Te Mana o Te Wai and the aspirations for freshwater management are an integral part of decisions effecting freshwater.
- The new policy direction will have moderate economic costs as a result of additional time and resource that will be required to interpret and engage with the Te Mana o Te Wai Statements and with mana whenua/tangata whenua themselves to ensure the intent of the statements is applied appropriately.

- Re-locating the statements into an Appendix and referencing the Appendix through these policies improves the efficiency of achieving Objective 12 as the statutory content is more streamlined, and any confusion between the directions of the policy and content of the statements is reduced.

3.8.4 Recommendations

198. I recommend the following amendments:

1. Replace Objective 12 with the following new objective:

Objective 12 – Te Mana o te Wai in the Wellington Region

The Region's waterbodies and freshwater ecosystems are returned to a healthy state and the ongoing management of land and water:

- (a) Restores the mana of water and its fundamental role in providing for the current and future health and wellbeing of the environment and the community
 - (b) Protects waterbodies and freshwater ecosystems from further degradation
 - (c) Incorporates and protects mātauranga Māori, in partnership with mana whenua/tangata whenua
 - (d) Recognises the individual natural characteristics and processes of waterbodies
 - (e) Re-establishes mana whenua/tangata whenua connections with freshwater
 - (f) Provides for the ability of mana whenua/tangata whenua to safely undertake their cultural and spiritual practices associated with freshwater, including mahinga kai
 - (g) Includes mana whenua/tangata whenua in decision-making in relation to the Region's waterbodies.
 - (h) Applies the Te Mana o te Wai hierarchy of obligations by prioritising:
 - i. First, the health and wellbeing of waterbodies and freshwater ecosystems,
 - ii. Second, the health needs of people
 - iii. Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
2. Insert the following new Policy into Chapter 4.1:

New Policy FWXX – Mana whenua/tangata whenua and Te Mana o te Wai – regional and district plans

District and regional plans shall include objectives, policies, rules or other methods to give effect to Te Mana o te Wai, and in doing so:

- (a) Recognise and provide for the mana whenua/tangata whenua Statements of Te Mana o te Wai in Appendix 5, as applicable to the territorial authority area shown in Table X. Regional plans shall apply the mana whenua/tangata

whenua statements as relevant to the scope and content of the plan change or review process.

- (b) Partner with mana whenua/tangata whenua in the development of district and regional plan objectives, policies, rules or other methods to give effect to Te Mana o te Wai.

Table X: Mana whenua/tangata whenua statements and applicable territorial authority areas

<u>Mana whenua/tangata whenua statement</u>	<u>Territorial authority area(s)</u>
<u>Rangitāne o Wairarapa</u>	<u>Masterton District</u> <u>Carterton District</u> <u>South Wairarapa District</u>
<u>Kahungunu ki Wairarapa</u>	<u>Masterton District</u> <u>Carterton District</u> <u>South Wairarapa District</u>
<u>Taranaki Whānui</u>	<u>Wellington City</u> <u>Hutt City</u> <u>Upper Hutt City</u>

3. Insert the following new policy into Chapter 4.2:

New Policy FWXX: Mana whenua/tangata whenua Te Mana o te Wai– consideration

When considering an application for resource consent, notice of requirement, or a change, variation or review of a regional or district plan that relates to freshwater, have regard to the mana whenua/tangata whenua Te Mana o te Wai statements contained in Appendix 5, as applicable to the territorial authority area shown in Table X.

Table X: Mana whenua/tangata whenua statements and applicable territorial authority areas

<u>Mana whenua/tangata whenua statement</u>	<u>Territorial authority area(s)</u>
<u>Rangitāne o Wairarapa</u>	<u>Masterton District</u> <u>Carterton District</u> <u>South Wairarapa District</u>

<u>Kahungunu ki Wairarapa</u>	<u>Masterton District</u> <u>Carterton District</u> <u>South Wairarapa District</u>
<u>Taranaki Whānui</u>	<u>Wellington City</u> <u>Hutt City</u> <u>Upper Hutt City</u>

4. Move the 'Statement of Rangitāne o Wairarapa Te Mana o te Wai expression' and the 'Statement of Kahungunu ki Wairarapa' from Chapter 3.4 to a new 'Appendix 5' to the Regional Policy Statement.
5. Amend the Statement of Rangitāne o Wairarapa Te Mana o te Wai expression to delete the following whakataukī:

~~...A notable example of this is from the writings of Whatahoro Jury:~~

~~**Ko Waiōhine ko Ruamāhanga ēnei e wairua tipu mai i Tararua
maunga e orange e te iwi.
These are Waiōhine and Ruamāhanga. They are like mother's milk flowing
out of the Tararua mountains for the prosperity of the people.
Nā Whatahoro Jury 1841-1923**~~

6. Insert the following new 'Statement of Taranaki Whānui Te Mana o te Wai expression' into new Appendix 5:

He Whakapuaki mō Te Mana o te Wai

Te Kāhui Taiao have drafted a number of statements that outline a local approach on how to give effect to Te Mana o te Wai in Te Whanganui-a-Tara. With respect to Section 3.2 of the National Policy Statement for Freshwater Management 2020, the following statements are the proffered objectives of Taranaki Whānui that describe how the management of freshwater in the region will give effect to Te Mana o te Wai. In Te Whanganui-a-Tara the care of freshwater gives effect to Te Mana o te Wai when:

1. Taranaki Whānui can exercise kaitiakitanga and lead freshwater and coastal management decision-making.
2. Taranaki Whānui can implement and practice traditional rangatiratanga management techniques, for example; rāhui to protect the mana and mōuri of water
3. Taranaki Whānui are resourced to be active and have an integral presence as Ngā Mangai Waiora (ambassadors for water) in Whaitua monitoring and management
4. Taranaki Whānui are visible in the management of mahinga kai and riparian and coastal areas through nohoanga (camp) and other cultural practices.

5. The mōuri and life-supporting capacity of water in Te Whanganui-a-Tara enables the customary practices of Taranaki Whānui such as tohi (baptism), whakarite (preparing for an important activity/event), whakawātea (cleansing) manaakitanga (hospitality) at a range of places throughout the catchment.

6. Taranaki Whānui can serve manuhiri fresh and coastal mahinga kai species by 2041.

7. The wellbeing and life of the wai is primary.

8. The mana (dignity and esteem) of water as a source of life is restored and this includes regarding and respecting all waterbodies (including āku waiheke), repo (wetland) and estuaries as living entities, and naturalising, naming, mapping, and protecting each.

9. Freshwater is cared for in an integrated way through mai i uta ki tai, from te mātāpuna (the headwaters) to the receiving environments like the Parangarehu Lakes, Hinemoana (the ocean), Te Whanganui-a-Tara (Wellington Harbour) and Raukawakawa Moana (the Cook Strait).

10. All freshwater bodies are managed holistically to allow them to exhibit their natural rhythms, natural form, hydrology, and character.

11. Freshwater bodies can express their character through a range of flows over the seasons.

12. There are sufficient flows and levels to support connectivity throughout mai i uta ki tai and between rivers and their banks to support spawning fish.

13. Key areas like te mātāpuna (headwaters), estuaries and repo (wetland) are prioritised for protection and restoration so that they are once again supporting healthy functioning ecosystems.

14. Mahinga kai species are of a size and abundance to be sustainably harvested.

15. Areas that are not currently able to be harvested (for example; coastal discharge areas and others) are able to be harvested by 2041.

16. Te Awa Kairangi, Waiwhetū, Korokoro, Kaiwharawhara, the Wainuiomata river and its aquifers are declared 'Te Awa Tupua' (an indivisible and living whole, incorporating all its physical and metaphysical elements) and given 'legal personhood' in legislation.

17. Te Awa Kairangi, Wainuiomata and Ōrongorongo are publicly acknowledged for the part they play in supporting human health through their contribution to the municipal water supply.

199. I also recommend consequential amendments to the Chapter 3.4 introduction, to reflect the above recommendations:

[...]

The ~~Te Mana o Te Wai~~ objective is required by the NPS-FM (3.2(3))- requires the RPS to include an objective that describes how the management of freshwater in the

region will give effect to Te Mana o te Wai". Each iwi of the region have can expressed what Te Mana o Te Wai means to them in their own words and these expressions can be included in the RPS. These expressions of Te Mana o Te Wai form part of this objective.

The RPS includes several policies to give effect to Te Mana o te Wai including specific policy direction that the mana whenua/tangata whenua expressions of Te Mana o te Wai must be recognised and provided for. These expressions underpin the regional response to Te Mana o te Wai. The regional council "must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai" (NPS FM 3.2 (3)). The Te Mana o Te Wai objective in this RPS repeats the requirements of the NPS FM, and then provides how each iwi of the region wishes to articulate their meaning of Te Mana o Te Wai.

Note: There are six iwi wishing to express their meaning of Te Mana o Te Wai as part of this objective. There are two three expressions of Te Mana o Te Wai in this RPS at this time from Rangitāne o Wairarapa, and Kahungunu ki Wairarapa, and Taranaki Whānui. Others will be added either through the Schedule 1 process or in future plan changes.

All policies and methods in this RPS relating to freshwater must contribute to achieving this objective.

[...]

200. Accordingly, I recommend that the submissions and further submissions in relation to Issue 2 – Objective 12 and Te Mana o te Wai Statements be accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.9 Issue 6: Policy 12 – Management of water bodies – regional plans

3.9.1 Matters raised by submitters

201. A total of 21 submission points and 27 further submission points were received in relation to Policy 12: Management of water bodies.

Support

202. The policy is supported as notified by five submitters being KCDC [S16.037 and S16.047], Sustainable Wairarapa Inc [S144.037], Taranaki Whānui [S167.075], and Kahungunu [S169.007] (supported by a further submission from Sustainable Wairarapa Inc [FS31.008]).

Support in part

203. PCC [S30.038] (supported by PPFL [FS25.071]), UHCC [S34.055], and HCC [S115.037] (supported by the Fuel Companies [FS10.018], Wellington Water [FS19.017], Powerco [FS24.014], and Hort NZ [FS28.042]) seek amendments to provide clear direction to plan users and provide regional context to the NPS-FM requirements. HCC seeks that the policy be redrafted to apply higher order direction in the regional context. PCC specifically requests an amendment to clause (g) of Policy 12 to remove duplication with the chapeau of the policy. The amendment sought is as follows:

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(g) identify limits on resource use including take limits that will achieve the target attribute states, flows and levels ~~and include these as rules.~~

204. DGC [S32.011] (supported in part by Ātiawa [FS20.005] and opposed by BLNZ [FS30.289]) seeks amendments to give complete effect to the NPS-FM. The following amendment is sought to the explanation:

'Policy 12 ~~gives~~ sets out key elements of giving effect to the national direction set by the National Policy Statement for Freshwater Management 2020, including sections 2.2, 3.2 and 3.8-3.17'

205. Hort NZ [S128.025] (supported by BLNZ [FS30.043] and opposed by Ātiawa [FS20.020]) seeks amendments to refer more generally to the regional plan implementing the requirements of the NPS-FM. Alternatively, the submitter seeks an amendment to sub-clause (b), as follows:

(b) Achieve, or contribute to achieving, the long-term visions for freshwater

206. Ātiawa [S131.061] (supported by Wellington Water [FS19.002] and Ngā Hapu [FS29.331]) seeks the following additional clauses in Policy 12:

(aa) enable the application of mātauranga Māori

(ab) adopt an integrated approach, ki uta ki tai

207. Ngāti Toa [S170.026] (supported by Ngā Hapu [FS29.140]) seeks an amendment so that all sub-clauses include the words 'co-designed with Mana Whenua'.

208. Fish and Game [S147.008] (supported in part by Hort NZ [FS28.043] and opposed by Wellington Water [FS19.072] and BLNZ [FS30.177]) supports in part Policy 12 and seeks clarification with regard to sub-clause (b) 'achieve the long-term visions for freshwater'.

209. Te Tumu Paeroa [S102.044] generally supports Policy 12 but seeks an amendment to clause (a) as follows:

(a) are prepared in partnership with mana whenua/tangata whenua and affected Māori landowners

210. Forest and Bird [S165.047] (supported in part by Hort NZ [FS28.044] and opposed by BLNZ [FS30.319]) supports in part Policy 12 and seeks amendments to clarify that the NPS-FM requirements remain paramount, despite the paraphrasing of NPS-FM requirements within Policy 12. The submitter seeks the following amendments:

- *'Regional plans shall give effect to Te Mana o te Wai and the implementation requirements of the NPSFM, and include objectives, policies, rules and/or methods that: ...'*
- *Add a note at the bottom of the policy: 'Where there is a difference between the listed requirements above and those of the NPSFM, the NPSFM will prevail.'*
- Make any further amendments to ensure Part 3 of the NPSFM is given effect to.

Oppose in part

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211. Muaūpoko [S133.006] (opposed by Ātiawa [FS20.353]) seeks amendments to the RPS to clarify the process to identify FMUs, provide policy direction to identify and define FMUs, provide policy direction regarding sites to be used for monitoring, primary contact sites, the location of habitats of threatened species, outstanding water bodies, and natural inland wetlands. Muaūpoko seeks the opportunity to partner with the Council for these processes.
212. Rangitāne [S168.036, S168.037, S168.0198 and S168.0199] (supported by Sustainable Wairarapa Inc [FS31.146, FS31.147, FS31.129, and FS31.130]) seeks amendments to the policy to:
- Make it clear that FMUs will be identified in the RPS as a first step before the development of the long-term visions and that this will occur prior to the regional plan is made or modified.
 - Correctly reference the sequence of steps in the NOF process in the NPS-FM (clause e).
 - Provide a policy or method which explains how the FMUs will be identified and defined in partnership with tangata whenua, along with the associated long-term visions; and how these matters will be incorporated into the RPS).
 - That the FMUs are identified in the RPS and take into account tangata whenua mātauranga when defining them.
213. WFF [S163.052] (supported by BLNZ [FS30.124] and opposed by Forest and Bird [FS7.095], Ātiawa [FS20.217] and Ngā Hapu [FS29.068]) seek the deletion of Policy 12 and the deferral of these changes to a full review of the RPS in 2024. The submitter also raises concerns about the application of 'partnerships' and that this should apply more broadly to the wider community.

3.9.2 Analysis

Providing regional context

214. I note the concerns of submitters that Policy 12 does not provide sufficient regional context in the implementation of the NPS-FM, and I agree that further local context would be appropriate.
215. The Council has been progressing its Whaitua Implementation Programme for some time, and there are now three completed whaitua processes - Ruamāhanga, Te Awarua-o-Porirua and Te Whanganui-a-Tara.
216. The whaitua boundaries are based on work undertaken by the Council in 2010 to identify and assess 'supercatchments' across the region¹⁰. The supercatchments identified were Eastern Wairarapa (now Wairarapa Coast), Ruamāhanga, Wellington Harbour, Porirua Harbour, and Kāpiti Coast. A preliminary assessment of each supercatchment was undertaken at the time and identified the key features of each including topography,

¹⁰ Greater Wellington Regional Council (2010), 'Draft Wellington Region Catchment Inventory'.

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geology, climate, human settlement, land ownership, natural resources (soils, water quantity, water quality, ecology, natural hazards etc).

217. The whitua therefore represent 'catchments' of the region based on a range of criteria as set out above. These catchments are an appropriate starting point for implementing the NPS-FM and they represent Freshwater Management Units (FMUs).
218. Given the importance of the whitua processes for the implementation of the NPS-FM, including in the RPS and subsequent changes to the NRP, I consider the RPS requires policy direction that sets out what the FMUs are for the region and that freshwater will be managed according to these FMUs.
219. I acknowledge the concerns of Rangitāne in relation to whitua boundaries and that a finer grain is required to recognise the variety of characteristics across these areas. I understand from Council officers that these FMUs will be further 'subdivided' into part-FMUs through subsequent NRP plan changes, starting with the upcoming Plan Change 1. The NRP already includes 'whitua chapters' which have been established to provide the necessary structure for the whitua-specific objectives, policies and rules to give effect to the NPS-FM and implement the WIPs.
220. In response to submitter relief seeking greater regional context in Policy 12, I recommend amendments to Policy 12 to describe the FMUs (whitua areas) and include a requirement that the NRP will establish part FMUs in partnership with mana whenua/tangata whenua. I also recommend the inclusion of a map showing the FMU areas based on the map shown in Appendix 3.
221. As such, I recommend amending clause (c) to list the whitua in Policy 12 and include a new clause that directs the identification of part FMUs in partnership with mana whenua.

Clarifying NPS-FM directions in Policy 12

222. DGC and Forest and Bird have both sought relief to clarify that Policy 12 is not an exhaustive list of NPS-FM requirements. Forest and Bird is concerned that Policy 12 paraphrases the NPS-FM requirements and that in doing so, the meaning of some NPS-FM requirements may be changed. I note the concerns of Forest and Bird in this regard, however I do not consider the amendments sought by the submitter are necessary in the body of the policy. The NPS-FM remains the principal national direction and the NRP must still give effect to it.
223. However, I do agree with DGC that the explanation to Policy 12 should provide clarity that the policy is not an exhaustive list of NPS-FM directions. I consider this provides clarity for RPS users. I therefore recommend accepting the relief sought by the DGC and amending the explanation to Policy 12 accordingly. On that basis Forest and Bird's relief sought is rejected.

Clause (b) – Long-term visions for freshwater

224. I agree with HortNZ's suggested amendment to clause (b) to make it clearer that the objectives, policies rules and methods set in the current RPS can only contribute to

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achieving the long-term visions. Long-term visions for freshwater will extend beyond the life of this RPS.

225. Wellington Fish and Game also sought clarity about this clause due to the absence of long-term visions in Change 1. I note the concerns of the submitter, and that there is an element of ambiguity in this clause until such time as the long-term visions for the region have been included in the RPS. As set out in Section 3.7 of this report, the Council will shortly notify Variation 1 to Change 1 to incorporate long-term visions for Te Awarua-o-Porirua and Te Whanganui-a-Tara. Long-term visions for other whaitua will be added at a later date.
226. I agree that some further clarity is required in clause (b) to recognise that the long-term visions are yet to be added to the RPS. Accordingly, I recommend that the relief sought by Fish and Game and HortNZ be accepted in part, and that Policy 12 is amended as shown in paragraph 236.

Mana whenua/tangata whenua and Policy 12

227. I agree with Ātiawa's relief sought to include new clauses in Policy 12 that recognise the importance of mātauranga Māori and ki uta ki tai when developing the freshwater provisions of the regional plan. These concepts are a core part of giving effect to Te Mana o te Wai which should inform the NRP freshwater provisions accordingly. I consider that clause (a) of Policy 12 can be amended to include the reference to the application of mātauranga Māori rather than creating a separate clause. I therefore recommend accepting in part Ātiawa's relief sought.
228. I note the relief sought by Ngāti Toa to include 'co-designed with Mana Whenua' within each clause. However, I do not consider this is necessary as clause (a) already directs that the provisions be developed in partnership with mana whenua/tangata whenua. On this basis, I recommend rejecting the relief sought by Ngāti Toa and rejecting the further submission by Ngā Hapu.
229. Similarly, I disagree with the relief sought by Te Tumu Paeroa to include Māori landowners in the partnership of the Council and mana whenua/tangata whenua. The partnership approach that is referenced in this and many other policies in Change 1 is specific to the partnership that has been established between the Council and the six mana whenua/tangata whenua in the region. Māori landowners who are mana whenua/tangata whenua would be represented in this partnership approach. I consider the amendment requested by the submitter would broaden the requirement to landowners beyond this established partnership which could have the effect of diluting the partner role of mana whenua/tangata whenua. As such I recommend rejecting the relief sought by Te Tumu Paeroa.

Clause (g)

230. In relation to the submission from UHCC seeking clarity about the application of sub-clause (g) and the relationship with Policy 15 and Action Plans required by the NPS-FM, I do not consider any amendments are required to Policy 12. However, I am recommending a number of amendments to Policy 15 to provide greater clarity about

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what district plans must include, which should address the concerns raised by the submitter. These recommended amendments are set out in section 3.12 of this report.

231. I agree with the amendment sought by PCC to sub-clause (g), to remove the words 'and include these as rules' because this duplicates the policy chapeau.
232. Accordingly, I recommend that the relief sought by PCC be accepted and the relief sought by UHCC rejected.

NOF steps and Policy 12

233. Rangitāne have raised concerns that Policy 12 does not correctly reference the steps in the NOF process. I agree that clause (e) of Policy 12 requires amendment to be clear about the sequence of steps that is required by the NPS-FM. On this basis, I recommend inserting a new clause relating to the identification of attributes and baseline states and amending clause (e) to provide clarity that target attribute states must be set for each of those attributes. These recommended amendments are shown in paragraph 236.

Deletion of Policy 12

234. I disagree with the relief sought by WFF to delete Policy 12 for similar reasons noted in relation to Issue 2 (section 3.5 of this report). Policy 12 provides important direction about what must be included in the NRP to manage freshwater in the region and give effect to the NPS-FM. In my view this policy sets the foundation for subsequent policies in the RPS and upcoming changes to the NRP. Its deletion would mean there is insufficient direction provided for those provisions, and the RPS would not sufficiently give effect to the NPS-FM. I therefore recommend that WFF's submission point be rejected.

3.9.3 Section 32AA Evaluation

235. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Policy 12 are the most appropriate for the following reasons:
- The inclusion of the region's FMUs are an efficient and effective way of providing regional context to the requirements of the NPS-FM.
 - The inclusion of reference to the application of mātauranga Māori is an effective way of giving effect to Te Mana o te Wai and Objective 12 (as recommended to be amended in section 3.8 of this report)
 - The amendments provide clarity about the sequence of steps in the NOF process.
 - The amendments provide clarity about the status of long-term visions and how plan provisions should be considered in relation to these visions.

3.9.4 Recommendations

236. I recommend the following amendments to Policy 12:

Policy 12: Management purposes for of surface-water bodies – regional plans

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and/or methods that:

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~~(a) require that water quality, flows and water levels, and the aquatic habitat of surface water bodies are to be managed for the purpose of safeguarding aquatic ecosystem health; and~~

~~(b) — manage water bodies for other purposes identified in regional plans.~~

(a) are prepared in partnership with mana whenua / tangata whenua and enable the application of mātauranga Māori;

(aa) adopt an integrated approach, ki uta ki tai

(b) contribute to achieving the any relevant long-term visions for freshwater;

(c) identify freshwater management units (FMUs);

(c) manage freshwater through the following freshwater management units (FMUs) which are shown on Map X:

(i) Kāpiti Whaitua

(ii) Ruamahanga Whaitua

(iii) Te Awarua-o-Porirua Whaitua

(iv) Te Whanganui-a-Tara Whaitua

(v) Wairarapa Coast Whaitua

(ca) identify part-FMUs that require specific management within the FMUs identified in clause (c), in partnership with mana whenua/tangata whenua

(d) identify values for every FMU and part-FMU, and environmental outcomes for each value as objectives;

(da) For each value identified in clause (d), identify attributes and the baseline states for those attributes

(e) For each attribute identified in clause (da), identify target attribute states that achieve environmental outcomes, and record their baseline state;

(f) set environmental flows and levels that will achieve environmental outcomes and long-term visions for freshwater;

(g) identify limits on resource use, including take limits that will achieve the target attribute states, flows and levels and include these as rules;

(h) identify non-regulatory actions that will be included in Action Plans that will assist in achieving target attribute states (in addition to limits); and

(i) identify non-regulatory and regulatory actions in Actions Plans required by the NPS-FM

Explanation

Policy 12 gives sets out the key elements of giving effect to the national direction set

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by the National Policy Statement for Freshwater Management 2020, including sections [2.2](#), 3.2 and 3.8-3.17.

237. I recommend adding a map to a new Appendix of the RPS that shows the FMUs, based on the whitua map shown in **Appendix 4** of this report.

238. Accordingly, I recommend that the submission and further submissions on Issue 6 -Policy 12 be accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.10 Issue 7: Policy 13 – Allocation of Water

3.10.1 Matters raised by submitters

239. A total of 6 submission points and 5 further submission points were received in relation to Policy 13.

240. The deletion of this policy is supported as notified by HCC [S115.038], Ātiawa [S131.062] (supported by Ngā Hapu [FS29.332]), WCC [S140.039], Taranaki Whānui [S167.076], and Forest and Bird [S165.048] (supported in part by Ātiawa [FS20.073] and opposed by BLNZ [FS30.319]).

241. DGC [S32.012] (opposed by Ātiawa [FS20.006] and BLNZ [FS30.290]) opposes the deletion of Policy 13 on the basis that Policy 12 focuses on process rather than outcomes, whereas operative Policy 13 provides specific guidance to take account of aquatic ecosystem health and saltwater intrusion.

3.10.2 Analysis

242. I note the concerns raised by DGC about the deletion of existing Policy 13. However, I disagree with the relief sought (to reinstate the policy) as I consider that the retention of Policy 13 in the RPS would duplicate Policy 12.

243. As such, I recommend that the relief sought by DGC be rejected.

3.10.3 Recommendations

244. I recommend that Policy 13 remains deleted, as notified.

245. Accordingly, I recommend that the submissions and further submissions in relation to Issue 3 – Policy 13 – Allocating Water be accepted or rejected as detailed in **Appendix 2**.

3.11 Issue 8: Urban development effects on freshwater and the coastal marine area (Policy 14, Policy FW.3, Policy 42, and Method FW.2)

3.11.1 Matters raised by submitters

Common issues raised across provisions

246. The urban development provisions of the Freshwater topic received a substantial number of submissions, many of which are common across these provisions. As such, these matters have been grouped together in this section to avoid repetition. Many of these submitters have also sought specific drafting amendments to these provisions. Those specific amendments are addressed in the sub-sections that relate to those provisions.

247. A number of submitters including PCC [S30.039] and [S30.045] (supported by PPFL [FS25.072] and [FS25.078]), HCC [S115.039] and [S115.045]), PPFL [S118.010] and

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[S118.011], UHCC [S34.056], WCC [S140.046] (supported in part by MDC [FS14.040] and opposed by Wellington Water [FS19.058]), KCDC [S16.080] and CDC [S25.025] raised concerns that Policy 14 and Policy FW.3 duplicate other policies in Change 1 and/or concerns that Policy FW.3 directs district plans to address matters that are more appropriately addressed by the regional plan.

248. Rangitāne [S168.038] (supported by Sustainable Wairarapa Inc [FS31.148] and opposed in part by Hort NZ [FS28.045]), [S168.057] (supported by Sustainable Wairarapa Inc [FS31.167]) and [S168.052] (supported by Sustainable Wairarapa Inc [FS31.162]) considers that Policies 14, FW.3 and 42 should apply to all development, not just urban development. Rangitāne also seeks amendments to improve the grammatical structure of the policies. In an opposing submission point, the Fuel Companies [S157.023] consider that the drafting of Policy 14, Policy FW.3 and Policy 42 is too absolute and too uncertain and seek amendment to these policies to recognise that the thresholds set in these policies will not necessarily be achievable in all situations.

Policy 14

249. Policy 14 is supported as notified by Ātiawa [S131.063] (supported by Ngā Hapu [FS29.333]), Fish and Game [S147.052] (opposed by Wellington Water [FS19.116] and BLNZ [FS30.221]), Taranaki Whānui [S167.077] and Kahungunu [S169.008] (supported by Sustainable Wairarapa [FS31.009]).

Support in part

250. Muaūpoko [S133.007] (opposed by Ātiawa [FS20.354]) seeks that Policy 14 be retained, noting that a review of freshwater provisions is necessary.
251. PCC [S30.039] (supported by PPFL [FS25.072]) seeks a number of amendments to Policy 14 so that it is drafted as a policy rather than a statement.
252. Rangitāne [S168.038] (supported by Sustainable Wairarapa [FS31.148] and opposed in part by Hort NZ [FS28.045]) seeks an amendment to extend clause (d) to refer to environmental flows not just target attribute states.
253. GWRC [S137.004], with a neutral / not stated position from WCC [S140.040], supports in part Policy 14 and seeks the following amendments:

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, and methods including rules that, ~~must give effect to Te Mana o te Wai and in doing so must:~~

...

(e) Require ~~the~~ urban development, including stormwater discharges, earthworks and vegetation clearance to meet any limits set in a regional plan;

254. PPFL [S118.010] seeks the deletion or appropriate qualification of sub-sections (f), (g), and (h) of Policy 14.
255. DGC [S32.013] (supported by Ātiawa [FS20.007], opposed by Wellington Water [FS19.012] and BLNZ [FS30.291]) and DGC [S32.026] (supported by Ātiawa [FS20.013])

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and opposed by BLNZ [FS30.304]) seeks the following amendments, or words to similar effect:

- *(h) Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins ~~and~~ estuaries and the coastal marine area;*

- Add a new sub-clause:

Require that urban development is located and designed to allow water bodies to meander and move naturally

256. WCC [S140.040] supports in part Policy 14 and seeks an amendment to clause (h) to remove reference to 'gully heads' on the basis that gully heads are not a freshwater body and earthworks around gully heads can reduce erosion risk and create more usable areas for development, reducing the greenfield areas required for population growth.

257. Kāinga Ora [S158.019] (supported by Waka Kotahi [FS3.021]) notes that the NPS-FM does not prohibit the piping of rivers but instead implements the effects management hierarchy of avoid, remedy and mitigate. The submitter seeks the following amendment to clause (i):

(i) Require riparian buffers for all waterbodies and avoid piping of rivers where practicable and where the effects cannot be avoided, they are minimised or remedied. Aquatic offsetting or compensation may be used where the piping of the river cannot be avoided, minimised or remedied.

258. Wellington Water [S113.016] seeks the following additional wording to clause (j):

Require hydrological controls to reduce the adverse effects of excess stormwater volume on stream bank scour and aquatic ecosystem health;

259. Wellington Water considers this amendment provides clarity on the basis that the policy is reliant on the definition of hydrological controls, which in their view is an unclear definition.

260. KCDC [S16.048] seeks an amendment to clause (k) to recognise that stormwater systems transport contaminants rather than generate contaminants. On this basis, the submitter seeks the following amendment:

(k) Require stormwater quality management that will minimise the ~~generation~~ transportation of contaminants, and maximise, to the extent practicable, the removal of contaminants from stormwater;

261. Te Tumu Paeroa [S102.045] (supported by Rangitāne [FS2.101]) seeks the following amendment to clause (l):

(l) Identify and map rivers and wetlands in conjunction with iwi, hapū and affected landowners.

262. Ngāti Toa [S170.029] (supported by Ngā Hapu [S29.143]) considers Policy 14 should also apply to district plans and that the policy allows some contamination from stormwater. The submitter seeks the following relief:

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- Require inclusion in district plans as well as regional plans
- Replace 'manage' with stronger wording to ensure the contamination of stormwater is phased out
- Subdivisions should not be allowed if paru (dirty) water will reach freshwater environments.

263. SWDC [S79.028] (supported in part by MDC [FS14.026]) seeks the inclusion of a method that develops non-regulatory guidance on good practice to achieve Policy 14. No amendments are sought to the policy wording.

Not stated/neutral

264. MDC [S166.026] seeks clarification about the "roles" and "responsibilities" of territorial authorities and the Council under this proposed change.

Oppose in part

265. Policy 14 is opposed in part as notified by UHCC [S34.066], WIAL [S148.036] and Forest and Bird [S165.049] (opposed by BLNZ [FS30.319]).

266. UHCC [S34.066] raises a number of concerns with Policy 14 including the use of undefined terms, the scale of development the policy applies to, and the strength of the policy direction. UHCC seeks clarification of identified undefined terms, the role of urban Māori and how they are represented, and a specific amendment to clause (i), as follows:

"Require riparian buffers for all natural waterbodies and avoid piping of rivers where practicable."

267. WIAL [S148.036] is seeking the deletion of the reference to the CMA in Policy 14 and in the explanation. This relief is sought on the basis that the policy has applied the NPS-FM in the CMA and there are separate provisions relating to the management of the CMA elsewhere in the RPS. The submitter considers it is confusing to have coastal policies in the Freshwater chapter and that this has the potential to cause interpretation problems in the future.

268. Forest and Bird [S165.049] seeks amendments to the policy to make it clear that the policy is restricted to the effects of urban development and an additional clause requiring urban development to avoid the loss of extent or values of natural inland wetlands.

Oppose

269. Wellington Water [S113.019] opposes Policy 14 on the basis that 'minimise' and 'maximise' are too strong, unless defined consistently with the NRP. The submitter seeks that these definitions are included in Change 1.

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270. In a number of separate submission points, the Fuel Companies¹¹ oppose Policy 14 and seek a number of amendments to the policy to address their overarching concerns that the policy wording is too strong and absolute.

Policy FW.3

Support

271. Policy FW.3 is supported as notified by Ātiawa [S131.069] (supported by Ngā Hapu [FS29.339]), Fish and Game [S147.058] (opposed by Wellington Water [FS19.122] and BLNZ [FS30.227]), Kahungunu [S169.010] (supported by Sustainable Wairarapa [FS31.011]), DGC [S32.033] (supported by Ātiawa [FS20.014] and opposed by Kāinga Ora [FS12.002] and BLNZ [FS30.311]) and Ngāti Toa [S170.050] (supported by Ngā Hapu [FS29.164]).

Support in part

272. DGC [S32.017] (supported by Ātiawa [FS20.011] and opposed by BLNZ [FS30.295]) and Forest and Bird [S165.055] (supported by Ātiawa [FS20.077] and opposed by WIAL [FS17.019] and BLNZ [FS30.319]) support in part Policy FW.3, and seek amendments to clause (p) to include stronger direction with regard to the daylighting of streams. DGC seeks 'encourage and support' while Forest and Bird seeks 'promote'. Forest and Bird also seeks a number of amendments to ensure the direction and ecological bottom-lines from the RMA, NZCPS and NPS-FM are carried through to Policy FW.3.

273. DGC [S32.033] (supported by Ātiawa [FS20.014] and opposed by Kāinga Ora [FS12.002] and BLNZ [FS30.311]), also seeks the addition of a new clause in Policy FW.3, to address the impacts of development on the ability of streams and rivers to move and meander naturally. The suggested new clause is:

"Require that urban development is located and designed to allow water bodies to meander and move naturally".

274. UHCC [S34.056] considers that the policy goes beyond what is required in the NPS-FM and transfers regional council functions to territorial authorities. UHCC also consider the policy is too prescriptive and is inconsistent with MfE's guidance on the NPS-FM. UHCC seeks that the Council works with territorial authorities to clarify roles and functions and amend the policy to read:

*"District plans shall include objectives, policies, and methods including rules, that give effect to Te Mana o te Wai and section 3.5(4) of the NPS- FM, ~~and in doing so~~ **must where relevant and practicable: ..."***

¹¹ [S157.024] (opposed by Wellington Water [FS19.040]); [S157.025] (opposed by Wellington Water [FS19.040], supported in part by Waka Kotahi [FS3.018]); [S157.026] (opposed by Wellington Water [FS19.042] and supported in part by Waka Kotahi [FS3.019]); [S157.027] (opposed by Wellington Water [FS19.043]); [S157.028] (opposed by Wellington Water [FS19.044]); S157.029] (supported by WIAL [FS17.017] and opposed by Wellington Water [FS19.045]); [S157.030] (supported in part by Waka Kotahi [FS3.020] and opposed by Wellington Water [FS19.046]); [S157.031].

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275. Te Tumu Paeroa [S102.047] considers that in order to give effect to the relationship mana whenua/tangata whenua have, provision (c) needs to be more directive and seeks the direction be amended to 'recognise and provide for'.
276. Wellington Water [S113.017] (with a neutral/ not stated position by WCC [FS13.021]) and [S113.026] seeks amendments to clause (m) of the policy to provide greater clarity in relation to hydrological controls and an amendment to clause (h) so that developments consider the expectations of the stormwater management strategy and plan.
277. HCC [S115.045] and PPFL [S118.011] raise concerns about the length, complexity and prescriptive nature of the policy. Both submitters seek redrafting of the policy to make it more succinct.
278. Fish and Game [S147.016] (opposed by Wellington Water [FS19.080] and BLNZ [FS30.185]) and [S147.017] (opposed by Ātiawa [FS20.113], Wellington Water [FS19.081] and BLNZ [FS30.186]) are concerned that the policy as drafted does not give proper effect to Policies 6, 7, 9 and 10 of the NPS-FM. On this basis the submitter seeks the following amendments to Policy FW.3:
- (k) Require that urban development is located and designed to avoid the loss of river extent and values and natural inland wetlands, and to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;"*
- New subclause:(ka) Require that urban development is located and designed to protect the habitats of indigenous freshwater species, trout and salmon;*
279. Forest and Bird [S165.055] (supported by Ātiawa [FS20.077] and opposed by WIAL [FS17.019] and BLNZ [FS30.319]) seeks a number of amendments to ensure the direction and ecological bottom-lines from the RMA, NZCPS and NPS-FM are carried through. The amendments sought are as follows:
- *(g) ~~Consider~~ avoid the adverse effects on freshwater and the coastal marine area of subdivision, use and development of land;*
 - *(h) ~~Consider~~ control the use and development of land in ~~relation~~ order to achieve target attribute states and comply with any limits set in a regional plan;*
 - *(p) ~~Consider~~ promote daylighting of streams, where practicable;*
280. Taranaki Whānui [S167.085] (supported by Ngāti Toa [FS6.029]) seeks stronger partnership with mana whenua:
- (c) ~~Provide for~~ Partner with mana whenua / tangata whenua ~~and~~ to provide for their relationship with their culture, land, water, wāhi tapu and other taonga*
281. Rangitāne [S168.057] (supported by Sustainable Wairarapa [FS31.167]) seeks amendments to the wording of clauses (i) and (j) to remove the word 'consider' and use wording that gives effect to the NPS-FM.
282. Ngāti Toa [S170.085] (supported by Ngā Hapu [FS29.199]), have referenced Policy FW.1 in their submission, however I understand the submitter has clarified that this submission point in fact applies to Policy FW.3. Ngāti Toa seeks amendments to the policy to make the intent firmer for territorial authorities, use stronger wording, and to

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acknowledge the need for additional infrastructure to provide safe and clever solutions for communities.

283. UHCC [S34.056] seeks that the Council works with territorial authorities to clarify roles and functions and develop a policy that is achievable and an amendment to the policy chapeau to include the words 'where relevant and practicable'.

284. WCC [S140.046] (supported in part by MDC [FS14.040] and opposed by Wellington Water [FS19.058]) seeks the deletion of a number of clauses in the policy that they consider are outside the scope of district plans.

Oppose in part

285. WIAL [S148.038] is concerned that the policy has applied the NPS-FM to the CMA and seeks the deletion of reference to the CMA in Policy FW.3 and the explanation.

286. MDC [S166.058] seeks the following amendment to clause (f) of Policy FW.3:

(f) Integrate planning and design of stormwater management to achieve multiple improved outcomes - amenity values, recreational, cultural, ecological, climate, vegetation retention; protection of life and property

Oppose

287. KCDC [S16.080] and CDC [S25.025] are concerned that Policy FW.3 transfers some regional council responsibilities to territorial authorities, it goes beyond what is required of the NPS-FM, that some clauses lack detail on how they should be implemented, and that it repeats provisions of the NPS-FM. KCDC seeks that either Policy FW.3 is deleted and redrafted as part of a variation to Change 1 or that clauses (b), (f), (g), (h), (m), (n), and (o) be deleted. CDC seeks that the policy be amended so that it addresses only those matters addressed in section 3.5(4) of the NPS-FM.

288. PCC [S30.045] (supported by PPFL [FS25.078]) opposes the policy on the basis that it lacks the necessary precision to enable its meaningful implementation and directs district plans to address matters which are outside their scope, and due to its drafting and scope represents a high regulatory requirement. The submitter has listed a range of concerns with the individual clauses of Policy FW.3. PCC seeks that either Policy FW.3 be deleted or alternatively that:

- the policy be amended to provide clear and appropriate direction to plan users in line with objectives, and delete (g), (h), (o), (p) and (q).
- Amend the explanation as follows:

Explanation

Policy FW.3 requires district plans to manage the effects of urban development on freshwater and the coastal marine area. This is to the extent that is relevant under a territorial authority's functions under section 31 of the RMA and in a manner that does not duplicate the functions of the Regional Council under section 30 of the RMA.

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289. Best Farm Limited/Hunters Hill Ltd/Lincolnshire Farm Ltd/Stebbing's Farmlands Ltd [S135.006] opposes Policy FW.3 on the basis that the policy is very broad and in their opinion is unnecessary as the NRP already contains new rules about discharges of stormwater from new urban areas. The submitter seeks the deletion of Policy FW.3.
290. The Fuel Companies [S157.032], [S157.033], and [S157.034] (supported by Waka Kotahi [FS3.026]) seek the following specific amendments:
- *(j) Require that urban development is located and designed to minimise the extent and volume of earthworks to the extent practicable and to follow, to the extent practicable, existing land contours;*
 - *(k) Require that urban development is located and designed to reduce the potential for adverse effects on ~~protect and enhance~~ gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;*
 - *(m) Require hydrological controls to ~~avoid~~ reduce adverse effects of runoff quantity (flows and volumes) ~~and maintain, to the extent practicable, natural stream flows;~~*

Policy 42

Support

291. KCDC [S16.053], HCC [S115.067], UHCC [S34.064], Ātiawa [S131.091] (supported by Ngā Hapu [FS29.361]), Fish and Game [S147.068] (opposed by Wellington Water [FS19.132] and BLNZ [FS30.237]), and Kahungunu [S169.012] (supported by Sustainable Wairarapa Inc [FS31.013]) seek the retention of Policy 42 as notified.

Support in part

292. Forest and Bird [S165.071] (opposed by BLNZ [FS30.319]) supports in part Policy 42, on the basis that Policy 40 and Policy 42 conflate 'giving effect to' and 'having particular regard to'. The submitter considers that these are separate concepts. Forest and Bird seeks amendments to the introductory text as follows:

When considering an application for a resource consent the regional council must give effect to Te Mana o te Wai by and in doing so must have particular regard to:

293. Forest and Bird also seeks consequential amendments, for example, in (a) 'adopt' would need to be amended to 'adopting' for the provision to make sense.
294. DGC seeks the following amendments:
- DGC [S32.024] (supported by Ātiawa [FS20.017] and opposed by BLNZ [FS30.302]):
(j) Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins ~~and~~ estuaries and the coastal marine area;
 - DGC [S32.025] (supported by Ātiawa [FS20.012] and opposed by BLNZ [FS30.303] and WIAL [FS17.018]):

Require that urban development is located and designed to allow water bodies to meander and move naturally.

295. Wellington Water [S113.018] supports in part Policy 42 and seeks an amendment to clause (k), as follows:

(k) Require hydrological controls to reduce the adverse effects of excess stormwater volume on stream bank scour and aquatic ecosystem health;

296. PPFL [S118.012] supports in part Policy 42 and seeks amendments on the basis that the number of matters specified makes the policy cumbersome and difficult to interpret. The submitter seeks that the drafting of the policy be improved, including by removing any unnecessary duplication of the NPS-FM or other RPS policies.

297. Rangitāne [S168.052] (supported by Sustainable Wairarapa Inc [FS31.162]) seeks specific amendments to ensure that urban development achieves the target attribute states and environmental flows set for the catchment (clause f and g), not just activity limits.

298. Taranaki Whānui [S167.0108] (supported by Ngāti Toa [FS6.038]) seeks an additional clause, as follows:

(x) partnering with mana whenua/tangata whenua in resource management and decision making

299. Muaūpoko [S133.013] (opposed by Ātiawa [FS20.360]) supports in part Policy 42, and seeks its retention as appropriate, noting a review of freshwater provisions is necessary.

Not stated/neutral

300. Ngāti Toa [S170.052] (supported by Ngā Hapu [FS29.166]), seeks amendments to Policy 42 on the basis that 'minimising contamination' is inadequate wording for the policy intent. The submitter considers that the policy should say 'no contamination in stormwater'. Ngāti Toa has not stated which clause this submission point is in reference to; however it is assumed it is in reference to clause (l). The submitter does not state a position or is neutral on Policy 42.

301. Wellington Water [S113.036] (with a neutral/not stated stance from WCC [FS13.027]) seeks a new policy on the basis that clauses (p) and (q) of Policy 42 should also apply to District Plans:

Policy 42A: Effects on freshwater from urban development - district plans

District plans shall include policies and methods to:

(a) Support and achieve efficient end use of reticulated water, and alternate water supplies for non-potable uses

(b) Where appropriate, protect drinking water sources from inappropriate use and development by use of policies and overlays advising of the restrictions in the Regional Plans and recommending early engagement with GW. This is supported by a non-regulatory method that District and City council staff will advise of the drinking water protections in the regional plan via LIMs and PIMs, responses to public enquiries and preapplication meetings.

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Oppose

302. WIAL [S148.037] opposes in part Policy 42 on the basis that the policy applies the NPS-FM concepts to the CMA. The submitter seeks the deletion of references to the CMA in this policy and requests that the policy only applies to freshwater and is consistent with the NPS-FM.
303. PCC [S30.066] (supported by PPFL [FS25.099]) opposes Policy 42 and request that the policy be amended so that it applies to regional consents only.
304. Wellington Water [S113.033, S113.034, S113.035] seeks amendments to provide grammatical consistency through the whole policy and alignment of 'Minimise' and 'maximise' with the definitions provided in the NRP. Amendments are also sought to clause (r) as follows:
- (r) applying a catchment approach (ki uta ki tai) an integrated management approach to managing wastewater networks including partnering with mana whenua, as kaitiaki, and allowance for appropriately designed overflow points where necessary to support growth and consideration of different approaches to wastewater management to resolve overflows*
305. The Fuel Companies [S157.035] (supported by Waka Kotahi [FS3.040]), [S157.037], [S157.038], [S157.039] (supported by Waka Kotahi [FS3.039]), [S157.040] and [S157.041] seek a number of specific amendments to address their overarching concern that the policy direction is too strong.

Method FW.2

306. Method FW.2 is supported as notified by Waka Kotahi [S129.040] and [S129.041], Fish and Game [S147.093] (opposed by Wellington Water [FS19.157] and BLNZ [FS30.262]), Rangitāne [S168.065] (supported by Sustainable Wairarapa Inc [FS31.175]), Ātiawa [S131.0125] (supported by Ngā Hapu [FS29.242], WCC [S140.0102]), and Forest and Bird [S165.0105] (opposed by BLNZ [FS30.319]).

Support in part

307. Taranaki Whānui [S167.0152] seeks a discussion with Council officers about the implications of replacing 'encourage' with 'require' in clause (b). Taranaki Whānui seeks the following amendment to clause (b), as follows:

(b) ~~encourage~~ require resource consent applicants to engage with mana whenua / tangata whenua early in their planning

Not stated/neutral

308. Ngāti Toa [S170.069] and [S170.070] (supported by Ngā Hapu [FS29.183] and [FS29.184]) considers that Method FW.2 lacks mention of the role of tangata whenua in this process and seeks amendments to Method FW.2 to allow for co-design with tangata whenua and to clarify the role of tangata whenua in the process.
309. BLNZ [S78.023] accepts that Method FW.2 is required to give effect to the NPS-UD but neither supports nor opposes the provisions. BLNZ seeks that the provision be retained as notified.

Oppose

310. PCC [S30.093] (supported by PPFL [FS25.126]) opposes Method FW.2 on the basis that the term 'urban development' is not defined, that there is no scale or other threshold to be applied before joint processing is required, and that the method as notified would capture applications that are limited notified. PCC also considers that the policy needs to be retitled if it is to be a FW method, and it is unclear why joint process would only be appropriate for urban development and regionally significant infrastructure (RSI) consents, and not for larger-scale rural consents. PCC seeks the following specific amendments:

Method FW.2: ~~Joint processing of urban development resource consents urban development which impact on freshwater~~ When processing resource consents that may impact on freshwater, the Wellington Regional Council, ~~district and city councils~~ territorial authorities shall:

(a) jointly process notified resource consents (where both regional and district consents are publicly notified) ~~for urban development and regionally significant infrastructure;~~

[...]

Implementation: Wellington Regional Council, ~~district and city councils~~ territorial authorities

311. HCC [S115.099] seeks the deletion of Method FW.2 on the basis that they oppose the inclusion of non-regulatory policies and methods that apply to territorial authorities.

3.11.2 Analysis

312. Policy 14 and Policy FW.3 provide direction to regional and district plans respectively about how the effects of urban development on freshwater and the coastal marine area should be managed. Policy 14 applies to regional plans and is an existing policy within the Operative RPS. Change 1 proposes amendments to the Policy 14 to give effect to the NPS-FM. Policy FW.3 directs district plans and is a new policy proposed in Change 1.

313. Policy 42 is included in the Operative RPS and is a consideration policy within Chapter 4.2. Change 1 proposes a number of amendments to update the policy in line with the NPS-FM.

314. Method FW.2 is a new method proposed through Change 1 and relates to the joint processing of urban development consents.

Policy 14

Policy wording and clarity

315. I agree with the amendments sought by PCC and GWRC to improve drafting clarity and have considered these in my recommended amendments to this policy.

316. I acknowledge the Fuel Companies' concerns about the directive nature of the policy. However, I consider that many of the clauses are appropriately worded to give effect to the NPS-FM. This includes the use of terminology such as 'control' and the requirement that activities meet the limits set in the regional plan. The NPS-FM is directive in its

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nature and this is reflected in Policy 14 (and others). I consider that many of the amendments sought by the Fuel Companies would have the effect of weakening the intent of the NPS-FM and thereby not giving effect to that national direction as intended. For those submission points, I recommend rejecting the relief sought by the submitters. However, I do agree with the Fuel Companies that amendments are warranted in relation to clause (d) and clause (k).

317. In the case of clause (d), the Fuel Companies are seeking the following amendment:

(d) Identify how to achieve the target attribute states set for the catchment

318. I agree with this amendment as I consider it provides drafting clarity and is technically more correct than the clause as notified. The provisions in the regional plan cannot achieve the target attribute states but must set out how they are to be achieved.

319. In terms of clause (k), the Fuel Companies are seeking amendments to provide drafting clarity:

(k) Require subdivision, use and development to adopt stormwater quality management measures that will minimise the generation of contaminants, and maximise, to the extent practicable, the removal of contaminants from stormwater to the extent practicable;

320. I agree that clarity is appropriate. However, I consider that the use of 'urban development' instead of 'subdivision, use and development' is more appropriate to provide consistency across Policy 14. This is also consistent with the approach taken by the reporting officers of the Urban Development section 42A topic where the term 'urban development' has been used throughout their recommended amendments to the urban development provisions¹². I also disagree with the submitters' placement of 'to the extent practicable' at the end of the clause as I consider this changes the meaning of the clause whereby urban development must only 'minimise to the extent practicable' the generation of contaminants. I consider the inclusion of a qualifier of 'to the extent practicable' as suggested by the submitter would not give effect to the NPS-FM or proposed Objective 12. The original drafting is preferred in this regard as it is intended that 'to the extent practicable' applies to maximising the removal of contaminants. Accordingly, I recommend amending clause (k) so that it refers specifically to urban development, as shown in paragraph 430.

321. I recommend accepting in part the Fuel Companies' relief sought in relation to clauses (d) and (k).

322. I agree with the relief sought by Forest and Bird to include a clause relating to avoiding the loss of extent or values of natural inland wetlands. As such, I recommend an additional clause is added to Policy 14 to require that urban development avoids the loss of extent or values of natural inland wetlands.

¹² S42A Report Hearing Stream 4 - Urban Development, Appendix 1 – Recommended amendments to provisions, 4 September 2023, [S42A-Appendix-1-HS4-Urban-Development-Proposed-Amendments-to-Provisions.pdf \(gw.govt.nz\)](#)

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Roles and responsibilities of regional councils and territorial authorities

323. A number of submitters, particularly territorial authorities, sought amendments to Policies 14 and FW.3 to ensure the RPS directs activities that are within the respective functions of the regional council and territorial authorities under s30 and s31 of the RMA. I agree it is important the RPS makes this distinction clear, and I consider there are instances in the notified drafting where this is unclear.
324. I do not consider that it is the intention of Council to transfer some of their responsibilities onto territorial authorities in the region, however I do consider that there is a role for territorial authorities in managing urban development in a way that supports implementation of the NPS-FM within their functions under s31. Clause 3.5(4) of the NPS-FM requires territorial authorities to include provisions in their district plans to promote positive effects, and avoid, remedy or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.
325. I agree with the relief sought by Rangitāne to amend clause (d) to refer to environmental flows as well as target attribute states. I consider this amendment better reflects the requirements of clauses 3.12 and 3.16 of the NPS-FM which requires these matters to be addressed in regional plans.
326. I agree with PCC's relief sought to amend clause (e) to delete reference to 'earthworks and vegetation clearance' on the basis that this duplicates Policy 15.
327. PPFL has sought that clauses (f), (g), and (h) of Policy 14 be deleted or appropriately qualified to ensure that the policy remains within the functions of the regional council and does not duplicate Policy 15 in particular. I have reviewed these clauses and consider that clause (f) does require further qualification. Water sensitive urban design (WSUD) is an important tool to incorporate into urban development and I consider this can be applied both by regional councils and territorial authorities for different purposes. The design and construction of urban development is a responsibility more appropriately managed by territorial authorities through their district plans and/or other non-regulatory methods, within their s31 functions. In the case of the regional council, WSUD should be limited to managing the adverse effects of contaminants on freshwater. Accordingly, I recommend amending clause (f) to state that water sensitive urban design techniques are required to avoid adverse effects of contaminants on waterbodies, as shown in paragraph 430.
328. I agree with PPFL that clause (g) of Policy 14 as drafted is more appropriately addressed through district plans. As such, I recommend deleting clause (g).
329. I note PPFL's concern that clause (h) is potentially outside the scope of regional council functions under s30 of the Act. I understand that clause (h) is intended to ensure that subdivision design factors in the location of waterbodies and that the urban development lot boundaries and roads (where applicable) are appropriately located relative to these waterbodies in order to manage stormwater runoff. This is often a key part of structure planning processes. The intention is not to manage the overall design of the built form of a development as this is the role of the district plan. I consider this

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clause could be amended to make this distinction clear, and to also be clear that the purpose of this clause is to manage the effects of urban development on the health and wellbeing of waterbodies. I address clause (h) in more detail alongside other submissions on this clause further below.

330. On this basis I recommend accepting in part the relief sought by PPFL in relation to Policy 14 insofar as it relates to clauses (f) and (g).
331. I disagree with KCDC that clause (k) implies that stormwater systems generate contaminants. The reference in clause (k) is to 'stormwater **quality management**' (my emphasis) which minimises the generation of contaminants and maximises the removal of contaminants from stormwater. This is a much broader concept than simply transporting stormwater and contaminants and relates to the need to undertake on-site stormwater quality management, before it is transported elsewhere. Accordingly, I recommend rejecting the relief sought by KCDC.
332. I disagree with the relief sought by Ngāti Toa that Policy 14 should apply to district plans as well as regional plans. Policy FW.3 sets out the requirements for district plans, recognising that the functions of territorial authorities in relation to freshwater management differ from that of the regional council and in regional plans.
333. I agree with SWDC that non-regulatory guidance in relation to the matters set out in Policy 14 would be useful for future implementation of the policy. The requirements of the NPS-FM and subsequent changes to the regional and district planning framework to give effect to it will necessitate a significant change in urban development practice. I consider non-regulatory best practice guidance will assist in implementing this change and achieving the outcomes sought by the RPS. Accordingly, I recommend adding a new method to Chapter 4.5, as shown in paragraph 431.

Applying Policy 14 to the Coastal Marine Area

334. I acknowledge the concerns of WIAL that the NPS-FM should not be unduly applied in the CMA and that there is a risk of duplicating other parts of the RPS that address coastal matters. However, the NPS-FM is clear that it applies to receiving environments to the extent they are affected by freshwater (clause 1.5). The definition of 'receiving environment' in the NPS-FM includes the coastal marine area.
335. To address WIAL's concerns, I recommend the deletion of reference to the CMA and instead refer to 'receiving environments' to make it clear that the policy applies to the CMA insofar as it is part of the receiving environment of freshwater. This includes amendments to the policy title, to clauses (c) and (h), and within the policy explanation.
336. In terms of DGC's relief sought to add reference to the coastal marine area in clause (h), I disagree. However, as noted above, I do consider that there should be reference to 'receiving environments' in Policy 14 as this is provided for in the NPS-FM.

Clause (h)

337. I agree with WCC's relief sought to delete 'gully heads' from clause (h) on the basis that gully heads are not a water body, unlike the other elements of this clause.

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338. I also agree with DGC's relief sought that there should be appropriate direction in Policy 14 to manage effects of urban development on the ability of streams and rivers to move and meander naturally. However, I consider that this direction can be included within clause (h) and I consider that alternative wording of 'natural form and flow of waterbody' is more certain language in an RMA context than 'meander and move naturally'.
339. As noted above at paragraph 329 in response to PPFL's submission, I consider that clause (h) requires amendment to be clear about the role of the regional plan relative to district plans and to avoid duplication with other policies. I therefore recommend amending the clause to remove reference to the design of urban development and to focus the clause on locating urban development lot boundaries and new roads appropriately in order to manage the health and wellbeing of waterbodies.
340. Given the above analysis, I recommend that clause (h) is amended as shown in paragraph 430.

Clause (i)

341. I disagree with PCC that, as notified, clause (i) duplicates Policy 18(o). Policy 14 relates to urban development, and as such the intent is that the requirement in clause (i) to provide riparian buffers applies to urban development. Policy 18(o) relates to restricting stock access to estuaries, rivers, lakes and wetlands.
342. I agree with the relief sought by UHCC that clause (i) requires further clarification to be clear that it applies to natural waterbodies. As such, I recommend amending clause (j) so that it relates to urban development adjacent to natural waterbodies, and removing reference to 'all waterbodies'.
343. I agree with Kāinga Ora that Policy 14 is not consistent with the NPS-FM in relation to the direction to avoid piping of rivers and providing appropriate qualification for certain activities. The NPS-FM does provide scope for these activities where there is a functional need and the effects are managed by applying the effects management hierarchy. However, I disagree with the specific amendments sought by the submitter in this regard as I do not consider the suggested wording sufficiently captures the NPS-FM directives in Policy 7 – "The loss of river extent and values is avoided to the extent practicable". The suggested amendment sought by the submitter oversimplifies the NPS-FM directions at clause 3.24 and the application of the effects management hierarchy.
344. I do not agree with the request from UHCC to include 'where practicable' at the end of this clause. This amendment would be inconsistent with the NPS-FM which sets a clear direction that piping of rivers should be avoided unless the activity has a functional need to pipe the river or stream (clause 3.24). However, I also consider that the piping of rivers should be a separate clause within Policy 14. This will provide improved drafting quality and clarity for users of the RPS, and is consistent with relief sought by some submitters to make the policy clearer (e.g. Rangitāne).
345. Based on the above analysis, I recommend amendments to Policy 14 to include direction on the piping of rivers in a new and separate clause (clause 'ia') and to include sub-clauses that provide for activities with a functional need and reference to managing

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effects through the effects management hierarchy. This new clause is shown in paragraph 430.

Application of Policy 14 to urban development versus broader application

346. I acknowledge the concerns of submitters who are seeking clarity about whether Policy 14 is intended to apply only to urban development, or more broadly, and what scale of urban development the policy applies to.

347. The Operative RPS includes a definition of 'urban development', as follows:

Urban development is subdivision, use and development that is characterised by its planned reliance on reticulated services (such as water supply and drainage) by its generation of traffic, and would include activities (such as manufacturing), which are usually provided for in urban areas. It also typically has lots sizes of less than 3000 square metres.

348. There are no changes proposed to this definition by Change 1 and as such it applies to the term 'urban development' where it is used within Change 1. Policy 14 refers to 'urban development' in the policy title, and in some clauses, but not all. I consider an amendment is required to the policy chapeau to include reference to 'urban development' so that it is clear that this is the focus of the policy.

349. I disagree with Rangitāne that Policy 14 should apply more broadly than urban development. Change 1 has been drafted on the basis that urban development generates a large proportion of effects on water quality in the Wellington Region. As such, I consider that it would be a step too far to apply this policy to all use and development and it would not meet the statutory tests for an efficient and effective policy. I note the further submission by Hort NZ in this regard, who seek that this aspect of Rangitāne's submission point be disallowed on the basis that there could be unintended consequences of applying policy developed for the urban context to rural development. I agree with Hort NZ and recommend accepting the relief sought in their further submission.

350. Based on the above analysis, I propose amendments to Policy 14 to make it clear that the policy only applies to urban development.

Hydrological controls

351. I note the concerns raised by Wellington Water in relation to clause (j) and the definition of hydrological controls being uncertain. However, based on Wellington Water's submission (and others) on the definition of hydrological controls, I am recommending a new policy to address hydrological controls. That issue is addressed in section 3.26 of this report. This would mean that clause (j) of policy 14 is no longer required and I therefore recommend deleting it.

Use of 'minimise' and 'maximise' in Policy 14

352. Policy 14 uses the terms 'minimise' and 'maximise' in clauses (g) and (k) as follows:

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(g) Require that urban development located and designed to **minimise** the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;

.....

(k) Require stormwater quality management that will **minimise** the generation of contaminants, and **maximise**, to the extent practicable, the removal of contaminants from stormwater;

353. I agree with Wellington Water that the use of these terms should be consistent with the definitions provided in the NRP. I note that this issue has been traversed, at least in part, in Hearing Stream 3, in relation to the Natural Hazards topic. The section 42A report author for that topic recommended that the NRP definition of 'minimise' be adopted in the RPS¹³. The recommended definition from the NRP is:

'Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.'

354. I agree with the analysis outlined in the section 42A report for the Climate Change: Natural Hazards topic that it is important that the term minimise is correctly understood¹⁴. I consider that the use of this definition within the context of freshwater management is appropriate and provides a consistent approach to the term across the provisions. It is also important that there is a consistent approach between the RPS and the NRP in this regard.

355. The NRP definition of 'maximise' is as follows:

'Means to make as large or great as reasonably practicable. Maximised and maximising have the corresponding meaning.'

356. Once again, I agree with the submitter that the term 'maximise' should be defined in the RPS and that this definition should align with the NRP definition. Again, I consider a definition provides certainty in interpretation and consistency across planning documents. The definition is appropriate in the context of the freshwater provisions of the RPS. The term 'maximise' is used in the Operative RPS in one objective, being Objective 9 which relates to renewable energy, as follows:

The region's energy needs are met in ways that:

....

*(c) **maximise** the use of renewable energy resources;*

....

357. In my opinion, the addition of a definition of 'maximise' will not change the intent or interpretation of Objective 9.

¹³ Section 42A Report: Climate Change (Natural Hazards), [Microsoft Word - RPS Change 1 - HS3_S42A Report Natural Hazards 310723.docx \(gw.govt.nz\)](#), pg. 37, para 171.

¹⁴ Ibid.

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Identifying and mapping rivers and wetlands

358. I acknowledge the relief sought by Forest and Bird to apply clause (l), the requirement to identify and map rivers and wetlands, more broadly than urban development. However, the intent of this clause is that it applies specifically to urban development projects so that this mapping is undertaken on a site- or area-specific basis. I agree with the submitter that the NPS-FM requires the mapping of natural inland wetlands for the region. I understand from Council officers that this mapping will be undertaken, however it is not within the scope of Change 1. Based on this submission point, I consider clarity is required in clause (l) to make it clear that the mapping that is to be undertaken is a project-specific requirement, rather than a region-wide requirement.

359. I have also considered the relief sought by Te Tumu Paeroa, who seeks amendments to clause (l) to require that this mapping is undertaken in conjunction with iwi, hapū and affected landowners. I agree that mapping should be undertaken in a collaborative way however I recommend using the phrase 'mana whenua/tangata whenua' rather than 'iwi, hapū' in this clause because this is consistent with the partnership approach the Council has taken in Change 1 and is applying more broadly in its planning work. It is also consistent with the drafting of other Change 1 provisions.

360. Accordingly, I recommend amending clause (l) as shown in paragraph 430.

Definition of wetland

361. UHCC have requested a definition of wetland be included as it is unclear whether the use of this term in the RPS is consistent with the NPS-FM.

362. A definition of wetland is provided in the Operative RPS, which is the same as the RMA definition and Change 1 has not proposed any changes to that definition:

Permanently or intermittently wet areas, shallow water, and land water margins that support a natural ecosystem of plants and animals that are adapted to wet conditions.

363. I acknowledge that the NPS-FM uses the narrower term 'natural inland wetland' and provides a definition of this term in clause 3.21. However, I consider that the use of the broader term 'wetland' remains appropriate in Change 1, particularly because wetlands are a receiving environment for the purposes of the NPS-FM. The use of this broader term ensures both natural inland wetlands and those in the CMA are considered in freshwater management. On this basis, I do not recommend any changes to the definition of wetland or any other amendments as a result of this request from UHCC.

Policy FW.3

Jurisdictional issues and duplication with other policies

364. I agree in part with submitters who have raised concerns that Policy FW.3 includes a number of requirements for district plans that do not sit within the responsibilities of territorial authorities. In assessing submissions on Policy 14 (which applies to regional plans) and Policy FW.3 I consider there is duplication across the policies that requires resolving. In particular, I consider the following clauses require deletion or amendment:

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- Clause (b) requires district plans to 'protect and enhance Māori freshwater values, including mahinga kai.' I consider that this is primarily the role of regional plans in managing freshwater and hence it is not appropriate to include this direction in this policy. I also consider that clause (c) provides sufficient direction to territorial authorities that they must consider mana whenua/tangata whenua and their relationship with their culture, land, water, wāhi tapu and other taonga. This provides for a broader consideration of mana whenua/tangata whenua values that is appropriately within the remit of district plans. I therefore agree with KCDC and recommend the deletion of clause (b).
- Clause (g) as notified requires district plans to 'consider the effects on freshwater and the coastal marine area of subdivision, use and development of land.' As drafted, I consider this clause implies that territorial authorities must manage freshwater quality. I understand that this is not the intention of the policy, and instead the intention is to ensure that urban development and proposals to rezone land for urban development are planned in a way that minimises effects on freshwater. I consider that it is appropriate that urban development is planned in such a way, and I note that this would likely require an integrated approach alongside the regional council at the early development planning or rezoning stage. This could occur through structure planning for large scale development or rezoning, for example. On this basis, I consider it is appropriate for the RPS to include direction for district plans on this matter, and that this is in line with clause 3.5(4) of the NPS-FM, which requires territorial authorities to include objectives, policies, and methods in district plans to promote positive effects, and avoid, remedy or mitigate adverse effects of urban development on freshwater. However, I consider clause (g) requires amendment to make this clear so that it refers to consideration of the location, layout and design of urban development relative to freshwater and receiving environments.
- Clause (h) requires the consideration of urban development in relation to target attribute states and any limits set in a regional plan. I consider this is more appropriately addressed by the Council through the NRP, and its inclusion in Policy FW.3 duplicates Policy 14. I therefore recommend deleting clause (h).
- Clause (j) requires district plans to include provisions to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours. I consider this clause duplicates Policy 15 which specifically manages earthworks and vegetation disturbance. I therefore recommend deleting clause (j) of Policy FW.3 and repurposing this clause in Policy 15, along with a number of other amendments I am recommending to that policy (section 3.12 of this report).
- Clause (l) requires district plans to require riparian buffers and avoid piping of rivers. I consider that these requirements duplicate Policy 14 and are more appropriately addressed through the NRP and so I recommend the deletion of clause (l) from Policy FW.3.

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- Clause (n) requires the 'efficient use of water' to be managed through district plans. This clause duplicates the requirements of Policy FW.1 and I recommend that it be deleted from Policy FW.3.
- Clause (o) requires district plans to include provisions that manage land use and development in a way that will minimise the generation of contaminants, including building materials, and the extent of impervious surfaces. I agree with PCC that clause (o) duplicates clause (i) in relation to managing impervious surfaces. Accordingly, I recommend this part of the clause be deleted. However, I disagree that clause (o) requires district plans to manage discharges of contaminants, as is suggested by PCC. Instead, the clause requires district plans to manage land use and development to minimise the generation of contaminants. In my opinion, this is a matter district plans can address under clause 3.5(4) of the NPS-FM, which requires district plan provisions to avoid, remedy or mitigate adverse effects (including cumulative effects) of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments. The clause refers to building materials as an aspect of urban development that should be managed by district plans. I note that WCC has included provisions within the Three Waters chapter of its Proposed District Plan that control the use of copper and zinc building materials for the sole purpose of preventing these contaminants entering the stormwater system without appropriate treatment¹⁵. I understand that submissions on these provisions are limited to drafting amendments, rather than outright opposition. This suggests that there is a general acceptance that this is an area that is within the remit of territorial authorities and their district plans. As such, I recommend retaining clause (o), with an amendment to remove reference to 'impervious surfaces'. I also recommend amendments to this clause to improve the drafting clarity and grammar (as sought by Rangitāne in relation to Policy 14 generally).
- Clause (p) requires consideration of the daylighting of streams, where practicable. I agree with PCC that this is a function of the Council and should be addressed in Policy 14. I therefore recommend that clause (p) be deleted from Policy FW.3, and a new clause be added to Policy 14 so that the daylighting of streams applies to the NRP, not district plans.
- Clause (q) requires district plans to consider the effects of land use and development on drinking water sources. I agree with PCC and WCC that effects on drinking water sources are addressed through other policies in the RPS (e.g. Policy 17) and the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007. Accordingly, I recommend the deletion of clause (q) from Policy FW.3.

365. I consider the above recommended amendments will address the concerns of UHCC that Policy FW.3 goes beyond the requirements of the NPS-FM in relation to matters district plans must include in order to promote positive effects and avoid, remedy or

¹⁵ Wellington City Council Proposed District Plan (2022), [Three Waters Chapter](#). See Policy THW-P2 and Rule THW-R3

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mitigate adverse effects of urban development on freshwater (clause 3.5(4)). On this basis, I disagree with the relief sought by Forest and Bird, seeking amendments to clauses (g), (h), and (p) to ensure the direction and ecological bottom-lines from the RMA, NZCPS and NPSFM are carried through. I recommend that the submission of Forest and Bird [S165.055] be rejected.

366. I also disagree with the relief sought by Wellington Water [S113.026] with regard to clause (h), on the basis that I am recommending the deletion of this clause.

Clause (c)

367. I agree with the amendments sought by Te Tumu Paeroa and Taranaki Whānui to strengthen clause (c) to provide clearer direction about how district plans should provide for mana whenua/tangata whenua and their relationship with their culture, land, water, wāhi tapu and other taonga. I agree with the suggested amendment of Te Tumu Paeroa to amend the direction to 'recognise and provide for' rather than simply 'provide for'. I consider this provides consistency with the direction I am recommending in section 3.8 for the new policy in relation to mana whenua/tangata whenua statements of Te Mana o te Wai and will ensure that district plans fully acknowledge these matters.

368. I also agree that reference to 'partnering' is required in this policy, alongside a direction to 'recognise and provide for' mana whenua/tangata whenua relationships, as sought by Taranaki Whānui. This provides consistency with my recommended new policy outlined in section 3.8 in relation to mana whenua/tangata whenua Te Mana o te Wai statements and other provisions in Change 1 and, particularly Policy IM.1 – Integrated Management – ki uta ki tai, where a partnership approach is required.

369. On this basis, I recommend amendments to clause (c) to refer to partnering with mana whenua/tangata whenua and to 'recognise and provide for' their relationship with their culture, land, water, wāhi tapu and other taonga.

370. Accordingly, I recommend accepting the relief sought by Te Tumu Paeroa | Office of the Māori Trustee and Taranaki Whānui, and the further submission of Ngāti Toa.

Clause (f)

371. MDC requested an amendment to clause (f) to include 'protection of life and property'. I consider this matter is more appropriately addressed through the relevant natural hazard provisions of the RPS and district plans themselves. It is unnecessary to include this reference in Policy FW.3.

372. I disagree with KCDC's relief sought to delete clause (f). I consider that integrated planning and design of stormwater management to achieve multiple improved outcomes is an appropriate consideration for district plans. In my opinion this clause gives effect to clause 3.5 of the NPS-FM, which directs local authorities (being both regional councils and territorial authorities) to adopt an integrated approach to freshwater management and it specifically gives effect to clause 3.5(4) which requires territorial authorities to include provisions in their district plans to promote positive effects.

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373. I note that the policy chapeau provides for district plans to include rules or other methods in implementing Policy FW.3 and on this basis, I consider there is sufficient flexibility in the policy for territorial authorities to choose how they address these matters. In the case of clause (f), this could take the form of best practice guidance and other non-regulatory methods to complement the regulatory provisions of plans. It may also involve working with the regional council to find solutions that address effects that address multiple effects that cross jurisdictional boundaries.

Clause (i)

374. Rangitāne referenced clause (k) in their submission but appear to be seeking amendments to clause (i) which relates to water sensitive urban design. I agree that clause (i) requires amendment for drafting clarity and I have considered this in my recommended amendments.

Clause (k)

375. WCC are seeking the same amendments to clause (k) of Policy FW.3 as for clause (h) of Policy 14, that is to remove reference to 'gully heads'. Consistent with my analysis of this submission point in Policy 14 (section 3.11), I agree that this reference to 'gully heads' should be removed from clause (k) of Policy FW.3.

376. I disagree with the relief sought by Fish and Game to include a requirement for urban development to 'avoid the loss of river extent and values and natural wetlands'. I consider that this matter is more appropriately addressed in the NRP as the Council is responsible for managing river extent and values and natural wetlands. I also note that I have recommended that words to the same effect be added to Policy 14 to address the concerns of the submitter (section 3.11) because that is the policy that relates to regional plans.

377. Similarly, I disagree with Fish and Game's suggested new clause '(ka)' which would require urban development to be located and designed to protect the habitats of indigenous freshwater species, trout and salmon. These matters are the responsibility of the regional council, rather than territorial authorities. I consider that my recommended amendments to Policy 14, which directs regional plans, sufficiently addresses the concerns raised by the submitter, in particular my recommended amendments to clauses (h) and clause (ia) of Policy 14 (section 3.11).

378. I also disagree with the amendments sought by the Fuel Companies to insert 'reduce the potential for adverse effects on'. I consider that this wording would dilute the intent of this clause, which is to protect and enhance waterbodies. Amending the clause as sought by the submitter would not give effect to the NPS-FM which includes a number of policies that require that decision-makers:

- Give effect to Te Mana o te Wai (Policy 1)
- Provide for Māori freshwater values (Policy 2)
- Ensure that the health and well-being of water bodies and freshwater ecosystems is improved (for degraded water bodies) or maintained (for all other waterbodies) (Policy 5)

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- Protect the significant values of outstanding water bodies (noting that clause (k) applies on a general basis to water bodies, not just outstanding waterbodies) (Policy 8)
- Protect the habitats of indigenous freshwater species (Policy 9)
- Protect the habitat of trout and salmon, insofar as that is consistent with Policy 9 (Policy 10).

379. This amendment would also not meet the requirements of Clause 3.5(4) of the NPS-FM which requires district plans to include provisions that promote positive effects, and avoid, remedy or mitigate adverse effects (including cumulative effects) of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

Hydrological controls (clause (m))

380. Wellington Water sought the same or similar relief in relation to Policy FW.3 as for Policy 14 in relation to clause (m) and the requirement for hydrological controls. Consistent with my recommendations for Policy 14, I recommend rejecting the relief sought by the submitter as I am recommending a new policy and amended definition for hydrological controls. This is addressed in section 3.26 of my report. For the same reason, I recommend the rejection of the relief sought by the Fuel Companies in relation to clause (m).

Application of Policy FW.3 to urban development versus all uses

381. Rangitāne requested similar relief in relation to Policy FW.3 as for Policy 14 and seeks that Policy FW.3 be amended to apply to all development, not just urban development. Consistent with my analysis and recommendations for Policy 14 in section 3.8, I disagree with this request. I consider that Policy FW.3 is appropriately confined to urban development and that broadening its application would have significant implications for the regulatory environment and the policy would not meet the efficiency and effectiveness tests in section 32 of the RMA.

382. I do consider that an amendment is required to the chapeau of Policy FW.3 to make it clear that the policy applies to urban development, and I recommend an amendment to this effect.

Policy FW.3 and Method FW.2

383. MDC sought clarity about the joint processing of resource consents. I address this matter more fully in section 3.11 of this report, in relation to Method FW.2.

Applying Policy FW.3 to the coastal marine area

384. WIAL requested the same or similar amendments to Policy FW.3 as for Policy 14 on the basis that Policy FW.3 applies the NPS-FM to the CMA. Consistent with my analysis and recommendations on this matter for Policy 14, I consider that Policy FW.3 requires amendment to remove reference to the CMA and instead refer to 'receiving environments' consistent with the NPS-FM.

385. I recommend the following amendments:

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Policy FW.3 Urban development effects on freshwater and ~~the coastal marine area receiving environments~~ – district plans

[...]

Explanation

Policy FW.3 requires district plans to manage the effects of urban development on freshwater ~~and the coastal marine area receiving environments.~~

386. Accordingly, I recommend WIAL's relief sought be accepted in part.

Strengthening the requirements of Policy FW.3

387. Ngāti Toa sought amendments to a number of clauses in the policy to strengthen the direction, particularly in relation to stormwater management and water sensitive urban design. I disagree with these amendments as I consider the policy already includes strong direction for district plans, in accordance with the NPS-FM and the relief sought by Ngāti Toa would go beyond what is required by the NPS-FM and would not meet the efficiency and effectiveness tests under section 32 of the RMA. Including stronger and more 'absolute' direction would create an unduly high level of regulation. On this basis I recommend the relief sought by Ngāti Toa is rejected.

Deletion of Policy FW.3

388. I disagree with the relief sought by Best Farm Limited/Hunters Hill Ltd/Lincolnshire Farm Ltd/Stebbing's Farmlands Ltd to delete Policy FW.3. Policy FW.3 relates to the content of district plans, rather than regional plans. This recognises that the NPS-FM requires territorial authorities to include provisions in their district plans that 'promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects) of urban development on freshwater' (clause 3.5(4)).

389. While the NRP does include provisions to manage discharges to stormwater, it does not yet meet all the requirements of the NPS-FM in relation to the NOF process. The RPS has also not been updated since the NRP was notified, and as such amendments are required to bring the RPS up-to-date and ensure the documents align.

390. The upcoming changes to the NRP to be notified in late 2023 will commence the process of giving effect to the NPS-FM at a regional plan level. Therefore, I consider it is entirely appropriate the RPS, as the overarching resource management document for the region, includes provisions that direct both regional and district plans to include provisions that give effect to the NPS-FM. Not to do so would create a misalignment between the region's key planning documents and the NPS-FM would not be given effect to. This will also ensure there is sufficient statutory direction that must be had regard to when the NRP plan changes are notified.

391. Accordingly, I recommend that the submission of Best Farm Limited/Hunters Hill Ltd/Lincolnshire Farm Ltd/Stebbing's Farmlands Ltd be rejected.

Policy 42

392. Policy 42 is a consideration policy within Chapter 4.2 of the RPS and complements Policies 14 and FW.3 in managing the effects of urban development on freshwater and

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the coastal marine area. As a consideration policy, Policy 42 is not intended to duplicate Policies 14 and FW.3, but instead to provide regulatory direction where there is a policy gap in regional or district plans, or where regional and district plan changes have not yet been progressed to implement the policies of Chapter 4.1.

General drafting matters

393. I agree with Rangitāne that Policy 42 requires amendment to ensure it makes grammatical sense and that the clauses link appropriately with the chapeau. I recommend a number of amendments on this basis, notwithstanding the recommended amendments to specific clauses as a result of other submission points.
394. I agree in part with the relief sought by the Fuel Companies that some of the clauses in Policy 42 that use the verb 'require' do not reflect that the policy relates to resource consent applications where there is presumably a breach of a rule in the regional plan and an assessment of effects is required.
395. In relation to clause (g), the submitter has suggested replacing 'require' with 'the ability for'. I consider that the assessment should not be focused on whether the development can meet the limits, but instead should focus on the extent to which the limits are met. I consider this is a more appropriate assessment that reflects the need for a change in how development is approached in relation to freshwater management. There should be a responsibility on those who are undertaking a development to meet the limits in some way, rather than to rely on an argument that the development is unable to meet those limits. As such, I recommend accepting in part the relief sought by the Fuel Companies, and the further submission of Waka Kotahi, and recommend amending clause (g) to replace 'require' with 'the extent to which' and to include '...and the effect of any exceedances' in this clause, as shown in paragraph 433:
396. I am also recommending amendments to clauses (j) and (m) to provide consistency with Policies 14 and FW.3, which are addressed later in this section.
397. Similarly, in relation to clauses (h), (j), and (l) I agree with the Fuel Companies that 'require' should be replaced with 'the extent to which' for the same reasons as noted above in paragraph 394. I also agree with the Fuel Companies' relief sought in relation clause (m) where they seek the deletion of 'require' and its replacement with the words '**the provision** of riparian buffers...'. Accordingly, I recommend the relief sought by the Fuel Companies be accepted in relation to clauses (h), (j), and (m). In relation to clause (l) I am recommending the inclusion of the term 'urban development' rather than 'subdivision, use and development' and as such I recommend accepting in part the relief sought by the Fuel Companies in relation to clause (l). I am recommending other amendments to these clauses as a result of the relief sought by other submitters, and I have considered these drafting amendments in making those recommendations. The amendments are shown in full in paragraph 433.
398. I am recommending the deletion of clause (i) which will supersede the requested amendments to these clauses by the Fuel Companies. As such I recommend rejecting the relief sought by the Fuel Companies in relation to clause (i).

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399. Policy 42 is intended to apply to regional resource consents only. I agree with the relief sought by PCC that further clarification of this is required in the policy chapeau.
400. I disagree with the relief sought by Forest and Bird to amend the chapeau of Policy 42 to remove the words 'have particular regard to'. I do not agree that the Council has conflated 'give effect to' and 'have particular regard to'. The policy relates to matters that must be considered in assessing a resource consent application. However, I note that the direction 'have particular regard to' in Policy 42 is inconsistent with s104(1)(b)(v) of the RMA which requires consent authorities to 'have regard to' the relevant provisions of a RPS when considering a resource consent application. As such, I consider 'have particular regard to' should be replaced with 'have regard to' to align with s104. On this basis, I recommend rejecting the relief sought by Forest and Bird. I recommend accepting in part the further submission of BLNZ on the basis that this further submission point is seeking that the entire submission of Forest and Bird be disallowed.
401. I agree with Wellington Water that an amendment to clause (r) is required to change 'integrated management approach' to 'catchment approach'. However, I disagree that 'ki uta ki tai' should be included in this context. 'Ki uta ki tai' relates to 'integrated management' and this is already covered in clause (a) of Policy 42. I therefore recommend accepting in part the relief sought by Wellington Water and amending clause (r) as shown in paragraph 433.
402. I disagree with Ngāti Toa's submission point that the use of 'minimising contamination' is inadequate wording for the policy intent. I have recommended the inclusion in the RPS of the NRP definition of 'minimising' which requires that contamination is reduced to the smallest amount possible. In my opinion this sets a high but achievable and realistic expectation of urban development proposals. I consider the relief sought by the submitter would set a high regulatory bar and would not be an efficient or effective way of achieving the outcomes sought. I recommend that the relief sought by Ngāti Toa be rejected.
403. I agree with Taranaki Whānui that Policy 42 should include direction to partner with mana whenua/tangata whenua in implementing the policy. I consider that this can be added to existing clause (b) so that protecting and enhancing mana whenua/tangata whenua values is undertaken in partnership with mana whenua/tangata whenua. Accordingly, I recommend accepting in part the relief sought by Taranaki Whānui and amending clause (b) as shown in paragraph 433.
404. Rangitāne have made the same, or similar, submission point in relation to Policy 42 as for Policies 14 and FW.3 – that the policy should apply more broadly than urban development. Consistent with my analysis and recommendations for Policy 14 and FW.3, I disagree with this relief sought and recommend amendments to Policy 42 to make it clear that this policy only applies to urban development.

Duplication with other Policies

405. I agree with submitters, such as PPFL, that Policy 42 duplicates other policies in the RPS, in particular Policy 41. Clauses (g) and (i) refer to earthworks and vegetation clearance

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which is already covered by Policy 41. As such, I recommend an amendment to clause (g) to remove reference to 'earthworks and vegetation clearance' and to delete clause (i).

Applying Policy 42 in the Coastal Marine Area

406. WIAL seeks the same, or similar, amendments to Policy 42 as for Policies 14 and FW.3, to ensure the policy does not apply in the coastal marine area. I have provided analysis and recommendations on this matter in relation to Policies 14 and FW.3, and they are not repeated here. However, I also note that Policy 42 provides clarity at clause (e) that consideration must be given to the effects of urban development on receiving environments, which includes the CMA. Clause (e) states:

(e) The effects of use and development of land on water, including the effects on receiving environments (both freshwater and the coastal marine area).

[Emphasis added]

407. However, I consider for clarity and to not duplicate other parts of the RPS that are not part of Change 1 (i.e. Chapter 4.2 – Coastal environment) the Policy title can be amended to 'Effects on freshwater and receiving environments' including removing reference to the CMA.

Clause (j)

408. Clause (j) is consistent with clause (h) of Policy 14 with regards to protecting water bodies from the adverse effects of urban development.

409. I note that DGC has sought the same, or similar, relief to clause (j) as for Policy 14(h). Consistent with my analysis of this submission point, and my recommended amendments to Policy 14, I recommend that clause (j) of Policy 42 is amended as follows:

(j) ~~Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries.~~ The extent to which the location of urban development lot boundaries and roads protects and enhances the health and wellbeing of adjacent rivers, lakes, wetlands, springs, riparian margins, and receiving environments, including the natural form and flow of the waterbody.

Hydrological controls

410. Wellington Water sought the same, or similar relief to Policy 42 as for Policies 14 and FW.3 in relation to requirements for hydrological controls to be included in urban development. In addressing the relief sought by Wellington Water and others in relation to the definition of 'hydrological controls' I am recommending a new policy that relates specifically to 'hydrological control' and a new definition of this term. Those matters are addressed in section 3.26 of this report.

411. I consider that clause (k) of Policy 42 remains relevant to the assessment of resource consent applications until such time as the NRP is amended to include rules requiring hydrological controls and the recommended new definition of 'hydrological control' will assist with interpretation of clause (k). As such I recommend retaining clause (k), but I

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recommend amendments to replace 'requiring' with 'the extent to which' to align with my recommended amendments to other clauses in Policy 42, and to refer to 'hydrological control' rather than 'hydrological controls' to align with my recommended new policy (addressed in section 3.26).

412. I do not agree with the relief sought by the Fuel Companies to replace 'avoid' with 'reduce'. In my opinion, this would not achieve the necessary change that is required in relation to effective management of stormwater runoff and the effects this can have on freshwater ecosystem health. Instead, I consider that 'minimise' is more appropriate to ensure that these effects are reduced to the smallest amount possible while recognising that it may not be possible to avoid all effects. I agree with the deletion of 'maintains, to the extent practicable' so that the clause is focused on minimising the adverse effects of stormwater runoff quantity on natural stream flows. As such, I recommend accepting in part the Fuel Companies' relief sought in relation to clause (k) and amending the clause as shown in paragraph 433.

Applying the matters in Policy 42 to district plans

413. I disagree with the relief sought by Wellington Water to include a new 'Policy 42A' to apply the matters in Policy 42 to district plans. While I agree that developers interact with district plans more frequently than regional plans, this does not mean that these matters can or should be addressed via regulatory policies and methods in a district plan. In addition, Policy 42 addresses matters to be considered in assessing a resource consent, rather than provisions that should be included in a district plan.
414. I consider that this matter is appropriately dealt with in Policy 44 and via the NRP and regional consents, rather than district level resource consents. As such, I recommend the relief sought by Wellington Water be rejected.

Consistency with recommendations for Policy 14 and Policy FW.3

415. As Policy 42 is closely related to Policy 14 there are a number of clauses that are similar in wording, or the same, across these policies. To provide consistency in intent and application of these clauses, I consider consequential amendments are required to the related Policy 42 clauses, as follows:
- Clause (h) - I consider an amendment is required to this clause to be consistent with my recommendation to amend clause (f) of Policy 14. Clause (h) as notified requires urban development to be located, designed and constructed using the principles of Water Sensitive Urban Design. Consistent with my analysis of submissions on Policy 14(f), I consider that the 'design, location and construction' of development is not within the remit of a regional plan and is in fact a district plan matter. However, I do consider there is a role for regional plans in relation to Water Sensitive Urban design as it relates to reducing contaminants reaching waterbodies and as a method of managing water quality. As such, I recommend the following amendment to clause (h) of Policy 42:

(h) The extent to which urban development is located and designed and constructed using the principles incorporates Water Sensitive Urban Design techniques to avoid adverse effects of contaminants on water

bodies from the use and development of the land;

- Clause (m) of Policy 42 and clause (i) of Policy 14 both address riparian buffers where urban development is proposed near waterbodies and the piping of rivers. To provide consistency with the amendments I have recommended to clause (i) of Policy 14, I recommend the following amendments to Policy 42:

(m) ~~Requiring~~ The provision of riparian buffers for urban development adjacent to natural waterbodies for all waterbodies and avoid piping of rivers;

(ma) The extent to which the development avoids piping of rivers and whether there is a functional need for the activity in that location

- Clause (n) relates to the daylighting of rivers. A similar clause is included in Policy FW.3, however I have recommended that this clause be relocated to Policy 14, as it more appropriately sits within the ambit of regional plans, rather than district plans. To provide consistency with my recommended amendment to Policy 14, and to provide drafting clarity (as requested by several submitters), I recommend the following amendment to clause (n):

(n) ~~The practicability of~~ Daylighting rivers within the area proposed for urban development area, where practicable;

- Clause (o) relates to the mapping of rivers and wetlands, which is similarly addressed in Policies 14 and FW.3. I have recommended amendments to those policies, based on a submission point by Forest and Bird, to clarify that this mapping is limited to the urban development area itself, rather than the entire region. To provide consistency with those recommended amendments, I recommend the following amendment to clause (o) of Policy 42:

The extent to which rivers and wetlands within the area proposed for urban development have been mapped, and whether the scale of the urban development necessitates such mapping ~~Mapping of rivers and wetlands;~~

416. Although these clauses in Policy 42 are not the subject of specific submission points, I consider these are consequential amendments required to ensure consistency between Policy 42 and Policy 14.

Definitions of 'minimise' and 'maximise'

417. Wellington Water made the same submission point with regard to Policy 42 as for Policies 14 and FW.3, seeking the adoption of the NRP definitions of 'minimise' and 'maximise'. I have previously provided analysis and recommendations on this matter in relation to Policies 14 and FW.3 above and recommended that the NRP definitions be adopted in the RPS. I do not repeat that analysis here.

Method FW.2

418. Method FW.2 is a non-regulatory, integrating method that implements Policy 14, Policy FW.3 and Policy 42. This method directs the joint processing of notified resource

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consents for urban development and regionally significant infrastructure (RSI), where both the regional and district consents are notified.

419. I agree with PCC that this method requires further amendment to provide clarity about when it applies. Joint processing of resource consents should relate to publicly notified resource consents, so as not to capture smaller scale, limited notified resource consent applications. I also agree that amendments are necessary to make it clear that it is only resource consent applications that relate to freshwater that are captured by this method, rather than all urban development and RSI applications.

420. I note PCC's concern that 'urban development' is not defined, however it is a defined term in the Operative RPS as follows:

Urban development is subdivision, use and development that is characterised by its planned reliance on reticulated services (such as water supply and drainage) by its generation of traffic, and would include activities (such as manufacturing), which are usually provided for in urban areas. It also typically has lots sizes of less than 3000 square metres.

421. As notified, Method FW.2 does not italicise the term 'urban development' which is inconsistent with other parts of Change 1. Defined terms should be italicised and therefore I recommend a consequential amendment to italicise 'urban development' in Method FW.2.

422. I do not agree that this method should apply more broadly than urban development and regionally significant infrastructure that affects freshwater, as suggested by PCC. The method directly relates to policies that manage urban development effects on freshwater. There are no similar policies in Change 1 relating to broader activities, such as large-scale rural activities.

423. The section 32 report for Change 1 notes that:

*'In very simple terms there has been inadequate control of land use activities and change and on discharge of contaminants. This is highlighted in the urban sector where stormwater quality controls have been inadequate, wastewater overflows are common, as is stream loss to urban subdivision. These issues are highlighted, because the focus of this RPS change is on the interface between urban development and fresh water.'*¹⁶

424. On this basis I do not consider that it is appropriate, nor within scope of Change 1, to expand the application of Method FW.2 to a broader range of activities.

425. I note the relief sought by Taranaki Whānui to replace 'encourage' with 'require' in clause (b) of Method FW.2. Unfortunately, there has not been the opportunity to discuss this matter with Taranaki Whānui due to the large number of submissions in this topic. However, I do not consider that it is possible for local authorities to 'require'

¹⁶ Proposed Change 1 to the Regional Policy Statement for the Wellington Region - Section 32 Report (2022), [RPS Change 1 32 evaluation Final 18 August 2022 \(gw.govt.nz\)](#), pg. 18, para. 67.

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resource consent applicants to engage early with mana whenua/tangata whenua. This engagement can certainly be encouraged by local authorities through the pre-application process, and there may be aspects of an application, once lodged, that require input from mana whenua/tangata whenua.

426. Similarly, I note and acknowledge the concerns raised by Ngāti Toa that Method FW.2 does not include sufficient reference to the role of mana whenua/tangata whenua in the joint processing of resource consent applications. I understand the desire to 'co-design', however this would be incumbent on the resource consent applicant to initiate. There is direction in Policy 42(b) in relation to 'protecting and enhancing mana whenua/tangata whenua freshwater values in partnership with mana whenua/tangata whenua. This policy direction should be factored into the planning undertaken by resource consent applicants and is intended to prompt early engagement with mana whenua/tangata whenua.
427. The concerns raised by Taranaki Whānui and Ngāti Toa may be alleviated to a degree by the relief sought by Ātiawa, which is to include a new clause that requires the local authorities to engage early with mana whenua/tangata whenua during the joint processing of resource consent applications under this method. I consider that this is an appropriate addition to Method FW.2 as it ensures mana whenua/tangata whenua have the opportunity to be involved in the decision-making process, in line with Te Mana o te Wai and my recommended replacement Objective 12.
428. I disagree with the relief sought by HCC to delete Method FW.2. While this is a non-regulatory method I consider it provides useful direction about how local authorities can work together to achieve their obligations for integrated management under the RMA.

3.11.3 Section 32AA Evaluation

429. In accordance with section 32AA and of the RMA, I consider the amendments I am recommending to Policy 14, Policy FW.3, Policy 42 and Method FW.2 are the most appropriate for the following reasons:
- The amendments to the policies will remove duplication between Policy 14 and Policy FW.3, and with other related RPS policies (e.g. Policy 15)
 - The amendments provide consistency across Policies 14, FW.3 and 42 which relate to urban development effects on freshwater, but are implemented at different levels of the regional resource management planning framework
 - The amendments will provide clarity about the roles and responsibilities of regional councils and territorial authorities
 - The amendments ensure the requirements of regional and district plans in relation to freshwater management align with the functions of regional and territorial authorities under sections 30 and 31 of the RMA
 - The amendments ensure the NPS-FM is given effect through regional and district plans

- The amendments provide drafting clarity for users of the RPS
- The amendments to the policies will improve the effectiveness and efficiency in achieving the relevant objectives of the RPS, in particular Objective 12, which I have recommended be amended
- The amendments to Method FW.2 will support integrated management in the region and efficiency for resource consent applicants where their applications are publicly notified by both the regional council and territorial authorities
- The amendments will have positive social, environmental, and cultural benefits as they ensure mana whenua/tangata whenua have the opportunity to engage in the process and ensure decisions by different consenting authorities on significant resource consent applications that impact the health and wellbeing of freshwater in the region are integrated and aligned. There are also moderate economic benefits of this approach as it enables a more efficient process for resource consent applicants, for example responding to a single request for information rather than two, and a single submissions and hearing process.

3.11.4 Recommendations

430. I recommend that the following amendments be made to Policy 14:

Policy 14: Urban development effects on freshwater ~~and the coastal marine area receiving environments~~ Minimising contamination in stormwater from new development – regional plans

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and methods for urban development including rules, must that give effect to Te Mana o te Wai and in doing so must:

- Enable the active involvement of mana whenua / tangata whenua in freshwater management (including decision-making processes); ~~and~~
- Identify and provide for Māori freshwater values are identified and provided for;
- Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;
- Require the control of both land use and discharge effects from the use and development of land urban development on freshwater and the coastal marine area receiving environments;
- Identify how to Achieve the target attribute states and environmental flows and levels set for the catchment;
- Require the urban development, including stormwater discharges, earthworks and vegetation clearance to meet any limits set in a regional plan;
- Require that urban development to incorporate water sensitive urban design techniques to avoid adverse effects of contaminants on waterbodies from the use and development of the land is designed and constructed using the principles of Water Sensitive Urban Design;

- ~~(g) Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (h) Require that ~~urban development~~ lot boundaries and new roads are ~~is~~ appropriately located ~~and designed~~ to protect and enhance the health and wellbeing of adjacent ~~gully heads~~, rivers, lakes, wetlands, springs, riparian margins and estuaries including the natural form and flow of the waterbody;
- (i) Require ~~urban development~~ adjacent to natural waterbodies to include riparian buffers; ~~for all waterbodies and avoid piping of rivers;~~
- (ia) ~~avoid the piping of rivers unless:~~
 - ~~(i) there is a functional need for the activity in that location; and~~
 - ~~(ii) the effects of the activity are managed by applying the effects management hierarchy;~~
- ~~(i) Require hydrological controls in urban development to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;~~
- (k) Require ~~urban development~~ to adopt stormwater quality management measures that will *minimise* the generation of contaminants, and *maximise*, to the extent practicable, the removal of contaminants from stormwater; ~~and~~
- (l) Identify and map rivers and wetlands ~~within the area proposed for urban development in partnership with mana whenua/tangata whenua and affected landowners;~~
- ~~(m) require that urban development avoids the loss of extent or values of natural inland wetlands; and~~
- ~~(n) promote the daylighting of streams.~~

~~Regional plans shall include policies, rules and/or methods that protect aquatic ecosystem health by minimising ecotoxic and other contaminants in stormwater that discharges into water, or onto or into land that may enter water, from new subdivision and development.~~

Explanation

~~Policy 14 manages the effects of urban development, including the effects of contamination in stormwater, earthworks and vegetation clearance from new and existing subdivision and development to halt and reverse the degradation of freshwater and coastal water in receiving environments.~~

431. I recommend that the following method is added to Chapter 4.5:

Method FW.XX: Best practice guidance for managing urban development effects on freshwater

Develop best practice guidance for managing the effects of urban development on waterbodies and freshwater ecosystems.

Implementation: Wellington Regional Council

432. I recommend the following amendments to Policy FW.3:

Policy FW.3 Urban development effects on freshwater and ~~the coastal marine area receiving environments~~ – district plans

District plans shall include objectives, policies, and methods including rules *for urban development*, that give effect to *Te Mana o te Wai* and section 3.5(4) of the NPS-FM, and in doing so must:

- (a) Partner with mana whenua / tangata whenua in the preparation of district plans;
- ~~(b) Protect and enhance Māori freshwater values, including mahinga kai;~~
- (c) Partner with ~~Provide for~~ mana whenua / tangata whenua and recognise and provide for their relationship with their culture, land, water, wāhi tapu and other taonga;
- (d) Incorporate the use of mātauranga Māori to ensure the effects of urban development are considered appropriately;
- (e) Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;
- (f) Integrate planning and design of stormwater management to achieve multiple improved outcomes – *amenity values*, recreational, cultural, ecological, climate, vegetation retention;
- ~~(g) Consider the location, layout and design of urban development in relation to effects on freshwater and the coastal marine area receiving environments. of subdivision, use and development of land;~~
- ~~(h) Consider the use and development of land in relation to target attribute states and any limits set in a regional plan;~~
- (i) Require that Water Sensitive Urban Design principles and methods are applied during consideration of subdivision, including the extent of impervious surfaces and in the control of stormwater infrastructure;
- ~~(j) Require that urban development is located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (k) Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;
- (l) Require riparian buffers for all waterbodies and avoid piping of rivers;
- ~~(m) Require hydrological controls to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;~~

- ~~(n) — Require efficient use of water;~~
- (o) Manage land use and development in a way that will minimise the generation of contaminants, including ~~in relation to the choice of building materials, and the extent of impervious surfaces;~~
- ~~(p) — Consider daylighting of streams, where practicable; and~~
- ~~(q) — Consider the effects of land use and development on drinking water sources.~~

Explanation

Policy FW.3 requires district plans to manage the effects of urban development on freshwater and ~~the coastal marine area receiving environments.~~

433. I recommend that the following definitions are added to Change 1:

Maximise: Means to make as large or great as reasonably practicable. Maximised and maximising have the corresponding meaning.

Minimise: Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

Hydraulic neutrality: managing stormwater runoff from subdivision, use and development through either on-site disposal or storage, so that peak stormwater flows and volumes are released from the site at a rate that does not exceed the modelled peak flows and volumes from the site in an undeveloped state

434. I recommend the following amendments to Policy 42:

Policy 42 – Effects on freshwater and ~~the coastal marine area receiving environments~~ from urban development ~~Minimising contamination in stormwater from development—consideration~~

When considering an application for a regional resource consent ~~that relates to urban development~~ the regional council must give effect to *Te Mana o te Wai* and in doing so must have ~~particular~~ regard to:

- (a) Adopting an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;
- (b) Protecting and enhancing mana whenua /tangata whenua freshwater values, including mahinga kai, ~~in partnership with mana whenua/tangata whenua;~~
- (c) Providing for mana whenua/tangata whenua and their relationship with their culture, land, water, wāhi tapu and other taonga;
- (d) Incorporating the use of mātauranga Māori to ensure the effects of urban development are considered appropriately;

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- (e) The effects of use and development of land on water, including the effects on receiving environments (both freshwater and the *coastal marine area*);
- (f) The target attribute states set for the catchment;
- (g) The extent to which ~~Require that~~ the *urban development*, including stormwater discharges, ~~earthworks and vegetation clearance~~ meets any limits set in a regional plan and the effect of any exceedances;
- (h) The extent to which ~~Requiring that~~ urban development ~~is located and designed and constructed using the principles~~ incorporates Water Sensitive Urban Design techniques to avoid adverse effects of contaminants on water bodies from the use and development of the land;
- ~~(i) Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- ~~(j) Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries; The extent to which the location of lot boundaries and new roads protects and enhances the health and wellbeing of adjacent rivers, lakes, wetlands, springs, riparian margins, and receiving environments, including the natural form and flow of the waterbody.~~
- (k) The extent to which ~~Require~~ *hydrological controls* ~~to avoid~~ *minimises* adverse effects of stormwater runoff quantity (flows and volumes) and maintains, to the extent practicable, on natural stream flows;
- (l) The extent to which ~~Requiring~~ *urban development* incorporates stormwater quality management that will *minimise* the generation of contaminants, and *maximises*, to the extent practicable, the removal of contaminants from stormwater;
- (m) ~~Requiring~~ The provision of riparian buffers for *urban development* adjacent to natural waterbodies for all waterbodies and avoid piping of rivers;
- ~~(ma) The extent to which the development avoids piping of rivers and whether there is a functional need for the activity in that location;~~
- (n) The practicability of ~~D~~ daylighting rivers within the urban development area, where practicable;
- (o) The extent to which rivers and wetlands within the urban development area have been mapped, and whether the scale of the urban development necessitates such mapping ~~Mapping of rivers and wetlands;~~
- (p) Efficient end use of water and alternate water supplies for non- potable use;
- (q) ~~Protecting~~ drinking water sources from inappropriate use and development; and
- ~~(r) Applying a catchment an integrated management approach to wastewater networks including partnering with mana whenua as kaitiaki and allowance for appropriately designed overflow points where necessary to support growth and consideration of different approaches to wastewater management to resolve overflow.~~

435. I recommend the following amendments to Method FW.2:

Method FW.2: Joint processing of resource consents for urban development or regionally significant infrastructure consents that relate to freshwater

When processing resource consents for urban development or regionally significant infrastructure that affect freshwater, the Wellington Regional Council, ~~district and city councils~~ and territorial authorities shall:

- (a) jointly process publicly notified resource consents (where both regional and district consents are publicly notified) for urban development and regionally significant infrastructure;
- (ab) engage early with mana whenua/tangata whenua about the effects of the proposal on freshwater
- (b) encourage resource consent applicants to engage with mana whenua/tangata whenua early in their planning
- (c) collaborate on pre-application processes;
- (d) collaborate on the processing of non-notified resource consents;
- (e) collaborate on monitoring of consent conditions; and
- (f) exchange information and data to support integrated management.

Implementation: Wellington Regional Council, ~~and territorial authorities district and city councils.~~

436. Accordingly, I recommend that the submissions and further submissions in relation to Issue 4: Urban development effects on freshwater and the coastal marine area be accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.12 Issue 9: Earthworks and vegetation disturbance (Policy 15 and Policy 41)

3.12.1 Matters raised by submitters

437. A total of 44 submission points and 49 further submission points were received in relation to Policies 15 and 41.

Policy 15

438. Policy 15 is supported as notified by HCC [S115.040], WCC [S140.041], Fish and Game [S147.053] (opposed by Wellington Water [FS19.117] and BLNZ [FS30.222]) and Taranaki Whānui [S167.078].

Support in part

439. Hort NZ [S128.026] (supported by BLNZ [FS30.044]), seeks definitions for earthworks and vegetation disturbance.

440. Ātiawa [S131.064] (supported by Ngā Hapu [FS29.334]), considers the current drafting does not provide strong policy direction and the words 'to the extent necessary' are open to interpretation, and are a soft approach to the management earthworks and vegetation disturbance. Ātiawa seeks the following specific amendments to Policy 15:

Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation disturbance ~~to the extent necessary~~ to achieve the target attribute states for water bodies and freshwater ecosystems including

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the effects of these activities on the life supporting capacity of soils, and to provide for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

441. Muaūpoko [S133.008] (opposed by Ātiawa [FS20.355]) support the intent of Policy 15 but notes that the freshwater provisions require review to ensure they effectively incorporate local expressions of Te Mana o te Wai. Muaūpoko seek the retention of Policy 15 as appropriate, noting a review of freshwater provisions is necessary.
442. Kāinga Ora [S158.020] (supported in part by MDC [FS14.0010]), seeks amendments to Policy 15 to separate it into regional plan functions and district plan functions and that the policy should be redrafted to improve readability by cascading each requirement.
443. Rangitāne [S168.039] (supported by Sustainable Wairarapa [FS31.149]) support the content of this provision but considers that, as a whole, the policy doesn't make grammatical sense. Rangitāne seeks amendments to provide greater clarity and improve the grammatical structure of the policy.
444. Rangitāne [S168.040] (supported by Sustainable Wairarapa Inc [FS31.150]) considers it is unclear why the life supporting capacity of soil is a freshwater matter and seeks clarity in the policy about this relationship.
445. Ngāti Toa [S170.030] (supported by Ngā Hapu [FS29.144]) seeks an amendment to change the word 'managing' to 'avoid' as they consider that the use of the word 'managing' implies an acceptance of the effects of earthworks and vegetation disturbance.

Oppose in part

446. UHCC [S34.061], SWDC [S79.029] (supported in part by MDC [FS14.027]) and MDC [S166.027] are concerned that Policy 15 is outside the scope of territorial authorities' roles and responsibilities and consider the policy should only apply to regional plans. Alternatively, UHCC seeks amendments to the policy to identify measures over which territorial authorities have control and if necessary, add a specific district plan policy related to erosion and sediment run-off from small scale earthworks in urban areas.
447. MDC [S166.027] is also concerned that the policy goes as far as managing earthworks for driveways and retaining walls. MDC seek further clarifications to address their concerns.

Oppose

448. KCDC [S16.049] (opposed by Wellington Water [FS19.021]), CDC [S25.023] (supported by MDC [FS14.005] and opposed by Wellington Water [FS19.007]) and PCC [S30.040] (supported by PPFL [FS25.073]) are concerned that Policy 15 applies to territorial authorities and includes matters that cannot be regulated through district plans. The submitters seek to remove the requirement for district plans to manage earthworks and vegetation disturbance to the extent necessary to achieve the target attribute states. KCDC also seek amendments that the policy specifies and support district plan provisions that have positive impacts on freshwater.

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449. PCC seeks that the policy be split into two policies so it is clear what the regional plan and district plans should each cover. PCC also seek the following specific amendments:

Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation disturbance to minimise the extent necessary to assist in achieving the target attribute states that are set in the Regional Plan for water bodies and freshwater ecosystems including the effects of these activities on the life- supporting capacity of soils, and to provide for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

450. DGC [S32.014] (supported in part by the Fuel Companies [FS10.002], Powerco [FS24.001], Hort NZ [FS28.046] and Ātiawa [FS20.008], and opposed by BLNZ [FS30.292]) is concerned that the proposed changes to the policy would leave a timing gap in its effect until target attribute states have been set and that as long as the target attribute state is met there would be no requirement to minimise erosion and siltation. DGC seeks the deletion of the proposed changes and reinstatement of the operative Policy 15.

451. WFF [S163.053] (supported by Hort NZ [FS28.047], BLNZ [FS30.125] and opposed by Forest and Bird [FS7.096], Ātiawa [FS20.218], Ngā Hapu [FS29.069]) seeks the deletion of the amendments to Policy 15 on the basis that there are currently no limits set for suspended sediment or any other attribute and the changes would be more appropriately addressed in the upcoming changes to the NRP.

452. Forest and Bird [S165.050] (opposed by Hort NZ [FS28.048] and BLNZ [FS30.319]) consider further matters should be addressed in Policy 15 to ensure the policy gives effect to national direction and section 6 of the Act. Forest and Bird seek the following amendments:

Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation disturbance ~~to minimise the extent necessary in order to achieve the target attribute states for water bodies and freshwater ecosystems, including the effects of these~~ avoid adverse effects generated by these activities on the life-supporting capacity of soils, wetlands, rivers and their margins, and to provide for mana whenua /tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

453. Forest and Bird also seek an additional clause in Policy 15 as follows:

(x) reduce sedimentation rates in the region's estuaries and harbours;

Policy 41

454. Policy 41 is supported as notified by KCDC [S16.052]; HCC [S115.066]; WCC [S140.068]; Fish and Game [S147.067] (opposed by Wellington Water [FS19.131] and BLNZ [FS30.236]); Ngāti Toa [S170.051] (supported by Ngā Hapu [FS29.165]) and Taranaki Whānui [S167.0107].

455. Amendments are sought by 19 submitters.

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456. DGC [S32.023] (supported in part by the Fuel Companies [FS10.004], PowerCo [FS24.003] and BLNZ [FS30.301]), seeks amendments to Policy 41 to ensure the operative version of the policy applies until the environmental outcomes and target attribute states are identified and that all matters in the operative version of the policy remain covered (including considerations of designations, planning processes and minimising erosion).
457. UHCC [S34.063] is concerned that Policy 41 will place additional costs on landowners and that the urban stormwater network has a regional consent and that process is better suited to managing sediment issues. UHCC seek the deletion of references to target attribute states, silt and sediment runoff into land that may enter water in clause (a) of Policy 41, and an amendment to clarify that the policy only applies to regional consents.
458. Fulton Hogan [S114.005] is concerned about the use of 'avoid' in Policy 41 as they consider this would mean a large number of activities could not be undertaken. Fulton Hogan seek the replacement of 'avoiding' with 'minimising' in clause (b).
459. Ātiawa [S131.090] (supported by Ngā Hapu [FS29.360] and opposed by Meridian [FS26.058]), is concerned that the amendments to Policy 41 remove reference to erosion when the impacts of erosion remain significant and seek that all discharges to water are 'avoided' regardless of whether suspended sediment limits are exceeded. Ātiawa also seek the addition of a new clause requiring that these activities give effect to Te Mana o te Wai and that mana whenua values, including mana whenua relationships with their culture, traditions, ancestral lands, water, sites, wāhi tapu and other taonga are considered.
460. Muaūpoko [S133.012] (opposed by Ātiawa [FS20.359]) seeks the retention of Policy 41 noting a review of the freshwater provisions is necessary to ensure local expressions of Te Mana o te Wai are incorporated.
461. Winstone Aggregates [S162.014] (opposed by Ātiawa [FS20.282]), seek amendments to Policy 41 to change 'controlling' to 'managing' in the policy title.
462. Forest and Bird [S165.070] (opposed by the Fuel Companies [FS10.036], PowerCo [FS24.032] and BLNZ [FS30.319]) seek amendments to Policy 41 to ensure the policy aligns with the NPS-FM and seeks an additional clause to ensure the maintenance and enhancement of coastal water quality is included and the NZCPS is given effect.
463. Rangitāne [S168.050] and [168.051] (supported by Sustainable Wairarapa [FS31.160] and [FS31.161]) are concerned that the policy direction in Policy 41 is not strong enough, should set a 'maintain' framework and address situations where target attribute states have not yet been set. Rangitāne is also concerned that clause (b) confuses 'limits' with 'target attribute states'. Rangitāne also seeks amendments to the policy chapeau to require that the regional council gives effect to Te Mana o te Wai when considering resource consents covered by the policy.
464. SWDC [S79.043], CDC [S25.038], PCC [S30.065] (supported by PPFL [FS25.098] and Meridian [FS26.059]) seek amendments to Policy 41 so that it applies to regional consents only.

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465. DGC [S32.023] (supported in part by the Fuel Companies [FS10.004], Powerco [FS24.003] and opposed by BLNZ [FS30.301]) is concerned that the proposed amendments to Policy 41 will leave a timing gap in its effect until environmental outcomes, target attribute states, and limits have been set and seek amendments so that the operative version of Policy 41 applies in the meantime. DGC are also concerned that as long as those requirements are met there would be no requirement to minimise erosion and sediment and seek amendments to Policy 41 to ensure all matters in the operative version of the policy remain covered (including considerations for designations, planning processes and minimising erosion).
466. Meridian [S100.020] (supported by Hort NZ [FS28.065] and Waka Kotahi [FS3.038]) is concerned that the amendments to Policy 41 change the approach from 'minimise' to 'avoid' without a threshold standard being specified. Meridian seeks a number of specific amendments to the policy to address this concern.
467. Hort NZ [S128.042], Powerco [S134.016] and the Fuel Companies [S157.021] and [S157.022] are concerned about the implications of Policy 41 given environmental outcomes, target attribute states and limits for suspended sediment have not yet been set. Hort NZ also consider regional and district plans already manage earthworks and seek the deletion of Policy 41. Powerco and the Fuel Companies seek amendments to the policy to retain the wording from the operative RPS.
468. WFF [S163.070] (supported by BLNZ [FS30.142] and opposed by Forest and Bird [FS7.113], Ātiawa [FS20.235] and Ngā Hapu [FS29.086]) seeks the deletion of the amendments to Policy 41. WFF considers these amendments should be deferred to a full review of the RPS in 2024 and/or the NRP changes scheduled in 2023 and 2024.

3.12.2 Analysis

Policy 15

469. I agree with submitters who consider that Policy 15 requires amendment to remove requirements for district plans to manage earthworks and vegetation disturbance to the extent necessary to achieve target attribute states. Territorial authorities are not responsible for ensuring target attribute states are achieved; this is the responsibility of the regional council.
470. I agree with KCDC that Policy 15 requires amendment to provide guidance to territorial authorities about the types of plan provisions that can have positive impacts on freshwater. This is consistent with the NPS-FM, specifically clause 3.5(4) which requires district plans to include provisions to this effect.
471. I recommend amending Policy 15 to include two new clauses that each set out the respective regional and district plan requirements. The regional plan requirements relate to controlling the effects of earthworks and vegetation clearance to achieve target attribute states and manage erosion. The district plan requirements relate to managing the effects of land use and subdivision, as suggested by KCDC in their relief sought.

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472. However, I consider KCDC's suggested inclusion of 'hydraulic neutrality' would be better placed within Policy FW.3 which relates to managing the effects of urban development on freshwater in district plans. Hydraulic neutrality is in use already by many territorial authorities in the region. Its purpose is primarily to reduce flood risk created by additional stormwater runoff as a result of urban development and impervious surfaces. It differs from 'hydrological control' which is a mechanism for managing the broader effects of stormwater runoff on freshwater ecosystem health, including water quality and quantity, which is addressed in section 3.26.

473. As such, I recommend an additional clause is added to Policy FW.3, as follows:

(ia)Require urban development to be designed, constructed and maintained to achieve hydraulic neutrality.

474. As a consequential amendment, I recommend including a definition of 'hydraulic neutrality' in the RPS to support the addition of this requirement in Policy 15. The term 'hydraulic neutrality' is in use across the Region already and has been defined by WCC in their Proposed District Plan which has recently been the subject of submissions and hearings. I understand that this definition remains unchanged following the WCC PDP hearing on the Three Waters topic. As such, I recommend the same definition is added to the RPS, as follows:

Hydraulic neutrality: means managing stormwater runoff from subdivision, use and development through either on-site disposal or storage, so that peak stormwater flows and volumes are released from the site at a rate that does not exceed the modelled peak flows and volumes from the site in an undeveloped state.

475. I note there are similarities between 'hydraulic neutrality' and 'hydrological controls' as both mechanisms manage stormwater runoff. I discuss this further in section 3.26 in relation to the definition of 'hydrological controls'.

476. Based on the above analysis and my recommended amendments to Policy 15, I recommend accepting in part the relief sought by KCDC, CDC, UHCC, SWDC, PCC, MDC, and Kāinga Ora and accepting in part the further submissions of Wellington Water, MDC, and PPFL.

Application of Policy 15 in the absence of target attribute states

477. I note the concern of the DGC in relation to the timing gap that is created by the amendments to Policy 15 and the setting of target attribute states. I agree that this should be addressed in the policy, and as such I have recommended the inclusion of a sub-clause that requires silt and sediment runoff to be minimised in the absence of target attribute states in the regional plan. On this basis I recommend accepting in part the relief sought by the DGC. I also recommend acceptin in part the further submissions of Hort NZ and Ātiawa and rejecting the further submission of BLNZ.

478. I acknowledge the concern raised by the Fuel Companies and Powerco in their further submissions in relation to the DGC's relief sought, that the explanatory text in the

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operative version of Policy 15 should be reinstated insofar as it explains the used of the term 'minimisation'. I disagree with the relief sought to reinstate the explanatory text as I have recommended the inclusion of a definition of 'minimise' in section 3.11.4 of this report and I consider that this addresses the concerns of the further submitters. On this basis I recommend rejecting the further submissions of the Fuel Companies' and Powerco.

Providing for mana whenua/tangata whenua in Policy 15

479. I also agree with PCC that further clarity is required about what providing for 'mana whenua/tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga' means in a regional context. As drafted, this aspect of Policy 15 simply repeats clause 6(e) of the RMA. I consider that this matter will be covered sufficiently by the new policy I am recommending be included to support the mana whenua/tangata whenua statements of Te Mana o te Wai (see section 3.8). As such, I recommend this aspect of Policy 15 should be deleted.

Definitions of 'earthworks' and 'vegetation disturbance'

480. I agree with Hort NZ that definitions of 'earthworks' and 'vegetation disturbance' are required in the RPS and that it would provide consistent interpretation and application of the RPS if these were included. The National Planning Standards provides definitions of 'earthworks' as follows:

Earthworks: *means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.*

481. 'Vegetation disturbance' is not defined by the National Planning Standards, but 'vegetation clearance' is defined in the NRP, as follows:

Vegetation clearance: *The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.*

Vegetation clearance does not include:

(a) any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003, and

(b) any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, and

(c) any vegetation clearance associated with the repair and maintenance of existing roads and tracks, and

(d) the removal of an individual shrub or tree or a standalone clump of trees or shrubs no larger than 20m².

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482. I understand from Council officers that 'vegetation clearance' and 'vegetation disturbance' are considered to be the same activity. For consistency, I recommend that Policy 15 be amended to use the same terminology as the NRP and that the reference to 'vegetation disturbance' in Policy 15 should be replaced with 'vegetation clearance'. I also consider that the NRP definition of 'vegetation clearance' is appropriate to be included in the RPS. Finally, I recommend including the National Planning Standards definition of 'earthworks' in the RPS. Accordingly, I recommend accepting in part the relief sought by Hort NZ.

The use of 'manage' versus 'avoid' in Policy 15

483. I disagree with the relief sought by Forest and Bird and Ngāti Toa to amend Policy 15 to include a requirement to avoid effects. In my opinion, the NPS-FM does not place an absolute 'avoidance' requirement on activities. Instead, it provides for the setting of environmental outcomes and target attribute states (amongst other things) relative to the existing water quality of water bodies. Policy 5 of the NPS-FM directs that the health and wellbeing of degraded water bodies must be improved, and all other water bodies at least maintained – this is not the same as 'avoid'. In setting target attribute states, the Council will need to consider what level of effect is appropriate within each catchment or water body in order to meet the overarching environmental outcomes, and ultimately Policy 5 of the NPS-FM.

484. I also note that the NOF guidance, provided by MfE, states that councils can set timeframes for achieving the target attribute states that are flexible. It states that:

'Councils can set these to make their TAS achievable, and to spread the task of improvement over the current or future generation of resource users'.¹⁷

485. I consider that this implies that a complete avoidance approach in the current generation of resource management plans is not necessary nor required.

Policy 15 and the coastal marine area

486. I note Forest and Bird's relief sought to include a new clause requiring a reduction in sedimentation rates in the region's estuaries and harbours I agree that effects on receiving environments should form part of the considerations in Policy 15, however I disagree that a separate clause as suggested by the submitter is necessary. On this basis, I recommend accepting in part the relief sought by Forest and Bird. I have considered this relief sought in recommending amendments to Policy 15 in response to other submitters.

Relevance of the 'life-supporting capacity of soil' to Policy 15

487. I agree with Rangitāne that the reference in Policy 15 to the 'life-supporting capacity of soil' is unclear in terms of how it relates to freshwater. I understand from Council officers that the intent of the notified Policy 15 amendments is that the policy would

¹⁷ Ministry for the Environment, (2022) *Guidance on the National Objectives Framework of the National Policy Statement for Freshwater Management 2020*, page 55.

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apply more broadly than freshwater, and this is in line with the intent of the operative version of Policy 15. I understand that the intent of including a reference to the life-supporting capacity of soils in Change 1 was to capture the effects of the removal of soil through earthworks or vegetation clearance and the subsequent effects on the ability of the soil to support growth of plants and crops.

488. In the operative RPS, Policy 15 also gives effect to Objective 29:

Objective 29: Land management practices do not accelerate soil erosion.

489. In my opinion protecting the life-supporting capacity of soil does not relate to the focus of Objective 29 which is limited in scope to soil erosion. I consider issues relating to the 'life-supporting capacity' of soils are addressed through other policies in the Operative RPS, such as Policy 59 and Policy 69. As such, I recommend deletion of this reference from Policy 15.

490. I also consider the notified amendments to Policy 15 have inadvertently implied that the policy only relates to freshwater. This is not the case, particularly given the fact that Policy 15 must give effect to Objective 29. As such, I consider that the policy should retain reference to minimising erosion in a broader sense, rather than only in relation to erosion that may impact freshwater. This is in line with the operative version of Policy 15.

491. I agree with DGC that the proposed amendments to Policy 15, specifically to delete the operative RPS direction to minimise erosion and managed sediment runoff, would create a policy gap until such time as target attribute states are set in the NRP. I do not agree that the proposed amendments should be deleted, but instead recommend amendments to reinstate this aspect of operative Policy 15 into the Change 1 version.

Deleting Policy 15

492. I disagree with the relief sought by WFF to delete Policy 15. I acknowledge the submitter's concerns that target attribute states have not yet been set for the region. However, I consider that it is appropriate that the RPS be amended in advance of the upcoming NRP changes that will set these target attribute states to ensure the appropriate hierarchy of RPS direction through to regional and district plans. I am also recommending reinstatement of aspects of the operative Policy 15 to ensure that this direction continues until such time as target attribute states are included in the NRP.

Policy 41

493. Policy 41 sets out requirements for the assessment of resource consents where earthworks and vegetation disturbance are proposed. As notified, the policy seeks to control these activities through an assessment against environmental outcomes and target attribute states to avoid discharges where limits for suspended sediment are not met.

494. I agree with the relief sought by Winstone Aggregates to amend the policy title to be consistent with the content of the policy. As such I recommend accepting the relief sought and replacing 'controlling' with 'managing'.

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495. A number of territorial authorities have raised concerns about Policy 41 in relation to its application to both regional and district resource consents. These submitters are concerned that the policy relates solely to the functions of the regional council under s30 of the RMA and therefore should not apply to resource consent applications at a district level. I agree with this concern.
496. Clause (a) of the policy requires an assessment against the environmental outcomes and target attribute states for a FMU. Both matters are the responsibility of the regional council under the NPS-FM. Clause (b) requires the avoidance of discharges where the activity does not meet suspended sediment limits. Once again, the management of discharges to water and land are the responsibility of the regional council. As such, I recommend that the chapeau of Policy 41 be amended to make it clear that it applies only to regional consents, and the explanation be amended accordingly.

Environmental outcomes, target attribute states and limits in Policy 41

497. Submitters have also raised concerns about the scope of the policy in terms of environmental outcomes, target attribute states and limits. These matters have not yet been addressed in the NRP and the submitters question the ability to make any assessment against these matters when they have not yet been established. I agree and consider that Policy 41 requires amendment to clarify when these provisions apply to a resource consent applications, and in the absence of environmental outcomes, target attribute states, and limits, what the assessment is required to cover. In essence, these amendments are a reinstatement of aspects of the operative version of Policy 41, in particular the reinstatement of the need to minimise silt and sediment runoff into water.
498. I do not however recommend the reinstatement of the explanatory text, in relation to the use of the term 'minimisation', as requested by the Fuel Companies and Powerco in their further submissions in response to the DGC's submission. Consistent with my recommendations on a similar point in relation to Policy 15, I am recommending a definition of 'minimise' is included in the RPS which I consider negates the need for the explanatory text. I therefore recommend rejecting the further submissions of the Fuel Companies' and Powerco in this regard.
499. I acknowledge the relief sought by Rangitāne seeking a requirement to 'maintain current water quality' until environmental outcomes and target attribute states are in place. As Policy 41 applies to resource consent applications, I consider that the requirement to 'minimise' silt and sediment runoff into water is more appropriate.

The requirement to 'avoid' discharges

500. I disagree with Meridian Energy, Fulton Hogan and others who have raised concerns about the requirement to 'avoid' discharges where suspended sediment limits are not met. I consider it is appropriate for discharges to be avoided where suspended sediment limits are not met. Under the NPS-FM, once a limit is met resource use/allocation must cease. This is consistent with the need to 'maintain or improve' the health and wellbeing of waterbodies (Policy 5 of the NPS-FM) and the need to allocate and use freshwater efficiently, phase out over-allocation and avoid future over-allocation (Policy 11).

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Aligning Policy 41 with national direction

501. I agree in part with the relief sought by Forest and Bird to ensure Policy 41 aligns with the NPS-FM, and I have considered this in my recommended amendments to the policy. However, I consider the request to include provisions that address coastal water quality are out of scope as there are separate policies within the Operative RPS that address coastal water quality which are not part of Change 1. This includes Policy 5 and Policy 40 of the Operative RPS.
502. On this basis I recommend accepting in part the relief sought by Forest and Bird, and accepting in part the further submissions of the Fuel Companies, Powerco, and BLNZ.

Erosion control

503. Ātiawa questions the deletion of 'erosion' from the listed matters in Policy 41 and seek that this be reinstated as the impacts of erosion remain a significant issue in the region. I agree with this relief sought, on the basis that Policy 41 gives effect to Objective 29 of the RPS, which is located in the Chapter 3.11 (Soil and Minerals).
504. Objective 29 is not within the scope of Change 1, but I consider that the significant amendments to Policy 41 as notified have inadvertently changed the meaning of the policy so that it no longer gives effect to this objective, primarily due to the deletion of clause (a) which relates to erosion. To ensure that Objective 29 continues to be given effect to, I consider that clause (a) should be reinstated in Policy 41. This is consistent with my recommended amendments to Policy 15.

Te Mana o te Wai and mana whenua values and relationships in Policy 41

505. Submissions from Ātiawa and Rangitāne seek amendments to Policy 41 to include reference to 'giving effect to Te Mana o te Wai'. Ātiawa suggest including this in a new clause, while Rangitāne suggest including this in the policy chapeau.
506. I acknowledge the relief sought by Ātiawa and Rangitāne. However, I do not consider that it is necessary to include this reference in Policy 41, primarily because Policy 41 is a policy that applies more broadly in the RPS than only to freshwater. As noted above, Policy 41 also gives effect to Objective 29 of the Operative RPS which relates to soils and minerals. I also consider that the amendments to Policy 41, including those that I am recommending, will have the effect of giving effect to Te Mana o te Wai in any case, alongside other policies in Change 1. In section 3.8 I am recommending a new policy that requires that in assessing a resource consent that relates to freshwater, the mana whenua/tangata whenua statements of Te Mana o te Wai must be recognised and provided for.
507. Ātiawa also seek the inclusion in Policy 41 of the phrase 'considering the mana whenua values, including mana whenua relationships with their culture, traditions, ancestral lands, water, sites, wāhi tapu, and other taonga.' The suggested new clause (e) is already a requirement of section 6 of the RMA. As such I do not consider it needs to be repeated in the RPS. On the basis of the above analysis, I do not recommend any changes as a result of these aspects of Ātiawa's and Rangitāne's relief sought.

Deleting the amendments to Policy 41

508. I disagree with the relief sought by WFF to delete the notified amendments to Policy 41. Consistent with my analysis and recommendations for Policy 15, and other policies where WFF have sought similar relief, I do not agree that these changes should be deleted and deferred to 2024. The proposed amendments are part of the Council's responsibilities to give effect to the NPS-FM, and form part of the integrated approach the Council has taken in implementing the NPS-UD.

3.12.3 Section 32AA Evaluation

509. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Policy 15 and Policy 41 are the most appropriate for the following reasons:

- The amendments to Policy 15 will be efficient and effective as they provide clarity about what must be included in a regional plan and what must be included in a district plan in order to manage earthworks and vegetation clearance activities.
- The amendments to Policy 41 will provide clarity to resource consent applicants and decision-makers about what must be achieved before and after environmental outcomes, target attribute states, and suspended sediment limits have been set.
- The amendments to Policy 15 and Policy 41 will ensure Objective 29 continues to be given effect by managing earthworks and vegetation clearance to minimise erosion.
- The amendments to Policies 15 and 41 will ensure the NPS-FM is given effect, while recognising that not all effects can be avoided.

3.12.4 Recommendations

510. I recommend the following changes be made to Policy 15:

Policy 15: Managing Minimising the effects of earthworks and vegetation clearance disturbance – district and regional plans

Regional and district plans shall ~~include policies, rules and/or methods that control earthworks and vegetation disturbance to~~ minimise ~~the extent necessary to achieve the target attribute states for water bodies and freshwater ecosystems including the effects of these activities on the life-supporting capacity of soils, and to provide for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga~~ manage the effects of earthworks and vegetation clearance, as follows:

(a) Regional Plans shall include policies, rules and/or methods that:

- i. Control the effects of earthworks and vegetation clearance to achieve the target attribute states for water bodies and freshwater ecosystems, including receiving environments;

ii. In the absence of target attribute states, minimise silt and sediment runoff into freshwater and receiving environments, or onto land that may enter water; and

iii. Minimise erosion.

(b) District Plans shall include policies, rules and/or methods that:

i. Require urban development to follow existing land contours, to the extent practicable;

ii. Minimise the extent and volume of earthworks required for urban development

iii. Require setbacks from waterbodies for vegetation clearance and earthworks activities;

iv. Manage sediment associated with earthworks;

v. Manage Subdivision layout and design.

~~(a) erosion; and~~

~~(b) silt and sediment runoff into water, or onto land that may enter water, aquatic ecosystem health is safeguarded.~~

Explanation

An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control earthworks and vegetation clearance disturbance, including clearance. Large scale earthworks and vegetation clearance disturbance on erosion prone land in rural areas and many small scale earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt and sediment to stormwater and water bodies. This policy is intended to minimise erosion and silt and sedimentation effects associated with these activities.

511. I recommend the inclusion of the following definition of 'earthworks':

Earthworks: means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.

512. I recommend the inclusion of the following definition of 'vegetation clearance':

Vegetation clearance: The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.

Vegetation clearance does not include:

(a) any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003, and

(b) any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, and

(c) any vegetation clearance associated with the repair and maintenance of existing roads and tracks, and

(d) the removal of an individual shrub or tree or a standalone clump of trees or shrubs no larger than 20m².

513. I recommend the following clause is added to Policy FW.3:

(ia) Require urban development to be designed, constructed and maintained to achieve hydraulic neutrality.

514. I recommend the inclusion of the following definition of 'hydraulic neutrality':

Hydraulic neutrality: managing stormwater runoff from subdivision, use and development through either on-site disposal or storage, so that peak stormwater flows and volumes are released from the site at a rate that does not exceed the modelled peak flows and volumes from the site in an undeveloped state

515. I recommend the following changes to Policy 41:

Policy 41: ~~Managing Controlling~~ Minimising the effects of earthworks and vegetation clearance disturbance – consideration

When considering an application for a regional resource consent, ~~notice of requirement, or a change, variation or review of a regional or district plan,~~ for earthworks or vegetation clearance particular regard shall be given to ~~controlling earthworks and vegetation disturbance by~~ to minimise:

~~(a) erosion; and~~

(a) the extent to which the activity *minimises* erosion;

(b) the extent to which ~~considering whether~~ the activity will achieve any relevant environmental outcomes and target attribute states set for the FMU or part-FMU; silt and sediment runoff into water, or onto or into land that may enter water, so that healthy aquatic ecosystems are sustained; ~~and~~

(c) where suspended sediment limits have been set in a regional plan, and the activity cannot meet those limits, avoiding discharges to water bodies, and to land where it may enter a waterbody; ~~where limits for suspended sediment are not met.~~

(c) in the absence of environmental outcomes, target attribute states, or limits for suspended sediment for the relevant FMU or part-FMU, the extent to which silt and sediment runoff into water, or onto or into land that may enter water, will be *minimised*.

Explanation

Policy 41 applies to regional resource consents that involve *earthworks or vegetation clearance*. The policy intent is to manage both rates of erosion and sediment runoff into waterbodies. The policy recognises that it may not be possible in all cases to avoid the effects of these activities, but nevertheless requires that the effects be *minimised*. The policy also recognises that there may

~~be a period of time where environmental outcomes and target attribute states for a FMU have not yet been set in the regional plan, and in these cases, there remains a requirement to minimise silt and sediment runoff into water.~~

~~An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control earthworks and vegetation disturbance, including clearance. Large scale earthworks and vegetation disturbance on erosion prone land in rural areas and many small scale earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt.~~

516. Accordingly, I recommend that the submissions and further submissions in relation to Issue 9: Earthworks and vegetation disturbance be accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.13 Issue 10: Managing water takes and use (Policy 17, Policy 44, and Method 48)

3.13.1 Matters raised by submitters

517. A total of 44 submission points and 48 further submission points were received in relation to Policies 17 and 44.

Policy 17

518. The policy is supported as notified by PCC [S30.041] (supported by PPFL [FS25.074]) SWDC [S79.030], HCC [S115.041], Ātiawa [S131.065] (supported by Ngā Hapu [FS29.335]), WCC [S140.042], Sustainable Wairarapa [S144.038], Fish and Game [S147.054] (opposed by Wellington Water [FS19.118] and BLNZ [FS30.223]) and Taranaki Whānui [S167.079].

519. Outdoor Bliss [S11.008] seeks an amendment to Policy 17 to prioritise the health of rivers and to amend the policy chapeau to this effect.

520. DGC [S32.015] (supported in part by Ātiawa [FS20.009] and opposed by Wellington Water [FS19.013] and BLNZ [FS30.293]) supports in part Policy 17 and seeks an amendment so that the health needs of people relates to drinking water only:

'The health needs of people include the drinking water component of:....'

521. Te Tumu Paeroa [S102.046] (supported by Ngāi Toa [FS6.003]) seeks an amendment to Policy 17 to include papakāinga to clause (d) to ensure water can be provided to such developments:

(d) the taking of water for marae and papakāinga.

522. Hort NZ [S128.027] (opposed by Ātiawa [FS20.021]), [S128.028] and [S128.029] (opposed by Ātiawa [FS20.022]), opposes in part Policy 17 and seeks clarity and amendments both in the way the policy directs regional plans, and the health needs of people. Hort NZ seeks the following amendments:

Regional plans shall in managing take and use of water and discharges to freshwater include policies, rules and/or methods that prioritises the health and wellbeing of the waterbody and freshwater ecosystems first,

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and then prioritises ~~any take and use of water~~ for the health needs of people.

[...]

(a) the taking of water by any statutory authority that has a duty for public water supply under any Act of Parliament for drinking water or other essential health need;

(b) the taking of water for reticulation into a public water supply network for drinking water or other essential health need;

(c) the taking of water for community drinking water supplies; and

[...]

(e) food production that contributes to domestic food supply.

523. Muaūpoko [S133.009] (opposed by Ātiawa [FS20.356]) supports in part Policy 17 and seeks its retention as appropriate.

524. Forest and Bird [S165.051] (opposed by BLNZ [FS30.319]) supports in part Policy 17 and seeks an amendment to clause (c) on the basis that 'community supplies' is vague and must be qualified:

(c) the taking of water for community drinking water supplies; and...

525. MDC [S166.028] supports Policy 17 and seeks its retention but also seeks consideration of the inclusion of economic and cultural needs as well, even if it is in prioritised criteria.

526. Rangitāne [S168.041] (supported by Sustainable Wairarapa Inc [FS31.151] and opposed by Wellington Water [FS19.031]) supports in part Policy 17 and seeks a number of amendments including clarifying that second priority water takes are only for drinking water and sanitation and then only as needed for the health needs of people, and that all other uses are within the third priority of the Te Mana o te Wai hierarchy.

527. Ngāti Toa [S170.031] (supported by Ngā Hapu [FS29.145]), opposes in part Policy 17 on the basis that it contradicts the Te Ao Māori view that humans do not sit at centre of Taiao and take and use of water is only for the health needs of people. The submitter considers that while the policy detail states "providing for the health and wellbeing of water bodies and freshwater ecosystems", it contradictorily states the "health needs of people ahead of any take and use for other purposes while providing for...". Ngāti Toa seek amendments to address these contradictions.

Policy 44

528. Policy 44 is supported as notified by HCC [S115.069]; WCC [S140.070]; Forest and Bird [S165.072] (opposed by BLNZ [FS30.319]); and Kahungunu [S169.004] and [S169.014] (supported by Sustainable Wairarapa [FS31.005] and [FS31.015] respectively).

Support in part

529. Ātiawa [S131.093] (supported by Ngā Hapu [FS29.363] and supported in part by Wellington Water [FS19.004]), support the amendments to Policy 44 but seek specific reference to the

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hierarchy of obligations in the NPS-FM to ensure that water takes and use are considered against the national legislation:

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional plan to take and use water, Te Mana o te Wai must be given effect to so that:

(a) Māori freshwater values, including mahinga kai are provided for;

(b) sites of significance, wāhi tapu and wāhi tupuna are protected;

(bb) the hierarchy of obligations is provided for;

(bc) integrated management, ki uta ki tai is considered;

[...]

530. Muaūpoko [S133.014] (opposed by Ātiawa [FS20.361]) support in part Policy 44 and seek that it be retained subject to a review of the freshwater provisions to ensure they effectively incorporate local expressions of Te Mana o te Wai.

531. Sustainable Wairarapa Inc [S144.041] (opposed by Hort NZ [FS28.068]) supports in part Policy 44 and seeks an amendment to clause (h) so that alternate water supplies such as storage or capture of rainwater are defined to be for public water supply or at on-site farm scale or smaller.

532. Fish and Game [S147.015] (opposed by Ātiawa [FS20.112], Wellington Water [FS19.079] and BLNZ [FS30.184]) supports in part Policy 44 and seeks a new subclause to give proper effect to Policies 9 and 10 of the NPS-FM:

(ba) The habitats of indigenous freshwater species, trout and salmon are protected

533. Rangitāne [S168.053] (supported by Sustainable Wairarapa [FS31.163]) support in part Policy 44 and seek amendments so that a consistent grammatical tense is used throughout the policy.

534. Taranaki Whānui [S167.0110] and [S167.0111] (supported by Ngāti Toa [FS6.039]) supports in part Policy 44 and seeks a new clause to provide direct reference to outcomes of Te Mahere Wai o Te Kāhui Taiao and further direction for partnership in decision-making.

535. Irrigation New Zealand [S86.002] (supported by Hort NZ [FS28.066] and Wairarapa Water Users Society [FS9.014], opposed by Wellington Water [FS19.019] and Ātiawa [FS20.028]) supports in part Policy 44 and seek an amendment to give effect to the National Policy Statement on Highly Productive Land (NPS-HPL).

536. Te Tumu Paeroa [S102.048] supports in part Policy 44 and seeks an amendment so that the policy is a regulatory policy, rather than a 'matter to be considered'.

537. Wellington Water [S113.037 and S113.038] supports in part Policy 44 and seeks amendments as follows:

- Clause (d) should reflect the variation in waterbody flow levels across the seasons. This will encourage water providers to take more water when it is readily available:

(d) Take limits (minimum flows and allocation limits) are achieved that provide for flow or level variability, safeguard ecosystem health, reflect annual and seasonal water cycles, provide for the life cycle needs of aquatic life, and take into account environmental outcomes

- Clause (h) should be altered for clarity and public health outcomes:

(i) There is consideration of alternate water supplies (only non-potable in urban areas) such as ~~storage or capture~~ harvesting of rainwater for use during the drier summer months

538. Hort NZ [S128.043] supports in part Policy 44 and considers that subclauses (c) and (e) are too specific given the NPS-FM process for whitua which set the environmental flows and levels and take limits through the NPS-FM 2020 process. The submitter also considers that take limits need to be set to meet environmental flows and levels, so there is not a need to include both and as take limits will be set to provide for freshwater values it is unnecessary to state the additional text. Hort NZ seek the following amendments to Policy 44:

[...]

(c) Where take limits have been set, take limits are achieved;

~~(e) Environmental flows and levels, including variability of flows, are achieved;~~

~~(d) Take limits are achieved that provide for flow or level variability, safeguard ecosystem health, provide for the life cycle needs of aquatic life, and take into account environmental outcomes;~~

Neutral/not stated

539. Ngāti Toa [S170.054] (supported by Ngā Hapu [FS29.168]) has a neutral position. Ngāti Toa considers that Policy 44 needs to consider the needs of iwi and Māori and should be able to give flexibility to the needs of mana whenua.

Oppose in part

540. Wairarapa Water Users Society [S145.002] is concerned that clause (h) of the policy is an additional requirement for new consents and the renewal of existing consents and seeks its deletion.

541. The Fuel Companies [S157.044] (opposed in part by Wellington Water [FS19.048]) support the intent of Policy 44 but seek amendments to recognise the potential need for essential temporary construction dewatering takes, for example to facilitate the safe and timely replacement/installation of underground infrastructure. The submitter seeks the addition of a new clause in the policy, as follows:

(i) appropriate provision is made for temporary dewatering activities necessary for construction or maintenance.

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542. The Fuel Companies [S157.042 and S157.043] also seek amendments to clauses (f) and (g) to ensure they relate appropriately to the amended chapeau, which requires Te Mana o te Wai to 'be given effect to', as follows:

(f) ~~requiring the consent holders are required~~ to measure and report the actual amount of water taken; and

(g) ~~requiring the consent holders are required~~ to adopt water conservation and demand management measures and demonstrate how water will be used efficiently; ~~and~~

Oppose

543. PCC [S30.067] (supported by PPFL [FS25.100]) opposes Policy 44 on the basis that:

- the matters addressed by the policy are all functions of the regional council under s30 of the RMA.
- A notice of requirement does not involve or give any form of approval for the take or use of water, which require resource consents from the regional council. These matters are beyond the scope of what can be considered by a requiring authority or a territorial authority through a notice of requirement.
- The policy should only apply to resource consents so it does not conflict and/or duplicate earlier regulatory policies that apply to the development of regional plans.

544. PCC seek the following amendments to Policy 44:

When considering an application for a regional resource consent, ~~notice of requirement, or a change, variation or review of a regional plan~~ to take and use water, Te Mana o te Wai must be given effect to so that:

[...]

545. Dairy NZ [S136.017] (supported by Hort NZ [FS28.067], Wairarapa Water Users Society [FS9.004] and Irrigation NZ [FS21.004], opposed by Wellington Water [FS19.009]) and WFF [S163.071] (supported by BLNZ [FS30.143], opposed by Forest and Bird [FS7.114], Ātiawa [FS20.236] and Ngā Hapu [FS29.087]) seek the deletion of Policy 44.

546. Dairy NZ consider that the matters in Policy 44 should be addressed through a full review of the RPS and that delaying the amendments until all of the NPS-FM can be implemented in the RPS will allow for further clarity about what Te Mana o te Wai will mean at a regional level as well as consideration of the outcomes of the Water Allocation Review in Method 48.

547. WFF consider that any amendments to Policy 44 should not apply to section 14(3) takes (as defined in the RMA). The submitter is also unclear about the intent of clause (h) which requires the consideration of water storage, including in resource consents.

Method 48

548. Method 48 directs the review of the water allocation policy in the NRP and sets out what that review must achieve. This is a key method for implementing Policy 17 and Policy 44.

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Support

549. The amendments to Method 48 are supported as notified by Sustainable Wairarapa Inc [S144.051], Fish and Game [S147.0102] (opposed by Wellington Water [FS19.166] and BLNZ [FS30.271]) and Taranaki Whānui [S167.0175].

Support in part

550. PCC [S30.096] (supported by PPFL [FS25.129]) considers that Method 48 should be time-bound to increase clarity and regulatory certainty.

551. Forest and Bird [S165.0117] (opposed by BLNZ [FS30.319]) also seeks a date by which Method 48 must be achieved. They also consider that several of the paragraphs do not make grammatical sense and require amendment:

(k) all matters regarding giving effect to the NPS-FM are considered and implemented

552. Te Tumu Paeroa supports the review of the water allocation policy in the RPS, particularly alternative solutions to a first in first served policy which has historically disadvantaged Māori landowners. However, the submitter considers 'rights and interests' do not recognise the full extent of Māori rights, interests and responsibilities in freshwater, including the preservation of those rights and interests. Therefore, there is an express need to include 'responsibilities' to guarantee Māori rights, interests and responsibilities in freshwater are appropriately recognised and provided for. Te Tumu Paeroa seek the following specific amendment to clause (e):

(e) provide for iwi, hapū and Māori landowners [sic] rights, ~~and~~ interests and responsibilities;

553. Wellington Water [S113.047] (opposed in part by Hort NZ [FS28.089]) considers the method lacks clarity, appears to have clauses with similar intent and does not have an overarching purpose. Wellington Water seeks the following specific amendments to Method 48:

- Clause (a) - refer to 'appropriate allocation' rather than 'efficient allocation'.
- Delete either clause (c) or (d).
- Clarify how transferable permits relate to improved water allocation.
- Clarify what alternatives to 'first in, first served' will be considered.
- Delete either clause (f) or (g).
- Relate clause (h) to water allocation rather than climate change.
- Delete clauses (i) and (j).

554. Hort NZ [S128.059] and [S128.060] seeks a minor amendment to clause (i) to align with the overall climate direction. Hort NZ also considers there is a lack of coherence in subclauses (c), (d), (g) and (h) in how they link to the chapeau:

(i) land use change to lower emissions or more climate resilient uses is [sic] promoted

Correct grammatical errors in (c), (d), (g) and (h)

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555. Ātiawa [S131.0143] (supported by Ngā Hapu [FS29.262]) supports the intent of Method 48 as water allocation is a significant resource management issue for Ātiawa and they are keen to see water allocation addressed in a way that gives effect to the NPS-FM 2020 (including Te Mana o te Wai), as well as providing for mana whenua rights and interests in water, and overall providing for the well-being of the water and sustainable use of water. Ātiawa seek an amendment to clause (k), as follows:

- (k) all matters regarding giving effect to the NPS-FM are provided for ~~considered~~

Oppose in part

556. Dairy NZ [S136.021] (opposed by Wellington Water [FS19.011], and supported in part by Wairarapa Water Users Society [FS9.006] and Irrigation NZ [FS21.006]) seek the deletion of Method 48 and that it be addressed through a full review of the RPS in 23/24. Dairy NZ seeks this relief on the basis that they consider water availability will continue to be a pressing issue for the Greater Wellington region due to both the regulatory implications of implementing Te Mana o te Wai and the increasing pressures of climate change.

557. Rangitāne [S168.063] (supported by Sustainable Wairarapa Inc [FS31.173] and supported in part by Hort NZ [FS28.090]) do not support the 'first in first served' allocation method as this has resulted in widespread degradation of their wai and an inability for their whānau, hapū and iwi to exercise tino rangatiratanga. Rangitāne consider this method should be rejected outright and other alternatives should be explored. Rangitāne seek the following amendments to Method 48:

- So that it is grammatically correct and consistent, as currently not all clauses flow appropriately from the introduction.
- To reference alternative allocation principles as alternatives to the 'first in first served' allocation method;
- So that the 'first in first served' allocation method is rejected outright;
- To clarify what is meant by 'equitable allocation' in this context.

Oppose

558. WFF [S163.0101] (supported by BLNZ [FS30.070, opposed by Forest and Bird [FS7.041], Ātiawa [FS20.153] and Ngā Hapu [FS29.014]) seeks the deletion of Method 48 on the basis that water allocation matters should be deferred to the 2024 RPS review.

3.13.2 Analysis

Policy 17

The health needs of people

559. A number of submitters have raised concerns about the scope of Policy 17 and in particular what constitutes 'the health needs of people' and where other uses sit within the Te Mana o te Wai hierarchy.

560. I disagree with submissions that seek to limit the health needs of people to drinking water. The Te Mana o te Wai hierarchy of obligations is set out in clause 1.3(5) of the NPS-FM, as follows:

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There is a hierarchy of obligations in Te Mana o te Wai that prioritises:

(a) first, the health and wellbeing of water bodies and freshwater ecosystems

*(b) second, the health needs of people **(such as drinking water)***

(c) third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.

(Emphasis added)

561. In my opinion the text in brackets in clause (b) suggests that drinking water is one of several matters that may be included in the 'health needs of people'. As such, I do not consider that it is appropriate to limit Policy 17 in this way.

562. I also note that the NRP already provides a definition of 'health needs of people', as follows:

The amount and quality of water needed to adequately provide for people's hygiene, sanitary and domestic requirements. It does not include:

(a) water used outside, e.g. for irrigation, vehicle or house washing or hosing but not including water consumed by animals, or

(b) water used by industry as process water or cooling water.

563. In my opinion this definition provides clarity about what is and what is not considered to be water take or use for the purposes of the health needs of people. I note that this definition is not currently part of the RPS, however, and to address this gap and support interpretation of Policy 17 I recommend including the definition in the RPS.

564. I acknowledge that submitters on Policy 17 have not requested a definition, however, I consider there is scope to include this definition as a result of PCC's submission in relation to definitions in general, and their request to include 'any further definitions for any terms that are unclear and where a definition would assist in interpretation and implementation'¹⁸. I consider the inclusion of this definition alongside the inclusive list of matters that can be considered in 'the health needs of people' already provided in Policy 17, will assist in interpretation and implementation of the policy. The definition provides clarity of the matters that are obviously within this category but does not close the door on other uses which could reasonably be for the health needs of people, subject to the definition.

565. I consider that the additional text suggested by Hort NZ in clauses (a) and (b), '...or other essential health need', is ambiguous and open to interpretation. I also disagree with the relief sought by Hort NZ to add food production that contributes to domestic food supply as a new clause to the list of matters that are considered 'the health needs of people'. In my opinion the Te Mana o te Wai hierarchy of obligations would place food production in the third priority of the hierarchy - the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future. As such, it would be inappropriate to include the amendment sought by the submitter in the list of health needs

¹⁸ PCC S30.099

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of people. Moreover, in my opinion clause (b) of the NRP definition of the 'health needs of people' would exclude such use.

566. I acknowledge the concerns raised by Rangitāne in relation to ensuring the water takes that fall into the second priority in the Te Mana o te Wai hierarchy of obligations should be those for drinking water and sanitation. However, I consider this concern will be addressed with the inclusion of the definition of 'health needs of people' which makes it clear that these are indeed the uses that fall within this category.
567. I also acknowledge Rangitāne's concerns regarding the list in clauses (a) to (d) being an inclusive rather than an exclusive list. Again, I consider that the inclusion of the definition of 'health needs of people' provides clarity about what 'fits' within this category. The list in Policy 17 complements the definition and in my view should remain an inclusive list to provide for situations where there are uses that are within the definition of 'health needs of people' but may not be provided in the list.
568. I agree with the relief sought by Te Tumu Paeroa to include papakāinga in the list of health needs of people. As such, I recommend accepting the relief sought by Te Tumu Paeroa and adding 'and papakāinga' to the end of clause (d).
569. I disagree with the relief sought by Outdoor Bliss to amend the policy chapeau to provide explicit reference to prioritising the health needs of the river first. I consider that this matter is sufficiently covered by the chapeau, where it states "...that prioritises the health and wellbeing of the waterbody and freshwater ecosystems first...". Rivers are a water body and therefore the policy already prioritises the health needs of rivers (along with other water bodies). As such I recommend rejecting the relief sought by Outdoor Bliss.
570. I also note the concerns raised by Ngāti Toa that the policy contradicts the Te Ao Māori view that humans do not sit at the centre of Taiao and that take and use of water is only for the health needs of people. However, I do not consider the policy presents these contradictions, as it clearly states that the health and wellbeing of the waterbody and freshwater ecosystems must be prioritised first, and then the take and use of water for the health needs of people. As such, I do not recommend any amendments to Policy 17 based on this submission point.

Deleting the notified amendments to Policy 17

571. I disagree with the relief sought by WFF to delete the notified amendments to Policy 17 and defer these changes to 2024. The amendments are necessary to give effect to the NPS-FM and implement the Te Mana o te Wai hierarchy of obligations. As such, I recommend the relief sought by WFF in relation to Policy 17 is rejected.

Policy 44

572. I acknowledge the relief sought by Ātiawa to add reference to the Te Mana o te Wai hierarchy of obligations in Policy 44. However, I do not consider that this is necessary given the inclusion of reference to giving effect to Te Mana o te Wai in the policy chapeau.
573. I do agree with Ātiawa's request to include reference to 'ki uta ki tai' in the policy as I consider this ensures consideration of the impact of water takes and use in the wider

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environment. As such, I recommend accepting in part the relief sought by Ātiawa, and that a new clause is added to Policy 44 as follows

(ba) integrated management, ki uta ki tai is considered;

574. I disagree with the relief sought by Sustainable Wairarapa Inc to provide further definition to the 'alternate water supplies' and to limit this to public water supply of an on-site farm scale or smaller. I consider the clause as drafted provides sufficient flexibility for storage at a range of scales to be considered, noting that the policy does not require storage, but instead consideration of alternate options where they are available. It would then form part of the assessment of a resource consent application on a case-by-case basis. As such, I recommend rejecting the relief sought by Sustainable Wairarapa.

575. I agree with the relief sought by Fish and Game, to include reference to protecting the habitats of indigenous freshwater species, trout and salmon. However, in my opinion, the suggested wording provided in the submission does not accurately reflect Policies 9 and 10 of the NPS-FM. Policy 9 requires that 'the habitats of indigenous freshwater species are protected'. Policy 10 requires that the habitat of trout and salmon is protected, insofar as this is consistent with Policy 9'. As such, a hierarchy of sorts is provided by these policies, where the habitat of indigenous freshwater species is the priority. As such, I recommend Policy 44 is amended to include two new clauses as follows:

(bb) the habitats of indigenous freshwater species are protected,

(bc) the habitat of trout and salmon is protected, insofar as this is consistent with clause (bb)

576. I disagree with the relief sought by Taranaki Whānui to include specific reference to Te Mahere Wai o Te Kāhui Taiao (Te Mahere Wai)¹⁹. While I agree that this document is a foundational document for the Te Mana o te Wai provisions of both the RPS and the forthcoming changes to the NRP, I do not consider that it is necessary to specifically reference this document. The RPS sets out the regional issues and policies that are required to address those issues, and these have been informed by Te Mahere Wai.

577. In relation to Taranaki Whānui's request to include reference to partnering with mana whenua/tangata whenua in decision-making, I consider that in relation to decision-making on resource consents, notices of requirements and plan changes and variations, this would be difficult to achieve. However, I do consider that Policy 44 should include a requirement to engage with mana whenua/tangata whenua at an early stage so that they can provide input into the assessment process. I therefore recommend acceptin in part Taranaki Whānui's relief sought and that the following clause is added to Policy 44:

(ab) Early engagement occurs with mana whenua/tangata whenua;

578. I disagree with the relief sought by Wellington Water to amend clause (d). I do not consider that the additional text in brackets – 'minimum flows and allocation limits' - is necessary because the NPS-FM already defines 'take limits', as follows:

¹⁹ Te Mahere Wai o Te Kāhui Taiao is a Mana Whenua whitua implementation plan that was developed as part of the Te Whanganui-a-Tara Whitua process.

Take limit: means the limit on the amount of water that can be taken from an FMU or part of an FMU, as set under clause 3.17²⁰.

579. It is unclear what the submitter is seeking to clarify by adding these words. In my opinion it is also unnecessary to include reference to take limits reflecting annual and seasonal water cycles, as this would be considered as part of setting take limits in the first place. Clause 3.17(4)(a) of the NPS-FM already requires that these limits “provide for flow or level variability that meets the needs of the relevant water body and connected water bodies, and their associated ecosystems.” This matter is also covered by clause (h) of the policy which requires the consideration of alternate water supplies for use during drier months.
580. I agree with the relief sought by Hort NZ to delete clauses (c) and (d) and agree with the submitter's rationale that it is unnecessary to include these references to environmental flows and levels and environmental outcomes because the NOF process requires that take limits are set to achieve these flows, levels and outcomes. On this basis I recommend accepting the relief sought by Hort NZ and recommend the following amendments:

[...]

- (a) *Environmental flows and levels, including variability of flows, are achieved;*
- (b) *Where take limits have been set, take limits are achieved; Take limits are achieved that provide for flow or level variability, safeguard ecosystem health, provide for the life cycle needs of aquatic life, and take into account environmental outcomes;*

[...]

581. I agree in part with Wellington Water's relief sought in relation to clause (h). I agree that clarification is useful that alternate water supplies should be for non-potable water in urban areas. I recommend including 'for non-potable water use' in clause (h) to address this relief. However, I consider it is unnecessary to delete the words “storage or capture” from this clause because they are provided here as an example of an alternative water source. It is unclear why the submitter seeks the deletion of these words.
582. I disagree with the relief sought by Irrigation NZ to include consideration of the NPS-HPL in relation to Policy 44. The NPS-HPL came into effect after Change 1 was notified²¹. The Council has signalled through its section 32 report that changes to the RPS to give effect to the NPS-HPL will be undertaken through a future change to the RPS. On this basis I recommend that the relief sought by Irrigation NZ be rejected.
583. I disagree with the relief sought by Wairarapa Water Users Society that clause (h) should be deleted. I also note the concerns of WFF in relation to clause (h). In my opinion it is appropriate that water users consider water storage during months where there are higher flows and volumes, for this water to be re-used at a time when flows and volumes are lower. I disagree with the submitters who are concerned that this clause imposes a requirement for water storage. Instead, the clause requires a consideration of this solution

²⁰ NPS-FM 2020, page 7

²¹ The NPS-HPL came into force on 17 October 2022, two months after Change 1 was notified.

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through the assessment of a resource consent on a case-by-case basis. I consider that this would be a suitable alternative where water allocation is close to over-allocation. In my opinion, Clause (h) gives effect to Policy 11 of the NPS-FM which states:

Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

584. The NOF Guidance also supports consideration of alternative water supplies to manage water takes, and to support the restoration of flows and levels. The guidance states that:

*“Any water allocation to new users must come from reducing existing takes and ensure flows and levels are restored over time. Opportunities to reduce takes could come from more efficient water use (using less water for the same use) or water storage (either from water harvesting at high flows, or harvesting and storing rainfall)”.*²²

585. I note the relief sought by the Fuel Companies to insert a provision for temporary de-watering activities in Policy 44. I understand the concerns of the submitter, however I consider that this is a level of detail that belongs in the NRP, rather than the RPS. The NRP already includes provisions for managing de-watering activities as a permitted activity subject to conditions, including that the take continues only for the time required to carry out the work, but not exceeding one month. In my opinion this would apply to temporary de-watering activities described by the submitter.

586. I agree with the relief sought by both Rangitāne and the Fuel Companies in relation to amendments to improve the grammatical tense of the policy. I have recommended amendments to the policy including amendments to clauses (e), (f) and (g), alongside amendments in response to other submitters. As the relief sought by these submitters is part of submission points seeking other amendments, I recommend accepting the relief sought by Rangitāne and the Fuel Companies.

587. I note the concerns of Te Tumu Paeroa | Office of the Māori Trustee and the relief sought to make Policy 44 a regulatory policy. I understand the concern that Policy 44 is referred to as a ‘consideration’ policy and that this may unintentionally signal that these policies do not have regulatory weight. This is not the case. The consideration policies are still regulatory in the sense that they are applied in process, such as resource consents, and direct the decision-maker to assess particular matters.

588. The legal submissions provided by DLA Piper for Hearing Stream 2 confirm this approach and note that:

“...The policies contain a range of directions to decision makers when considering resource consents, notices of requirement, or the change/variation of planning documents, as to matters to have particular regard to, or for matters to be recognised and provided for...In order to implement those policies, it is clear the respective councils must have particular regard to certain

²² Ministry for the Environment (2022), *Guidance on the National Objectives Framework of the National Policy Statement for Freshwater Management 2020*, p.94.

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matters when making decisions on plans. As set out above, this requires each of the local authorities to give genuine thought and attention to the matters. It is submitted that this level of direction is entirely appropriate in an RPS and provides useful guidance to local authorities on how that policy direction is to be implemented.”²³

589. I also understand from Council officers that the structure of the Operative RPS is to provide direction for matters that must be given effect to through regional and district plans in Chapter 4.1 and that the ‘consideration policies’ in Chapter 4.2 provide additional direction in situations where there is a policy gap, or the relevant regional and/or district plan has not yet been amended to give effect to the policies in Chapter 4.1. I do not consider that it is necessary, therefore, to amend Policy 44 as requested by the submitter.

590. I agree with the relief sought by PCC that Policy 44 should only apply to regional consents. This is on the basis that all the matters within Policy 44 fall within the responsibility of the regional council. I also agree that the policy incorrectly applies these matters to notices of requirement and unnecessarily duplicates other policies in Change 1. On this basis I recommend accepting the relief sought by PCC and making the following amendments to the Policy chapeau:

When considering an application for a regional resource consent to take or use water, notice of requirement, or a change, variation or review of a regional plan to take and use water, Te Mana o te Wai must be given effect to so that: particular regard shall be given to:

591. I disagree with the relief sought by WFF and Dairy NZ to delete the notified amendments to Policy 44. Consistent with my analysis and recommendations on similar submissions points by these submitters on other provisions (such as in section 3.5), it is appropriate for these amendments to be made to the RPS now ahead of any changes to the NRP to give effect to the NPS-FM. I recommend the relief sought by Dairy NZ and WFF is rejected.

Method 48

592. Method 48 is an important method to give effect to the NPS-FM as it directs a change in approach for water allocation across the region.

593. In relation to the submissions of Wellington Water and Rangitāne, seeking clarity or amendments to the ‘first in first served’ approach (clause (f)), in my opinion it is appropriate the Council considers alternatives to the default ‘first in first served’ approach to water allocation. Method 48 does not suggest that this approach will no longer apply, but instead directs that the Council will consider other ways of allocating water where this is appropriate.

594. I also note that this method requires a review of the NRP water allocation policy. If changes are required, the plan change must be publicly notified. This will provide the opportunity for mana whenua/tangata whenua, stakeholders, and the wider community to provide

²³ DLA Piper Legal Submissions of Counsel on behalf of Wellington Regional Council (23 June 2023), Hearing Stream 2, [HS2-Legal-submissions-of-counsel-on-behalf-of-GWRC-RPS-Change-1-HS2.pdf, paragraphs 5 and 7.](#)

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input into identifying these alternatives and how they should be applied. I consider that it would be premature for the RPS to include reference to alternative allocation principles, as sought by Rangitāne, because this detail is best placed in the NRP review process.

595. Wellington Water has suggested a number of amendments to Method 48. Taking each of these in turn:

- I disagree with the relief sought to refer to 'appropriate allocation' rather than 'efficient allocation' in clause (a). In my opinion, 'appropriate allocation' lacks clarity. I understand that the intent of 'efficient allocation' is to ensure that where water is allocated, that allocation is being fully utilised, which then allows for other 'new' users to use this resource.
- I disagree that clause (c) and clause (d) are duplicate clauses. Clause (c) requires that water allocation does not exceed the limits set in the regional plan, whereas clause (d) addresses the efficiency of allocation within those limits. Again, this relates to how efficiently water that has been allocated is being used. However, I consider that amendments are required to clause (c) to make it clear that the 'limits' being referenced are the allocation limits set in the regional plan.
- I also do not agree that clauses (f) and (g) are duplicates. Alternatives to first in first served does not necessarily mean that those alternatives will result in equitable allocation. However, these are related concepts and I recommend the clauses be combined.
- I do agree that clauses (j) and (k) are unnecessary as the Council is already required to implement government direction on water allocation and matters relating to giving effect to the NPS-FM. I recommend these clauses be deleted.

596. I acknowledge the relief sought by Te Tumu Paeroa and agree that clause (e) should also refer to 'responsibilities' in addition to 'rights and interests' of iwi and hapū. However, I consider the inclusion of reference to 'Māori landowners' would broaden the scope and intent of the application beyond those who whakapapa to the area and I disagree with this aspect of the relief sought. I therefore recommend accepting in part the relief sought by Te Tumu Paeroa

597. I disagree with Hort NZ's relief sought in relation to clause (i), to include a reference to land use change that lowers emissions. It is unclear what is intended by this amendment. While I agree there is likely a need for land use change to lower emissions, I do not consider this relates to how water is allocated and this is better addressed through the climate change provisions of the RPS which were the subject of Hearing Stream 3.

598. I note the relief sought by PCC and Forest and Bird to include a timeframe for Method 48 to be achieved. I understand from Council officers that the directions in Method 48 will take time given some of the significant issues that it addresses, and this may also require the input of Central Government to implement. On this basis I do not consider that it is possible to place a timeframe on implementing Method 48 at this stage. I also disagree with Forest and Bird's relief sought to amend clause (k) to add the words 'and implemented'. As noted above in relation to Wellington Water's relief sought to delete clause (k), all parts of the NPS-FM must be given effect to, and I am recommending deleting clause (k). I therefore

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recommend rejecting the relief sought by PCC and Forest and Bird, rejecting the further submission of PPFL, and accepting in part the further submission of BLNZ.

599. I disagree with the relief sought by some submitters to delete Method 48. This method is part of a suite of provisions to give effect to the NPS-FM and is an important method for upcoming changes to the NRP. There is no reason why these amendments should be delayed.

600. I agree with the relief sought by several submitters that Method 48 requires amendment to ensure the clauses flow from the chapeau and are grammatically correct. I have reflected this in my recommended amendments.

3.13.3 Section 32AA Evaluation

601. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Policy 17, Policy 44 and Method 48 of Change 1 are the most appropriate for the following reasons:

- The inclusion of the NRP definition of 'health needs of people' is efficient and effective as it provides consistency between the RPS and the NRP and provides clarity to users of the RPS about what constitutes 'the health needs of people'.
- The amendments to Policy 44 are efficient and effective as they make it clear that the policy only applies to regional consents and not to notices of requirement.
- The amendments to Policy 44 to include new clause (ab) and clause (ba) ensure that early engagement with mana whenua/tangata whenua is undertaken. The inclusion of ki uta ki tai provides consistency with other provisions in Change 1 and ensures that decisions are made in consideration of the broader context. Both amendments are an effective way of giving effect to the mana whenua/tangata whenua statements of Te Mana o te Wai, and the replacement Objective 12 that I have recommended.
- The amendments to Method 48 improve drafting and remove unnecessary duplication with national direction.

3.13.4 Recommendations

602. I recommend the following amendments are made to Policy 17:

Policy 17: ~~Water allocation~~ Take and use of water for the health needs of people – regional plans

Regional plans shall include policies, rules and/or methods ~~to ensure the allocation that prioritises the health and wellbeing of the waterbody and freshwater ecosystems first, and then prioritises any take and use of water from any river or groundwater source provides sufficiently for the~~ *health needs of people*., including: *The health needs of people* include:

- (a) the taking of water by any statutory authority that has a duty for public water supply under any Act of Parliament;
- (b) the taking of water for reticulation into a public water supply network;

- (c) the taking of water for community supplies; and
- (d) the taking of water for marae and papakāinga.

Explanation

Policy 17 gives effect to the objective of the National Policy Statement for Freshwater Management 2020 by prioritising the health and wellbeing of waterbodies first, and then providing for the take and use of water for the health needs of people, before other uses of water.

603. I recommend that the following definition be added to the RPS:

Health needs of people: The amount and quality of water needed to adequately provide for people's hygiene, sanitary and domestic requirements. It does not include:

- (a) water used outside, e.g. for irrigation, vehicle or house washing or hosing but not including water consumed by animals, or
- (b) water used by industry as process water or cooling water.

604. I recommend the following amendments to Policy 44:

Policy 44: Managing water takes and use to give effect to Te Mana o te Wai ~~ensure efficient use –~~ consideration

When considering an application for a regional resource consent to take or use water, notice of requirement, or a change, variation or review of a regional plan to take and use water, Te Mana o te Wai must be given effect to so that: particular regard shall be given to:

- (a) Māori freshwater values, including mahinga kai are provided for;
- (ab) Early engagement occurs with mana whenua/tangata whenua;
- (b) sSites of significance, wāhi tapu and wāhi tupuna are protected;
 - (ba) Integrated management, ki uta ki tai is considered
 - (bb) ‡The habitats of indigenous freshwater species are protected,
 - (bc) ‡The habitat of trout and salmon is protected, insofar as this is consistent with clause (bb)
- (c) Environmental flows and levels, including variability of flows, are achieved;
- (d) Where take limits have been set, take limits are achieved; Take limits are achieved that provide for flow or level variability, safeguard ecosystem health, provide for the life cycle needs of aquatic life, and take into account environmental outcomes;
- (e) ~~whether the applicant has demonstrated that~~ ‡The volume of water sought is reasonable and justifiable for the intended use, including consideration of soil and crop type when water is taken for irrigation purposes;

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- (f) ~~requiring the e~~Consent holders are required to measure and report the actual amount of water taken; ~~and~~
- (g) ~~requiring the e~~Consent holders ~~to~~ adopt water conservation and demand management measures and demonstrate how water will be used efficiently; and
- (h) ~~t~~There is consideration of alternate water supplies for non-potable water use such as storage or capture of rainwater for use during the drier summer months

605. I recommend the following amendments to Method 48:

Method 48: Water allocation policy review ~~Investigate the use of transferable water permits~~

Review water allocation policy in the regional plan so that:

- (a) Freshwater is allocated and used efficiently;
- (b) All existing over-allocation is phased out and future over-allocation is avoided;
- (c) ~~Avoid allocating w~~Water allocation limits are not exceeded beyond a limit;
- (d) ~~improve water allocation efficiency~~ is improved, –including consideration of transferable permits;
- (e) ~~provide for~~ iwi and hapū rights, and interests and responsibilities are provided for;
- (f) alternatives to the first in first served approach to water allocation are considered;
- (g) ~~provide for~~ equitable allocation of water is provided for;
- (h) water allocation policy supports adapt to climate change adaptation;
- (i) land use change to more climate resilient uses is promoted;
- ~~(j) — government direction on water allocation is considered; and~~
- ~~(k) — all matters regarding giving effect to the NPS-FM are considered~~

~~Investigate whether allowing water permits to be transferred will provide a more equitable use of allocated water.~~

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606. Accordingly, I recommend that the submissions and further submissions on Issue 10 Managing water takes and use, be accepted, accepted in part, or rejected as detailed in Appendix 2.

3.14 Issue 11: Protecting and restoring the ecological health of water bodies (Policy 18, Policy 40, and Policy 43)

3.14.1 Matters raised by submitters

Policy 18

607. A total of 90 submission points and 53 further submission points were received in relation to Policy 18.

608. The policy is supported as notified by KDCDC [S16.050]; UHCC [S34.065]; HCC [S115.042]; WCC [S140.043]; Taranaki Whānui [S167.080]; Kahungunu [S169.009] (supported by Sustainable Wairarapa [FS31.010]).

Support in part

609. In five separate submission points, DGC²⁴ seeks a number of amendments to Policy 18, on the basis that the policy requires some wording changes to ensure it operates as intended. The submitter is concerned that subclauses which require 'restricting' specified activities do not address how or to what extent those activities should be restricted and that these activities are inconsistent with national direction, particularly the NPS-FM. DGC seeks the following amendments:

- Clause (b): *actively involve mana whenua/tangata whenua in freshwater management (including decision-making processes), and identify and provide for Māori freshwater values ~~values are identified and provided for~~*
- Clause (g): *protecting the habitats of indigenous freshwater species ~~are protected...~~*
- Clause (h): *ensuring that freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided;...*
- Clause (r): *restoring and maintaining fish passage where appropriate*
- Replacing the word 'restricting' in subclause (n)-(q) with the word 'minimising'

610. Philip Clegg [S62.018] and Dr Sarah Kerkin [S96.014] (supported by Brendan Herder [FS5.6] and Waka Kotahi [FS3.022]), seek amendments to Policy 18 to either make the restoration of wetlands a non-regulatory method or apply the requirement to restore wetlands to natural wetlands only and not to areas like the peatland that have been so degraded they have ceased to be natural wetlands.

611. In a number of submission points, Hort NZ [S128.030], [S128.031], [S128.032] (supported by Waka Kotahi [FS3.024]), and [S128.033] (supported by Wairarapa Water Users Society [FS9.011] and Irrigation New Zealand [FS21.011]) seek a number of amendments to Policy 18, as follows:

²⁴ [S32.016] (opposed by Ātiawa [FS20.010] and BLNZ [FS30.294]); [S32.027] (opposed by Ātiawa [FS20.018] and BLNZ [FS30.305]); [S32.030] (opposed by BLNZ [FS30.308]); [S32.031] (supported by Waka Kotahi [FS3.023] and opposed by BLNZ [FS30.309]); DGC [S32.032] (opposed by BLNZ [FS30.310]).

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- the inclusion of 'as required to give effect to the NPS-FM 2020' at the front of each clause of the policy.
- an amendment to clause (g) to delete the words 'are protected' as 'protecting' and 'protected' are duplicated.
- amendments to clause (e) to include 'to the extent practicable' to align with the NPS-FM
- clause (l) so that it applies to water storage more broadly. The specific amendments sought are as follows:

(l) Promoting the installation of ~~off-line~~ water storage.

612. Ātiawa [S131.066] (supported by Ngā Hapu [FS29.336] and supported in part by Wellington Water [FS19.003]) seek amendments as follows:

- To include an integrated approach, ki uta ki tai, in the list of subclauses.
- Include reference to mātauranga Māori as the NPSFM provides for mātauranga Māori to be applied to all freshwater management (including ecological health).
- Replace 'restricting' with 'avoid' in subclauses (n),(o),(p),(q), to ensure that these activities are avoided in order to protect and restore ecological function.

613. Muaūpoko [S133.010] (opposed by Ātiawa [FS20.357]) supports the intent of Policy 18 but notes that the freshwater provisions require review to ensure they effectively incorporate local expressions of Te Mana o te Wai.

614. GWRC [S137.005] (with a neutral/not stated stance held by WCC [FS13.020]) seeks amendments to improve readability, as follows:

(c) ensuring there is no further loss of extent of natural inland wetlands and coastal wetlands, their values are protected, and their restoration is promoted;

...

(h) ensuring freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided;

615. Sustainable Wairarapa [S144.039] seek amendments on the basis that the net effects of large-scale water storage are unlikely to help to protect and restore the ecological health of waterbodies:

(l) promoting the installation of public water supply or farm scale (or smaller) off-line water storage;

616. Fish and Game [S147.012] (opposed by Wellington Water [FS19.076] and BLNZ [FS30.181]) seek amendments to Policy 18 on the basis that the policy does not give proper effect to Policy 6 (regarding the protection of natural inland wetlands) and Policy 10 (which specifically recognises the need for the protection of the habitats of trout and salmon). Fish and Game seek a new subclause in Policy 18 to address these concerns as follows:

(ea) ensuring that there is no further loss of natural inland wetlands and their values are protected;

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617. Similarly, Fish and Game [S147.013] (opposed by Ātiawa [FS20.111], Wellington Water [FS19.077] and BLNZ [FS30.182]) also seek amendments to clause (g) on the basis that trout and salmon are given specific recognition under section 7(h) of the RMA which carries through to Policy 10 of the NPS-FM. Fish and Game [S147.055] (opposed by Ātiawa [FS20.117], Wellington Water [FS19.119] and BLNZ [FS30.224]) also seeks amendments to this clause to correct typographical errors:

(g) ~~protecting the habitats of indigenous freshwater species and the habitats of trout and salmon insofar as this is consistent with the protection of the habitats of indigenous freshwater species are protected~~

618. Forest and Bird [S165.052] (supported by DGC [FS22.008], supported in part by Ātiawa [FS20.074], and opposed by Wellington Water [FS19.033], Hort NZ [FS28.051], Waka Kotahi [FS3.025] and BLNZ [FS30.319]) seek various amendments to Policy 18 to ensure that direction and ecological bottom-lines from the RMA, NZCPS, and NPS-FM are carried through, as follows:

- Amend the chapeau as follows:

Regional plans shall include policies, rules and/or methods that protect and restore the ecological health of water bodies ~~including~~, which ensure the following:

[...]

- Remove coastal wetlands from clause (c) and include a new policy specifically for coastal wetlands that gives effect to the NZCPS as follows:

(x)(i) avoid adverse effects of activities on NZCPS policy 11(a) values of coastal wetlands;

(ii) avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on any NZCPS policy 11(b) values of coastal wetlands;

(iii) preserve the natural character of coastal wetlands in accordance with policy 13 NZCPS;

(iv) promote restoration of coastal wetlands in accordance with policy 14 NZCPS; and

(v) avoid reclamation in coastal wetlands in accordance with policy 10 NZCPS.

- Amend clauses (i),(j) and (k) as follows:

(i) ~~promoting the retention of~~ retaining in-stream habitat diversity by retaining natural features - such as pools, runs, riffles, and the river's natural form;

(j) ~~promoting the retention of~~ retaining natural flow regimes - such as flushing flows;

(k) ~~promoting the protection and reinstatement~~ protect and reinstate of riparian habitat;

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- Amend clauses (n)-(q) as follows:
 - (n) ~~discourage-restricting~~ avoiding the reclamation, piping, straightening or concrete lining of rivers;*
 - (o) ~~discourage-restricting~~ avoiding stock access to estuaries, rivers, lakes and wetland;*
 - (p) ~~discourage-restricting~~ avoiding the diversion of water into or from wetlands - unless the diversion is necessary to restore the hydrological variation to the wetland;*
 - (q) ~~discourage-restricting~~ the removal or destruction of indigenous plants in wetlands and lakes; and*
- Amend clause (r) as follows:
 - (r) restoring and maintaining indigenous fish passage, except where it is desirable to prevent the passage of some fish species in order to protect indigenous species, their life stages, or their habitats.*

619. Rangitāne [S168.043] (supported by Sustainable Wairarapa [FS31.153], supported in part by Hort NZ [FS28.052]) seeks amendments to Policy 18 on the basis that as notified the policy does not reflect the wording in the NPS-FM which refers to the health and wellbeing of water bodies and freshwater ecosystems. Rangitāne also seeks amendments to provide clearer linkages between the chapeau and the clauses in the policy to reflect that both land and freshwater will need to be managed to give effect to Te Mana o te Wai, incorporate the concept of 'wellbeing', and reflect the structure of the NPS-FM with Te Mana o te Wai referenced in the chapeau.

620. Rangitāne [S168.044], [S168.045], [S168.046], and [S148.047] (supported by Sustainable Wairarapa [FS31.154], [FS31.155], [FS31.156], [FS31.157]) also seeks the following specific amendments:

- Replace 'promoting' with text that reflects the need to 'protect the extent necessary to achieve the environmental outcomes'
- Include provision for managing water takes, not just measuring and evaluation them, to ensure that environmental flows and levels are achieved
- Reference the appropriate clauses in the explanation when describing habitat diversity or activities which impact on habitat diversity
- Refer to 'Ecosystem health' and the five biophysical components of freshwater ecosystem health that must be managed
- Substitute 'freshwater ecosystems' for 'aquatic ecosystems'
- Remove reference to specific clauses in the policy, as these appear not to capture all activities and also risks inappropriately elevating some activities or aspects above others
- Provide specific direction on how these national policies are to be applied at the regional level

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621. Ngāti Toa [S170.032] (supported by Ngā Hapu [FS29.146]), seeks amendments to strengthen the wording of Policy 18 as they are concerned that the use of the word 'promoting' in clauses (a), (b), (c) and (d) "levels down" the intention of the policy. The submitter seeks stronger wording such as 'avoid', 'ensure' or 'give effect to' in Policy 18. The submitter also seeks that the policy is applied to regional plans and district plans.
622. MDC [S166.029] (opposed by Wellington Water [FS19.025]) is neutral on Policy 18 and seeks the addition of Henley Lake as part of Policy 18 and the potential for other artificial wetlands that have ecological value to be covered.

Oppose in part

623. The MPFG²⁵ oppose in part Policy 18 on the basis that Change 1 implies that natural wetlands in the region are shrinking, when in their view they have been expanding. The MPFG seek the deletion of the phrase 'and their restoration is promoted' in Policy 18.

Oppose

624. PCC [S30.042] (supported by PPFL [FS25.075]) is concerned that:
- Policy 18 contains very strong policy directions that go beyond and are stricter than what is in the NPS-FM
 - There are no exceptions in the policy and there is no hierarchy provided for when directions are not practicable
 - Some clauses unnecessarily duplicate directions in the NPS-FM, without providing additional direction in a regional context, they also duplicate other policy directions in the RPS including Policy 14
 - Several clauses have a different construct to the rest of the clauses, and do not flow from 'including' in the chapeau
625. PCC seeks the following amendments to Policy 18:

²⁵ Paul Dyson [S20.002]; Liorah Atkinson [S21.002]; Ian Spendlove [S23.002]; Andrea Follett [S26.002]; Sandy, Judith, Kauika-Stevens [S33.002]; Heather McKay [S38.002]; Colin Hawes [S39.002]; Lauritz and Julie Rust [S40.002]; Andrew Ayrton and Carol Reeves [S41.002]; Gregor and Stephanie Kempt [S42.002]; Carol Dormer [S43.002]; Richard Dormer [S44.002]; Weston Hill [S45.002]; Lynne Hill [S46.002]; Norman Hill [S47.002]; Duncan Carmichael [S48.002]; Gerald Keown [S52.003] (supported by Brendan Herder [FS5.2]); Helen Masters [S54.002]; Matthew Scrimshaw [S55.002]; Colleen Munro [S57.003]; Grant Munro [S58.003] (opposed by Forest and Bird [FS7.002]); Sandra and Mat Gerrard [S59.002]; Roger O'Brien [S87.002]; Gavin Kirton [S91.002]; Nicola Rothwell [S97.002]; Madeline Keown [S101.002]; Stacey Jack-Kino [S103.002]; Hamish McDonald [S104.002]; Sharlene McDonald [S105.002]; Lisa Keown [S107.003]; Kerry Ryan [S108.002]; Christine Withey [S109.002]; John Ryan [S110.002]; Sheila Ryan [S111.002]; Russell Flood-Smith [S112.002]; Shane Stratford [S121.002]; Jaime Walsh [S122.002]; Jody Sinclair and Josh Lowmy [S138.002]; Alan Rothwell [S146.002]; Matthew Rothwell [S149.002]; Anna Brodie and Mark Leckie [S150.002]; Tim Rothwell [S156.002]; Anthony and Jemma Ragg [S159.002]; Jen and Chris Priest [S160.002]; Robert Anker [S31.018]; PowerCo [S134.010] (supported by Fulton Hogan [FS11.009] and Winstone Aggregates [FS27.012]); Fuel Companies [S157.012]; [S157.013] (supported by Winstone Aggregates [FS27.013] and Hort NZ [FS28.050]); [S157.014]; Grant O'Brien [S161.002]; Winstone Aggregates [S162.007] (opposed in part by Forest and Bird [FS7.021] opposed by Ātiawa [FS20.275]).

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Regional plans shall include policies, rules and/or methods that protect and restore the ecological health of waterbodies, including:

[...]

(b) actively involve mana whenua / tangata whenua in freshwater management (including decision-making processes), ~~and~~

(c) identify and provide for Māori freshwater values ~~are identified and provided for;~~

[...]

(h) protecting the habitats of indigenous freshwater species ~~are protected;~~

[...]

626. Wellington Water [S113.021], [S113.022] and [S113.023] opposes Policy 18 and seeks the following amendments:

- Delete clause (c) on the basis that clauses 3.22 and 3.24 of the NPS-FM set out a reasonably long list of specific exceptions to the policy direction – none of which is carried over into Policy 18. Wellington Water considers this may confuse regional plans as they must give effect to the NPS-FM and the RPS.
- Amend clauses (d) and (h) as they lack clarity. Wellington Water considers a more suitable goal is 'appropriate', rather than 'efficient' allocation. The following amendments are sought:

(d) take limits for both allocation and minimum flows ~~achieving~~ environmental outcomes, target attribute states and environmental flows and levels with appropriate variability;

(h) freshwater is appropriately allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.

627. WFF [S163.055] (supported by BLNZ [FS30.127], opposed by Forest and Bird [FS7.098], Ātiawa [FS20.220] and Ngā Hapu [FS29.071]) seek the deletion of the amendments to Policy 18 and consider these changes should be deferred to a full review of the RPS in 2024.

Policy 40

628. A total of 31 submissions and 35 further submissions were received on Policy 40.

Support

629. Policy 40 is supported as notified by KCDC [S16.051], Hort NZ [S128.041], WCC [S140.067], Sustainable Wairarapa Inc [S144.040], and Kahungunu [S169.011] (supported by Sustainable Wairarapa Inc [S31.012]).

Support in part

630. Outdoor Bliss [S11.007] seeks an amendment to the policy title to replace 'consideration' with 'essential'.

631. PCC [S30.064] (supported by PPFL [FS25.097] and Meridian Energy [FS26.057]) seeks the deletion of clause (d) on the basis this duplicates clauses (a) and (b).

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632. DCG [S32.022] (supported by Ātiawa [FS20.016] and opposed by BLNZ [FS30.300]) seeks amendments to clauses (a) and (b) so that they provide a direction rather than a statement. The submitter seeks the addition of the word 'ensuring' at the start of these clauses.
633. UHCC [S34.062] (supported by Hort NZ [FS28.060]), seeks a planning and legal review of the verbs used in Policy 40 to ensure the direction is feasibly able to be achieved, and an amendment to the section 32 assessment to assess the change in policy direction.
634. SWDC [S79.042] seeks recognition in Policy 40 to recognise the need for water to support human health.
635. Fulton Hogan [S114.004] consider clause (h) is unclear and seek drafting amendments to address this concern.
636. Ātiawa [S131.089] (supported by Ngā Hapu [FS29.359]) is concerned that the policy only applies to regional consents and seeks an amendment so that it also applies to district consents where relevant to provide a more integrated approach.
637. Muaūpoko [S133.011] (opposed by Ātiawa [FS20.358]), seeks the retention of Policy 40 but notes a review of the freshwater provisions is necessary to ensure they effectively incorporate local expressions of Te Mana o te Wai.
638. Through a number of separate submission points, Fish and Game²⁶ seeks drafting amendments to give effect to Policies 6, 7, 9 and 10 of the NPS-FM and to capture a wide range of valued species, habitats and ecosystems.
639. Winstone Aggregates [S162.013] (supported by Fulton Hogan [FS11.018], Hort NZ [FS28.064], and opposed by Ātiawa [FS20.281]), considers there is misalignment between Policy 40 and Policy 18 which uses the terms 'protecting and restoring' as opposed to 'protecting and enhancing' and that clause (h) is unclear about what other ecosystems and habitats are captured by the policy. Winstone Aggregates seeks amendments to align Policy 40 with Policy 18 or deletion of the policy if it is repetitious, and amendments to provide clear guidance on what constitutes significant indigenous ecosystems.
640. Forest and Bird [S165.069] (supported by DCG [FS22.009] and opposed by Wellington Water [FS19.034] and BLNZ [FS30.319]) considers Policy 40 is inconsistent with Policies 42 and 44 on key matters and is concerned that the policy does not require that Te Mana o te Wai is given effect to. Forest and Bird seeks a new clause that requires the avoidance of loss of extent or values of natural inland wetlands and amendments to ensure the NZCPS is given effect to in terms of coastal wetlands.
641. Rangitāne [S168.048] and [S168.049] (supported by Sustainable Wairarapa Inc [FS31.158] and [FS31.159]) considers the policy direction of Policy 40 should be strengthened as 'having particular regard' to the matters in the policy will not give effect to Te Mana o te Wai. Rangitāne also considers the policy needs to address the full range of matters in the

²⁶ [S147.009] (opposed by Hort NZ [FS28.061]), Wellington Water [FS19.073], and BLNZ [FS30.178]; [S147.010] (opposed by Hort NZ [FS28.062], Ātiawa [FS20.110], Wellington Water [FS19.074], and BLNZ [FS30.179]); [S147.011] (supported in part by Ātiawa [FS20.122], opposed by Hort NZ [FS28.063], Wellington Water [FS19.075], and BLNZ [FS30.180]).

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NPS-FM in relation to natural wetlands until such time as the regional plan is amended. Rangitāne seeks amendments to the policy chapeau to require the Council to give effect to Te Mana o te Wai when considering consent applications, and amendments to the policy generally to address additional matters in the NPS-FM relating to wetlands.

642. Taranaki Whānui [S167.0105] and [S167.0106] seeks new clauses in Policy 40 to provide reference to the outcomes of Te Mahere Wai²⁷ and to require a partnership approach with mana whenua/tangata whenua.

Not stated/neutral

643. Ngāti Toa [S170.049] (supported by Ngā Hapu [FS29.163]), considers it is unclear how water quality, flows and water levels and aquatic habitats of surface water bodies are managed to give effect to Te Mana o te Wai. The submitter also questions why the policy only relates to surface water bodies when an integrated view must be taken in implementing the policy. Ngāti Toa seek amendments to address these concerns.

Oppose

644. Wellington Water [S113.030] considers clauses (f) and (i) lack clarity and seek specific drafting amendments to address this.
645. Powerco [S134.015] (supported by Fulton Hogan [FS11.019] and Waka Kotahi [FS3.037]) and the Fuel Companies [S157.018] (opposed in part by Meridian [FS26.056], [S157.019], and [S157.020]) consider the requirement to enhance as well as protect the health and wellbeing of waterbodies and freshwater ecosystems in all situations is onerous and does not recognise regionally significant infrastructure. Specific drafting amendments are sought by these submitters to address this concern.
646. WFF [S163.069] (supported by BLNZ [FS30.141] and opposed by Forest and Bird [FS7.112], Ātiawa [FS20.234], and Ngā Hapu [FS29.085]) seek the deletion of the amendments to Policy 40.

Policy 43

647. Policy 43 is a policy within the operative RPS that is proposed to be deleted by Change 1. A total of 5 submissions and 2 further submissions were received in relation to this policy.

Support

648. HCC [S115.068], Ātiawa [S131.092] (supported by Ngā Hapu [FS29.362]), WCC [S140.069] and Taranaki Whānui [S167.0109] support the deletion of Policy 43 as notified.

Not stated/neutral

649. Ngāti Toa [S170.053] (supported by Ngā Hapu [FS29.167]) seeks that resource consents be required to demonstrate environmental progress to the 'contribution to achieving environmental outcomes and target attribute states for water bodies and freshwater ecosystems. Ngāti Toa seeks clarity about how this would be evaluation, such as

²⁷ Te Mahere Wai o Te Kāhui Taiao is a Mana Whenua whaitua implementation plan that was developed as part of the Te Whanganui-a-Tara Whaitua process.

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benchmarks and stronger wording in the provision (e.g. replacing 'contribution' with a stronger word').

3.14.2 Analysis

Policy 18

650. Policy 18 directs regional plans to include provisions that protect and restore the ecological health of water bodies. The policy gives effect to the NPS-FM and in particular Policies 1, 2, 5, 6, 7, 8, 9 and 10.
651. Submitters have raised a number of concerns with Policy 18 and are seeking amendments to provide greater clarity, implement national direction, or provide stronger or less directive requirements.

General Drafting matters

652. I agree with Rangitāne that reference to Te Mana o te Wai should sit within the policy chapeau, rather than a single clause within the policy. This amendment will make it clear that giving effect to Te Mana o te Wai is the overarching purpose and that the matters listed in the subsequent clauses are required in order to give effect to Te Mana o te Wai.
653. I also agree that the policy should refer to 'ecosystem health' rather than 'ecological health' to be consistent with the NPS-FM. This change is required in the policy title and in the body of the policy.
654. On this basis I recommend the following amendments to Policy 18:

Policy 18: Protecting and restoring ~~ecological health~~ the health and wellbeing of water bodies and freshwater ecosystem health of water bodies – regional plans

Regional plans shall include policies, rules, and/or methods that give effect to Te Mana o te Wai and in doing so protect and restore the ~~ecological health~~ health and wellbeing of water bodies and freshwater ecosystem health, by including:

(a) Managing freshwater in a way that gives effect to Te Mana o te Wai;

[...]

655. I also agree with the relief sought by PCC to provide a separate clause that addresses Māori freshwater values, and to delete the words 'are identified and provided for' and re-draft the clause as follows:

(b) actively involving mana whenua / tangata whenua in freshwater management (including decision-making processes), and

(ba) identifying and providing for Māori freshwater values ~~are identified and provided for~~

656. PCC, DGC and Hort NZ have sought an amendment to clause (g) to remove duplication of words in this clause. I agree with this relief sought, and recommend the following amendment:

(g) protecting the habitats of indigenous freshwater species ~~are protected~~

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657. Fish and Game have also sought an amendment to clause (g) to include reference to protecting the habitats of trout and salmon. I agree that this should be included in Policy 18, however I consider Fish and Game's suggested wording does not accurately reflect Policy 9 and Policy 10 of the NPS-FM which set a hierarchy of sorts for how the habitats of trout and salmon should be protected, relative to indigenous freshwater species. Policy 9 and Policy 10 of the NPS-FM read as follows:

Policy 9: The habitats of indigenous freshwater species are protected

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

658. To be consistent with the NPS-FM, I recommend the insertion of a new clause in Policy 18, as follows:

(ga) Protecting the habitat of trout and salmon, insofar as this is consistent with clause (g).

659. On this basis I recommend accepting in part the relief sought by Fish and Game.

660. I also agree with the relief sought by Hort NZ that as drafted, clause (e) does not reflect the direction of Policy 7 of the NPS-FM to 'avoid the loss of river extent and values to the extent practicable'. As notified, clause (e) does not include the qualifier 'to the extent practicable'. I agree with Hort NZ that this should be included so that the RPS does not impose direction that is more stringent than the NPS-FM in this regard. Accordingly, I recommend the following amendment to clause (e):

(e) avoiding the loss of river extent and values to the extent practicable

661. I agree with Rangitāne's general relief to improve the clarity and better link the subclauses of Policy 18 to the main clause. I have addressed this relief in my recommended amendments to Policy 18.

662. I note the concern of PCC that Policy 18 repeats some of the directions of the NPS-FM and does not provide regional context. Specifically, clauses (c), (e), (f), (g), duplicate Policies 6, 7, 8, and 9 respectively. While I agree that the RPS should provide regional context, at this stage the Council has not yet developed this regional context for these matters. As such, in the absence of this information I consider the duplication with the wording of the NPS-FM is appropriate.

663. I agree with PCC that there are some instances where there is duplication with other policies (e.g. clauses (d) and (h)). Where there is duplication with other policies in Change 1, I am recommending deletion of some of these clauses as a result of my recommendations on other submission points.

664. In relation to the relief sought by Wellington Water regarding clauses (d) and (h), I am recommending that these clauses are deleted. As such, I recommend rejecting the relief sought.

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Wetlands

665. A number of submitters, including MPFG, Philip Clegg, Dr Sarah Kerkin, and Forest and Bird, have commented on the inclusion of 'natural inland wetlands' in Policy 18, clause (c) and the intent and application of this, along with the inclusion of 'coastal wetlands'. Clause (c) is consistent with Policy 6 of the NPS-FM which provides the higher order direction. As such, I disagree with the views of these submitters that the clause requires amendment or that the restoration of wetlands should be a non-regulatory method. I recommend rejecting the relief sought by these submitters.
666. I also disagree with the relief sought by MDC to include artificial wetlands, such as Henley Lake in Policy 18. As noted earlier in this report, in relation to Policy 14 (section 3.11), the NPS-FM definition of natural inland wetlands excludes artificial wetlands, unless they are a wetland constructed to offset impacts on, or to restore, an existing or former inland wetland). I consider the amendment sought by MDC would have the effect of unduly broadening the scope of the policy which would have unintended consequences and apply an unnecessarily high regulatory burden. Accordingly, I recommend rejecting the relief sought by MDC.

Water storage

667. I do not agree with Hort NZ's relief sought to amend clause (l) to provide for water storage more broadly. This clause is intended to promote storage alternatives such as water storage lakes that are outside of the river, rather than online options such as damming water. The deletion of 'offline' in my opinion would have the effect of broadening the policy to allow damming of rivers. This change would be inconsistent with the intent of the NPS-FM, and particularly would not give effect to Policy 7 of the NPS-FM.
668. I also disagree with the relief sought by Sustainable Wairarapa Inc, to further qualify clause (l) so that it applies only to public water supply or farm scale (or smaller) water storage. In my opinion this would not facilitate the consideration of alternatives for a wider range of activities where offline storage options may be appropriate. I consider the clause as drafted provides flexibility for consideration of these other activities.

Strength of direction in Policy 18

669. A number of submitters have sought amendments to various clauses of Policy 18 to either strengthen the direction (e.g. use 'avoid' rather than 'restrict') or have the opposite view that the direction as drafted is too strong. For example, DGC seeks the replacement of 'restricting' with 'minimising' in clauses (n)-(q), while Ātiawa and Forest and Bird seek the stronger 'avoid' direction for these clauses.
670. Clause (n) as notified is:

(n) ~~discourage~~ restricting the reclamation, piping, straightening or concrete lining of rivers

671. Change 1 proposes to strengthen the policy direction in this clause from the operative 'discourage' to 'restrict'. I consider that the clause should be an 'avoid' direction, with some provision for activities that have a functional need to pipe rivers and where the effects management hierarchy is applied. This is consistent with the direction in Policy 14

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and my recommended amendments to that policy (section 3.11). It is also consistent with Policy 7 of the NPS-FM.. As such, I recommend the following amendment to clause (n) of Policy 18:

~~(n) discourage~~ restricting avoiding the reclamation, piping, straightening or concrete lining of rivers unless:

(i) there is a functional need for the activity in that location; and

(ii) the effects of the activity are managed by applying the effects management hierarchy

672. I also recommend a consequential amendment to include a definition of the 'effects management hierarchy' in the RPS to support my recommended amendment to clause (n). The NPS-FM provides a definition of the effects management hierarchy in clause 3.21, as follows:

***Effects management hierarchy**, in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:*

(a) adverse effects are avoided where practicable; then

(b) where adverse effects cannot be avoided, they are minimised where practicable; then

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; then

(e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; then

(f) if aquatic compensation is not appropriate, the activity itself is avoided.

673. I recommend including the same definition in the RPS. The scope for this change is provided in PCC's relief sought in relation to definitions generally, to "add any further definitions for any terms that are unclear and where a definition would assist in interpretation and implementation, including any relevant terms proposed to be introduced in response to submissions"²⁸.

674. In the case of clause (o) I consider that 'restricting' is still appropriate, relative to an 'avoid' direction. This approach recognises that complete avoidance of stock access may not be achievable in all circumstances.

675. Similar to my analysis for clause (o), I consider that 'restricting' is the appropriate verb to use in relation to the diversion of water into or from wetlands. As such, I do not recommend amending clause (p).

²⁸ PCC S30.099

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676. I also consider the use of 'restrict' in clause (q) is appropriate direction for the removal or destruction of indigenous plants in wetlands and lakes. I do not recommend amending clause (q).

Ki uta ki tai and mātauranga Māori in Policy 18

677. I agree with Ātiawa that Policy 18 should direct an integrated approach, ki uta ki tai. The inclusion of this approach will give effect to Policy 3 and clause 3.5 of the NPS-FM. I also agree that the policy should include direction to use mātauranga Māori in the protection and restoration of ecosystem health.

678. On this basis I recommend the following clauses are added to Policy 18:

(bb) Adopting an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to ensure that ecological health of freshwater is managed in an integrated, ecosystem wide approach

(bc) Incorporating the use of mātauranga Māori to protect and restore ecosystem health,

Deleting Policy 18

679. Consistent with my analysis in other sections of this report, I disagree with the relief sought by WFF to delete Policy 18. I consider the policy is necessary to support the implementation of Objective 12, other provisions within the freshwater topic, and the integrated nature of Change 1.

Policy 40

680. Rangitāne sought amendments to the policy chapeau to include a reference to giving effect to Te Mana o te Wai. I agree that this should be included in the chapeau, as this is required by the NPS-FM and recommend amendments accordingly.

681. I agree with DGC that clauses (a) and (b) should provide direction, rather than just a statement. However, I consider the word 'managing' is a more appropriate term to use in this context, rather than the suggested 'ensuring'. In my opinion, this is more appropriate in the context of the assessment of a resource consent.

682. I agree with the relief sought by PCC to delete clause (d) as this duplicates clauses (a) and (b).

683. I note the other relief sought by Rangitāne to amend clauses (f) and (i) of Policy 40. However, I consider these amendments are unnecessary as they are addressed through other policies, such as Policy 44 in relation to water allocation.

684. In relation to Wellington Water's relief sought to amend clause (f), I agree that the clause should include reference to provide greater clarity about what activities and works should minimise effects on groundwater recharge areas. I recommend amendments to clause (f) in line with the relief sought by the submitter and recommend accepting the submission point.

685. I disagree with the relief sought by SWDC to include reference to human health in Policy 40. The policy is focussed on ecological health of water bodies rather than human health. However, I do recommend the addition of reference to Te Mana o te Wai in the policy

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chapeau which necessitates the consideration of the hierarchy of obligations, which includes human health needs associated with water.

686. I agree with the relief sought by Meridian to amend clause (h) to include reference to 'protecting the values of rivers and lakes' and also to ensure the policy refers to 'natural' wetlands, in line with the NPS-FM. I recommend accepting the relief sought by Meridian.
687. I also agree with Winstone Aggregates that there is inconsistency between the policy titles and chapeau of Policy 18 and Policy 40. However, I consider Policy 40 ('protect and enhance') more accurately reflects the requirements of the NPS-FM which requires that freshwater be 'maintained or improved'. Policy 18 uses the term 'protect and restore' which I consider does not sufficiently capture the intent of these policies in giving effect to the NPS-FM. As such, I recommend amending the title and chapeau of Policy 18 to 'Protecting and enhancing' to align with Policy 40.
688. I do, however agree with Winstone Aggregates that clause (h) requires further clarification as to which significant indigenous ecosystems and habitats should be considered in this clause, over and above those in Table 16 of Appendix 1. I recommend an amendment to clarify that it is those values in Table 16 that apply, rather than broader, unidentified values. I consider this amendment provides clarity and certainty for users of the RPS. Accordingly I recommend accepting in part the relief sought by Winstone Aggregates, accepting in part the further submissions of Fulton Hogan and Hort NZ, and rejecting the further submission of Ātiawa.
689. Ātiawa sought an amendment to Policy 40 so that it applies to district consents as well as regional consents. While I acknowledge the concerns of the submitter, the matters that Policy 40 addresses are the responsibility of the regional council under s30 of the RMA. It would therefore be inappropriate to require district councils to implement this method.
690. In relation to relief sought by some submitters to reinstate 'maintaining' in Policy 40 title, I consider that this would not sufficiently give effect to the NPS-FM which in my opinion necessitates protection and enhancement of freshwater.
691. Clause (b) as notified requires that freshwater quality in the coastal marine area must be managed. I agree with submitters who have raised concerns that this implies a freshwater policy is being applied to the CMA. Consistent with my analysis and recommendations in relation to similar submission points for other policies, I consider that clause (b) requires amendment to replace 'coastal marine area' with 'receiving environments'. This is consistent with the application of the NPS-FM to receiving environments, which may include the CMA.
692. Fish and Game sought the addition of a clause relating to avoiding the loss of river extent and values and natural inland wetlands. I agree that Policy 40 should include consideration of the effects on river extent and values and natural inland wetlands. However, I to be consistent with Policy 7 NPS-FM I recommend including 'to the extent practicable' in relation to the avoiding the loss of river extent and values. I therefore recommend accepting in part the relief sought by Fish and Game and adding the following new clauses to Policy 40:

(o) avoiding the loss of river extent or values, to the extent practicable

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(p) ensuring there is no further loss of extent of natural inland wetlands, and their values are protected.

693. Similarly, I agree in part with the relief sought by Forest and Bird that Policy 40 should include direction relating to natural inland wetlands. I recommend that the relief sought be accepted insofar as it relates to natural inland wetlands.

694. I also agree in part with Fish and Game's relief sought to include a new clause relating to 'protecting the habitats of indigenous freshwater species, trout and salmon. However, consistent with my analysis in paragraph 657, I consider Fish and Game's suggested wording is inconsistent with Policies 9 and 10 of the NPS-FM. As such, I recommend including two separate clauses that align with the direction in the NPS-FM, as follows:

(g) protecting the habitat of indigenous freshwater species

(r) protecting the habitat of trout and salmon, insofar as this is consistent with clause (g).

695. Consistent with my analysis in other sections of this report, I disagree with the relief sought by WFF to delete Policy 40. I consider the policy is necessary to support the implementation of Objective 12, other provisions within the freshwater topic, and the integrated nature of Change 1.

696. In relation to the relief sought by Taranaki Whānui, I agree that consideration be given to partnering with mana whenua/tangata whenua when implementing Policy 40. I recommend including a new clause to address this. However, I disagree with the requested additional clause to have regard to the outcomes defined in Te Mahere Wai o Te Kāhui Taiao. I consider that the matters addressed in Te Mahere Wai are more appropriately addressed in the upcoming NRP plan change, rather than the higher-order RPS.

697. I note the relief sought by HCC to amend Table 4 to change correct the cross-reference to Method 4. HCC consider that this should refer to Method 2 (Regional plan implementation). However, I consider the error is not in the method that is referenced, but in the reference to City and district councils implementing the policy. Method 2 relates to 'resource consents, notices of requirements and when changing, varying or reviewing plans'. The method applies to both the regional council and territorial authorities, however as Policy 40 applies to regional consents only Table 4 should state that 'Wellington Regional Council' is responsible for implementing the policy. As such, I recommend rejecting the relief sought by HCC and amending Table 4 accordingly.

Policy 43

698. Policy 43 is proposed to be deleted by Change 1. The majority of the submissions on this provision are supportive of its deletion. It is unclear from Ngāti Toa's submission what is being referred to as the submission point appears to address matters that are not related to this policy or its deletion. I therefore recommend rejecting the relief sought by Ngāti Toa.

699. I consider the deletion of Policy 43 is appropriate as Change 1 is proposing new and updated policies that give effect to the NPS-FM and therefore Policy 43 is no longer required.

3.14.3 Section 32AA Evaluation

700. In accordance with section 32AA, I consider my recommended amendments to Policy 18 and Policy 40 are the most appropriate for the following reasons:

- The amendments provide clarity about what must be considered in protecting and enhancing the health and wellbeing of water bodies and freshwater ecosystems
- The amendments give effect to the NPS-FM
- The amendments reduce duplication with other policies of Change 1.

3.14.4 Recommendations

701. I recommend the following amendments to Policy 18:

Policy 18: Protecting and ~~enhancing restoring ecological health~~ the health and wellbeing of water bodies and freshwater ecosystem health ~~of water bodies~~ – regional plans

Regional plans shall include policies, rules and/or methods that give effect to Te Mana o te Wai, and in doing so protect and enhance restore the ~~ecological health~~ health and wellbeing of water bodies and freshwater ecosystem health of water bodies, including by:

- ~~(a) — managing freshwater in a way that gives effect to Te Mana o te Wai;~~
- (b) actively involving mana whenua / tangata whenua in freshwater management (including decision-making processes), and
- (ba) identifying and providing for Māori freshwater values ~~are identified and provided for;~~
- (bb) adopting an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to ensure that ecological health of freshwater is managed using an integrated, ecosystem wide approach
- (bc) incorporating the use of mātauranga Māori to protect and restore ecosystem health,
- (c) ensuring there is no further loss of extent of natural inland wetlands and coastal wetlands, their values are protected, and their restoration is promoted;
- ~~(d) — achieving environmental outcomes, target attribute states and environmental flows and levels;~~
- (e) avoiding the loss of river extent and values to the extent practicable
- (f) protecting the significant values of outstanding water bodies
- ~~(g) protecting the habitats of indigenous freshwater species ~~are protected;~~~~
- (ga) protecting the habitat of trout and salmon, insofar as this is consistent with clause (g).
- ~~(h) — Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided;~~
- (i) promoting the retention of ~~retaining in-stream habitat diversity by~~ retaining natural features – such as pools, runs, riffles, and the river's natural form to maintain in-stream habitat diversity;

- (j) ~~promoting the retention of~~ retaining natural flow regimes – such as flushing flows;
- (k) ~~promoting the~~ protecting and reinstatingement of riparian habitat;
- (l) promoting the installation of off-line water storage;
- (m) measuring and evaluating water takes;
- (n) ~~discourage~~ ~~restricting~~ avoiding the reclamation, piping, straightening or concrete lining of rivers unless:
 - (i) there is a functional need for the activity in that location; and
 - (ii) the effects of the activity are managed by applying the effects management hierarchy
- (o) ~~discourage~~ ~~restricting~~ stock access to estuaries, rivers, lakes and wetland;
- (p) ~~discourage~~ ~~restricting~~ the diversion of water into or from wetlands – unless the diversion is necessary to restore the hydrological variation to the wetland;
- (q) ~~discourage~~ ~~restricting~~ the removal or destruction of indigenous plants in wetlands and lakes; and
- (r) restoring and maintaining fish passage where appropriate.

Explanation

Policy 18 lists a range of actions that will protect and restore the health and wellbeing of water bodies and freshwater ecosystem ~~the ecological health of water bodies~~. The ecosystem health of water bodies is dependent on water quality, water quantity, habitat, aquatic life, and ecological processes. To be a healthy freshwater ecosystem, all five components support and sustain indigenous aquatic life. Habitat diversity, which is described in clauses (a), (b) and (c), is essential for aquatic freshwater ecosystems to survive and be self-sustaining. When areas of habitat in one part of the river, lake or wetland are degraded or destroyed by activities described in clauses (e), (f), (g) and (h), critical parts of the ecosystem may be permanently affected with consequent effects elsewhere in the ecosystem.

702. I recommend including the following definition of 'effects management hierarchy' in the RPS:

Effects management hierarchy: in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:

(a) adverse effects are avoided where practicable; then

(b) where adverse effects cannot be avoided, they are minimised where practicable; then

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; then

(e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; then

(f) if aquatic compensation is not appropriate, the activity itself is avoided.

703. I recommend the following amendments to Policy 40:

Policy 40: ~~Maintaining~~ Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems ~~aquatic ecosystem health in water bodies – consideration~~

When considering an application for a regional resource consent, the regional council must give effect to Te Mana o te Wai and in doing so must have particular regard shall be given to:

- (a) requiring ~~that~~ managing water quality, flows and water levels and aquatic habitats of surface water bodies ~~are managed~~ in a way that gives effect to Te Mana o Te Wai and protects and enhances the health and well-being of waterbodies and the health and wellbeing of freshwater ecosystems for the purpose of safeguarding aquatic ecosystem health;
- (b) ~~that,~~ requiring managing as a minimum, freshwater quality in the coastal marine area is to be managed in a way that protects and enhances the health and well-being of waterbodies and the health and wellbeing of marine ecosystems receiving environments; for the purpose of maintaining or enhancing aquatic ecosystem health; and
- ~~(c) managing water bodies and the water quality of coastal water for other purposes identified in regional plans.~~
- (c) providing for mana whenua / tangata whenua values, including mahinga kai;
- (ca) partnering with mana whenua/tangata whenua
- ~~(d) maintaining or enhancing the functioning of ecosystems in the water body;~~
- (e) maintaining or enhancing the ecological functions of riparian margins;
- (f) minimising the effect of the proposals such as gravel extraction, exploratory drilling, flood protection and works in the beds of lakes and rivers on groundwater recharge areas that are connected to surface water bodies;
- (g) maintaining or enhancing the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1;
- (h) protecting the values of rivers and lakes that have significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed as identified in Table 16 of Appendix 1;
- (i) maintaining natural flow regimes required to support aquatic ecosystem health;
- (j) maintaining or enhancing space for rivers to undertake their natural processes;
- (k) maintaining fish passage;
- (l) protecting and reinstating riparian habitat, in particular riparian habitat that is important for fish spawning;
- (m) discouraging restricting stock access to estuaries rivers, lakes and wetlands; and
- (n) discouraging avoiding the removal or destruction of indigenous wetland plants in wetlands.
- (o) avoiding the loss of river extent or values, to the extent practicable
- (p) ensuring there is no further loss of extent of natural inland wetlands, and their

- values are protected.
(q) protecting the habitat of indigenous freshwater species
(r) protecting the habitat of trout and salmon, insofar as this is consistent with clause (q).

Explanation

Policy 40 provides criteria for considering regional consents to protect the health and wellbeing of waterbodies, particularly during the transition period before regional plans are changed to give effect to the NPS-FM.

704. I recommend amending Table 4 as follow:

Policy Titles	Page	Method titles	Implementation (*lead authority)
<u>Policy 40: Maintaining Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems aquatic ecosystem health in water bodies – consideration</u>		Method 4: Resource consents, notices of requirement and when changing, varying or reviewing plans	City and district councils <u>Wellington Regional Council</u>

705. I recommend the deletion of Policy 43 as notified.

706. I recommend the submissions, further submissions be accepted, accepted in part, or rejected as detailed in Appendix 2.

3.15 Issue 12: Reducing water demand (Policy FW.1 and FW.2)

3.15.1 Matters raised by submitters

707. A total of 34 submission points and 31 further submission points were received in relation to Policies FW.1 and FW.2.

Policy FW.1

708. The policy is supported as notified by KCDC [S16.054]; PCC [S30.043] (supported by PPFL [FS25.076]); Ātiawa [S131.067] (supported by Ngā Hapu [FS29.337]); WCC [S140.044]; Fish and Game [S147.056] (opposed by Wellington Water [FS19.120] and BLNZ [FS30.225]); Forest and Bird [S165.053] (supported by Ātiawa [FS20.075], and opposed by BLNZ [FS30.319]).

Support in part

709. UHCC [S34.068] seeks a review of Policy FW.1 and in particular clause (a), on the basis that it is unclear how provisions in a RPS are expected to address leaks when this is a maintenance issue, and delivery will be impractical within the context of Three Waters Reform.

710. SWDC [S79.031] seeks amendments to Policy FW.1 to replace 'reduce demand' with 'increase efficiency' on the basis that the policy suggests an over reduction in demand from current levels and the section 32 report does not outline the need for reduction and does

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not adequately identify the costs of the policy, particularly in relation to significant growth promoted by the plan change and the existing RPS.

711. A number of submitters including Wellington Water [S113.024] (supported in part by Hort NZ [FS28.053]), Hort NZ [S128.034], and Rangitāne [S168.055] (supported by Sustainable Wairarapa Inc [FS31.365]) consider that as drafted Policy FW.1 is unclear about which water supplies the policy applies to. Wellington Water suggests aligning with the terminology used by Taumata Arowai and that of the NRP, while Hort NZ seek amendments to replace 'registered water suppliers' with 'municipal supplies.
712. Taranaki Whānui [S167.081] seek amendments to the policy to include a stronger reference to the limits set in partnership with mana whenua.
713. Rangitāne [S168.055] (supported by Sustainable Wairarapa [FS31.165]) seeks the following amendments to the policy:
- A direction to 'eliminate' leaks, not 'address' them (clause a)
 - Require efficient use of water for all users, not just new developments;
 - Require 'alternative water supplies, not 'address' them (clause c);
 - Adopt consistent language with other provisions with respect to water users;
 - Correct the grammatical tense in the opening clause ('for' not 'of'); and
 - Insert additional policy clauses addressing water recycling, and address these matters and water conservation, in the explanatory text.

Neutral/not stated

714. HCC [S115.043] are neutral with regard to Policy FW.1 and seek an amendment to Table 4 insofar as it relates to Policy FW.1. As notified, the policy is listed in the table as being implemented by Method 1 which applies to city and district councils, but this should in fact be Method 2 (regional councils).

Opposed

715. WFF [S163.056] (supported by BLNZ [FS30.128], and opposed by Forest and Bird [FS7.099], Ātiawa [FS20.221] and Ngā Hapu [FS29.072]) seeks the deletion of Policy FW.1 and that it be deferred to a full review of the RPS in 2024. The submitter considers that these matters were recently the subject of mediated agreements during the PNRP hearing and that this policy is relitigating the same issues.

Policy FW.2

716. The Council received 19 submissions and 14 further submissions in relation to Policy FW.2

Support

717. Ātiawa [S131.068] (supported by Ngā Hapu [FS29.338]; Fish and Game [S147.057], opposed by Wellington Water [FS19.121], and BLNZ [FS30.226]) and Forest and Bird [S165.054] (supported by Ātiawa [FS20.076], and opposed by BLNZ [FS30.319]) support the policy as notified.

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Supported in Part

718. KCDC [S16.055] (opposed by Wellington Water [FS19.022]) and CDC [S25.024] seek the deletion of clause (a) of Policy FW.2 which directs district plans to include provisions improving the efficiency of the end use of water on a per capita basis for new developments. The submitters are concerned that these requirements in district plans are ineffective, cannot be monitored or enforced, and the costs of ongoing compliance would be high.

719. KCDC [S16.055] also seeks additional wording in clause (b) as follows:

(b) provisions requiring alternate water supplies for non-potable use in new developments such as the requirement to install rainwater tanks.

720. Kāinga Ora [S158.021] (supported by Stride Investment Management Limited [FS16.004] and supported in part by MDC [FS14.011]) also seeks the deletion of the requirement in clause (a) to require the improvement of the efficiency of the end use of water on a per capita basis. Instead, the submitter seeks that the policy requires the inclusion of water efficient methods to be installed per new household or alternative solutions be provided within larger developments where more efficient solutions that are more 'nature-based' could be used (e.g. community rain gardens, stormwater ponds). Kāinga Ora seeks the following specific amendments:

District plans shall include policies, rules and/or methods to reduce demand of water ~~from registered water suppliers and users~~, including where practicable:

(a) provisions improving the efficiency of the end use of water ~~on a per capita basis for new developments~~ per new household equivalent through devices such as low flow fixtures; ~~and~~

(b) provisions improving the efficiency of the end use of water at a community scale for large scale developments; and

(c) provisions requiring alternate water supplies for non-potable use in new developments.

721. MDC [S166.057] agrees with the intent of the policy but seeks clarity about the impacts of the policy on intensification.

722. Consistent with their submission points in relation to Policy FW.1, Wellington Water [S113.025] (supported in part by Hort NZ [FS28.054]), Hort NZ [S128.035] and Rangitāne [S168.056] (supported by Sustainable Wairarapa Inc [FS31.166]) seek amendments to the policy to provide clarity about what water supplies the policy applies to and provide consistency across policies. Wellington Water seeks the following amendment to the explanation:

Explanation

Policy FW.2 requires regional plans to address the reduction of demand in community or group ~~municipal~~ water supplies.

723. Hort NZ [S128.035] similarly seeks amendments to clarify that the policy applies to 'municipal' water supplies on the basis that 'registered water suppliers and users' makes

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the scope of the policy very broad. Hort NZ seek the following amendment to the policy chapeau:

District plans shall include policies, rules and/or methods to reduce demand of water from ~~registered municipal~~ water suppliers and users, including where practicable:

[...]

724. Taranaki Whānui [S167.082]; [S167.083]; [S167.084] seeks a number of amendments to Policy FW.2 to provide a stronger partnership with mana whenua and to apply the policy to all activity, not just new development.:

District plans shall include policies, rules and/or methods to reduce demand of water from registered water suppliers and users to the limits set in partnership with tangata whenua / mana whenua, including where practicable:

(a) provisions improving the efficiency of the end use of water on a per capita basis ~~for new developments~~; and

(b) provisions requiring alternate water supplies for non-potable ~~use in new developments~~.

725. Rangitāne [S168.056] (supported by Sustainable Wairarapa Inc [FS31.166]) considers that Policy 11 of the NPS-FM is worded in such a way as to 'require' efficient use by all users, not just new developments. Rangitāne seeks the following amendments:

- Adopt consistent language with other provisions with respect to water users;
- Require efficient use of water for all users, not just new developments (clause a);
- 'Require' alternative water supplies, not 'address' them (clause c);
- Adopt consistent language with other provisions with respect to water users;
- Correct the grammatical tense in the opening clause ('for' not 'of').

Oppose

726. The policy is opposed as notified by 6 submitters.

727. A number of territorial authorities, including PCC [S30.044] (supported by PPFL [FS25.077] and supported in part by Wellington Water [FS19.030]), UHCC [S34.069], HCC [S115.044], WCC [S140.045] (supported in part by Fish and Game [FS14.039]) raised concerns with Policy FW.2 on the basis that the matters within the policy are outside the scope of section 31 of the RMA or cannot be addressed by territorial authorities. These submitters variously seek significant amendments to the policy or its deletion.

728. PCC seeks a number of specific drafting amendments to Policy FW.2 to address their relief sought, including a definition of 'registered water suppliers'.

729. SWDC [S79.032] seeks the deletion of Policy FW.2 on the basis that it repeats matters more appropriately addressed in Policy FW.1.

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730. HCC [S115.044] also seeks a correction to Table 4 to refer to Method 1 rather than Method 2 in relation to Policy FW.2.
731. WFF [S163.057] (supported by BLNZ [FS30.129] and opposed by Forest and Bird [FS7.100], Ātiawa [FS20.222], and Ngā Hapu [FS29.073]) seeks the deletion of Policy FW.2 and that it be deferred to a full review of the RPS in 2024. WFF considers that these matters were recently the subject of mediated agreements during the PNRP hearing and this policy is relitigating the same issues.

3.15.2 Analysis

Policy FW.1

732. UHCC is concerned that clause (a) of Policy FW.1 lacks clarity and that the issue of leaks is a maintenance issue. I understand from Council officers that the intent of this clause is to support conditions of resource consent for municipal water supplies, such as leak reduction targets. I consider amendments are required to clause (a) to make this clear, and recommend the following amendment:

~~(a) provisions addressing requiring a reduction in –public and private water losses, including leaks~~ water losses and leaks from community drinking water supplies and group drinking water supplies.

733. I note the relief sought by SWDC to replace 'reduce demand' with 'increase efficiency'. However, I do not agree with this amendment. I consider it is appropriate that the RPS and subordinate planning documents include provisions to reduce water demand to give effect to Policy 4 and Policy 11 of the NPS-FM:

- *Policy 4: Freshwater is managed as part of New Zealand's integrated response to climate change.*
- *Policy 11: Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.*

734. As such, I recommend rejecting the relief sought by SWDC.

735. I agree with submitters who raised concerns about the application of Policy FW.1 variously to 'registered water suppliers and users' or 'municipal supplies'. I agree with the relief sought of Wellington Water to align terminology and definitions with the NRP and Taumata Arowai. The NRP provides the following definitions:

- *Community drinking water supply: A drinking-water supply that is recorded in the drinking-water register maintained by the Chief Executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.*
- *Group drinking water supply: A registered drinking water supply that is recorded in the drinking water register maintained by the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides more than 25 people with drinking water for not less than 60 days each calendar year.*

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736. In my opinion the inclusion of the terms 'community drinking water supplies' and 'group drinking water supplies' in Policy FW.1 will provide clarity that the policy does not apply on a broad basis to activities such as irrigation and is limited to drinking water supply.

737. On this basis I recommend the following amendments to Policy FW.1:

Regional plans shall include policies, rules and/or methods to reduce demand of water from ~~registered water suppliers and users community drinking water supplies and group drinking water supplies~~, including:

[...]

Explanation

Policy FW.1 requires regional plans to address the reduction of demand in ~~community drinking water supplies or group drinking water supplies municipal~~ water supplies.

738. I also recommend including the NRP definitions of 'community drinking water supplies' and 'group drinking water supplies' in the RPS. This aligns with the relief sought by PCC to include definitions for terms that may be added as a result of responding to submissions.²⁹

739. I acknowledge the relief sought by Taranaki Whānui to include reference to the limits set in partnership with tangata whenua/manā whenua. While I agree that it is important that these limits are met, I consider that this is already addressed by other policies (such as Policy 12 and Policy 44).

740. I also acknowledge the relief sought by Rangitāne to amend Policy FW.1 to strengthen the direction of some clauses in the policy. However, I consider that these amendments, such as requiring efficient use of water for all users, not just new developments, will set an unduly high regulatory bar and in some cases would have the effect of applying these requirements retrospectively to existing development and activities. This would represent a significant cost to local authorities in implementing this requirement and to all water users. I also do not consider that this is the intent the NPS-FM. However, I do agree that clause (c) should provide clearer direction as to what regional plans should include with regard to alternate water supplies. As such, I recommend the following amendment:

(c) ~~provisions addressing promoting alternate water supplies for non-potable uses, particularly in the summer months; and~~

741. I do not consider it is necessary to include additional policy clauses addressing water recycling, as requested by Rangitāne. I consider that this is covered sufficiently by clause (c), in directing consideration of alternate water supplies. In my opinion, the clause should retain sufficient flexibility about how this is achieved, rather than directing specific methods. I do however agree with Rangitāne's suggested amendment to the policy chapeau, to replace 'of' with 'for'. This amendment provides drafting clarity.

742. HCC identified an error in Table 4 where the listed method for implementing Policy FW.2 is stated as Method 1, which applies to city and district councils. I agree with the relief sought

²⁹ PCC 30.099

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by HCC and recommend amending Table 4 to replace this reference with 'Method 2: Wellington Regional Council'.

Deleting Policy FW.1

743. I acknowledge the concerns of WFF that the NRP process has recently concluded following a lengthy period of submissions, hearings, and mediation. However, I disagree with their relief sought to delete Policy FW.1.
744. Consistent with my analysis for WFF's other submission points seeking the deletion of other provisions, I consider the policy is appropriate to include in the RPS, with my recommended amendments. The policy provides appropriate direction in order to give effect to the NPS-FM and address water demand in the region. The policy supports other provisions relating to freshwater and the broader integrated approach the Council has taken in Change 1 to manage the effects of urban development and a growing population. I therefore recommend rejecting the relief sought by WFF.

Policy FW.2

Clause (a)

745. Policy FW.2 sets out the requirements that must be included in district plans to manage water demand and efficiency. A number of submitters have raised concerns about the policy, with a number of territorial authorities concerned that the requirements of Policy FW.2 would be challenging to implement and monitor.
746. I agree with the points raised by KCDC, CDC, and others in this regard, and consider that clause (a) of Policy FW.2 should be deleted. While I agree that improving the efficiency of the end use of water is an important part of reducing demand, this is a very challenging issue to address through RMA mechanisms. I agree with UHCC that this issue is more appropriately addressed under the Building Act and non-regulatory methods outside of the RMA. On this basis I recommend deleting clause (a) of Policy FW.2.
747. I disagree with the relief sought by Kāinga Ora to include requirements to improve the efficiency of the end use of water at a community scale for large scale developments. The suggested provisions requiring low flow fixtures and provisions improving the end use of water are not within the remit of district plans. Requirements for low flow fixtures in new dwellings are a Building Act matter, not an RMA matter. As I am recommending the removal of the requirement to improve the efficiency of the end use of water, I recommend accepting in part the relief sought by Kāinga Ora.
748. I note the concerns of MDC regarding the impact of Policy FW.2 on intensification. I do not consider that this policy is intended to limit intensification, nor do I consider that this will be the effect of the policy. Instead, the policy is intended to ensure that where intensification does occur, efficient use of water is considered in the planning of that development to reduce overall water demand. The policy would require development planning to incorporate alternative methods to water supply, particularly for non-potable uses.

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749. Taranaki Whānui has requested the same, or similar, amendments to Policy FW.2 as for Policy FW.1. Consistent with my analysis of their submission for Policy FW.1 (paragraph 739), I do not recommend any amendments to Policy FW.2.
750. Consistent with my analysis in relation to Policy FW.1, I agree with Rangitāne's relief sought to adopt consistent language with other provisions with respect to water users, and to improve the grammatical tense in the opening clause of Policy FW.2. I disagree with Rangitāne's relief sought to require efficient use of water for all users, rather than just new developments. As I outlined in my analysis of Policy FW.1, this would set an unduly high regulatory burden and would not be an efficient or effective way of implementing the NPS-FM.
751. I note the concerns raised by PCC in relation to the requirement in Policy FW.2(b) to include provisions in district plans requiring alternative water supplies for non-potable use. However, I consider that this is an appropriate provision to include in district plans and that there is a role to at least promote alternative water supplies through methods other than rules, such as design guidance, policies that provide incentives, or matters of discretion. As such, I recommend an amendment to clause (b) to replace 'requiring' with 'promoting'.

3.15.3 Section 32AA Evaluation

752. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Policy FW.1 and Policy FW.2 are the most appropriate for the following reasons:

- The inclusion of the terms 'community drinking water supplies' and 'group drinking water supplies', and the associated definitions from the NRP, provide clarity about what water supplies the policy direction applies to.
- The deletion of clause (a) in Policy FW.2 ensures that territorial authorities do not incur significant monitoring and compliance costs.

3.15.4 Recommendations

753. I recommend the following amendments to Policy FW.1:

Policy FW.1: Reducing water demand – regional plans

Regional plans shall include policies, rules and/or methods to reduce demand of for water from ~~registered water suppliers and users~~ *community drinking water supplies and group drinking water supplies*, including:

- ~~provisions addressing requiring a reduction in public and private water losses, including leaks targets for the reduction of water losses and leaks from community drinking water supplies and group drinking water supplies;~~
- ~~provisions~~ requiring efficient end use of water for new developments;
- ~~provisions addressing promoting~~ alternate water supplies for non-potable uses, particularly in the summer months; and
- requiring water conservation measures, particularly in the summer months.

Explanation

Policy FW.1 requires regional plans to address the reduction of demand in community drinking water supplies or group drinking water supplies ~~municipal water supplies~~.

754. I recommend the inclusion of the following terms and definitions:

Insert a new definition of community drinking water supply:

Community drinking water supply: A drinking-water supply that is recorded in the drinking-water register maintained by the Chief Executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.

Insert a new definition of group drinking water supply:

Group drinking water supply: A registered drinking water supply that is recorded in the drinking water register maintained by the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides more than 25 people with drinking water for not less than 60 days each calendar year.

755. I recommend the following amendments to Policy FW.2:

Policy FW.2: Reducing water demand – district plans

District plans shall include policies, rules and/or methods to reduce demand ~~effor~~ water from ~~registered water suppliers and users~~ community drinking water supplies and group drinking water supplies, including where practicable:

- ~~(a) — provisions improving the efficiency of the end use of water on a per capita basis for new developments; and~~
- (b) provisions requiring promoting alternate water supplies for non-potable use in new developments, such as the requirement to install rainwater tanks.

Explanation

Policy FW.2 requires district plans to address the reduction of demand in community drinking water supplies or group drinking water supplies ~~municipal~~ water supplies.

756. I recommend amending Table 4 as follows:

Policy Titles	Page	Method titles	Implementation (*lead authority)
Policy FW.1: Reducing water demand – regional plans		Method 1: District plan implementation Method 2: Regional plan implementation	City and district councils Wellington Regional Council
Policy FW.2: Reducing water demand – district plans		Method 2: Regional plan implementation Method 1: District plan implementation	Wellington Regional Council City and district councils

3.16 Issue 13: Policy FW.4 - Financial Contributions for urban development

3.16.1 Matters raised by submitters

757. The Council received 18 submissions and 9 further submissions on Policy FW.4.

Support

758. Three submissions were received in support of Policy FW.4 as notified, being Waka Kotahi [S129.019] (supported by MDC [FS14.035]), Fish and Game [S147.059] (opposed by Wellington Water [FS19.123] and BLNZ [FS30.228]), and MDC [S166.059].

Support in part

759. Outdoor Bliss [S11.015] seeks the implementation of incentives that make an impact such as costs to the developer being greater if not using sustainable practice.

760. KCDC [S16.081] considers that the policy is helpful in supporting the inclusion of financial contributions in the district plan, particularly those proposed under section 80E(1)(b)(i) of the RMA. However, KCDC considers the policy includes unnecessary text which should be removed and seeks the following specific amendments:

Policy FW.4: Financial contributions for urban development - district plans

District plans shall include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent where off site stormwater quality and quantity treatment is required, ~~as set out in a Stormwater Management Plan (required as a condition of a network discharge consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution.~~ A financial contribution will not be required where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose. Note: ~~financial contributions cannot be imposed against Minister of Education or Minister of Defence Explanation Policy FW.4 requires financial contributions, or alternatively development contributions to be collected for the construction of catchment scale stormwater solutions, so that urban new urban development pays their fair share.~~

761. Similarly, UHCC [S34.057] supports the intent to fund stormwater infrastructure but raise a number of concerns with Policy FW.4, including that it is inappropriate to 'require' financial contributions for this purpose, that it is unclear how a 'fair share' should be determined, that network discharge consents are a function of the regional council and that territorial authorities are required to apply for a discharge consent and collect financial contributions. UHCC seeks a number of specific amendments to the policy to address their concerns.

"District plans ~~shall~~ may include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent, particularly where off site stormwater quality and quantity treatment is required., ~~as set out in a Stormwater Management Plan (required as a condition of a network discharge consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution.~~ A financial contribution will not be required

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where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose."

762. Ātiawa [S131.070] support financial contributions to be applied to subdivision and development to mitigate the management of offsite stormwater quality and quantity treatment is required. The submitter has not sought any specific amendments.
763. Taranaki Whānui [S167.086] seeks an amendment to the 'Note' section to add 'iwi authorities' to the list of parties who are not subject to financial contributions.
764. Rangitāne [S168.058] (supported by Sustainable Wairarapa Inc [FS31.168]) supports seeking financial contributions for stormwater networks, where onsite treatment cannot be achieved but seeks that, wherever possible, Stormwater Management Plans are required to be developed and implemented. The following specific amendments are sought:
- Amend the policy title to remove the word 'urban'
 - Amend the explanatory text to note the need for any Stormwater Management Plan to give effect to Te Mana o te Wai, which means that on-site solutions should be implemented wherever feasible, and that financial contributions for offsite solutions are only to be taken where this cannot be achieved.
765. Ngāti Toa [S170.028] (supported by Ngā Hapu [FS29.142]) seeks that the policy be reworded so that instead of 'how a fair share of the cost is determined, and the nature of the contribution', the policy focuses on a realistic calculation of the proposed development's greater connection with the current and existing infrastructure as well as the burden that it will place on this infrastructure. Ngāti Toa is seeking this amendment on the basis that it is unproductive for development contributions to just focus on the site-based stormwater systems instead of looking at the whole system and its connections.

Oppose

766. CDC [S25.026] considers the RPS should not include policies that dictate requirements for particular financial contributions in district plans. CDC considers that this is more appropriately addressed by the Council through the Schedule 1 process for the Wairarapa Combined District Plan.
767. PCC [S30.046] (supported by PPFL [25.079]) opposes Policy FW.4 on the basis that they do not use financial contributions as a regulatory tool in their district plan. PCC considers financial contributions are inefficient and that they duplicate their existing approach of requiring development contributions and developer agreements administered under the LGA 2002. PCC seeks amendments to the policy to specifically provide for situations where a development contribution is already being collected.
768. A number of submitters seek the deletion of Policy FW.4, as follows:
- SWDC [S79.033] considers that it is unclear why the RPS includes this policy. The policy is difficult to read and in parts does not make sense, and that as written it may not meet the necessary requirements to be implemented.

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- HCC [S115.046] (with a neutral/not stated stance from WCC [FS13.022]) considers that how stormwater management is funded is a decision for territorial authorities and their communities under the LGA 2002. HCC notes that financial contributions are one of several tools territorial authorities can use and consider that there a number of issues with the policy as drafted, including a lack of a definition of 'fair share', the application of financial contributions levied for permitted activities, and the inaccurate note.
- WCC [S140.047] raises similar concerns to HCC, and also considers that the policy is unclear about what type of development the policy would apply to and how the management of the system post construction factors into decisions about when financial contributions apply. As an alternative to the deletion of the policy, WCC suggest moving it to a consideration policy and clarifying whether the management of the new system will then fall to the territorial authority or not.
- Best Farm Ltd/ Hunters Hill Ltd/ Lincolnshire Farm Ltd/ Stebbings Farmlands Ltd [S135.007] notes that developers are already providing stormwater neutrality for their developments and treatment in accordance with Wellington Water's guidelines, and that these are ensured through consent conditions. The submitter also notes that developers are also paying development contributions for stormwater on a catchment and city-wide basis in Wellington and Wellington Water also need to lead by example to attenuate and treat their stormwater within existing urban environments rather than single out new land developments. The submitter considers that policy is not clear about what constitutes off-site and is ambiguous.

Oppose in part

769. Kāinga Ora [S158.022] (supported by Stride Investment Management Limited [FS16.004] and Investore Property Limited [FS1.004]) considers that financial contributions for stormwater mitigation should be limited to the effects at point of connection for a development allotment. In addition, alternative solutions for stormwater treatment should be provided for to manage quality and quantity of stormwater within a development, which would then offset the payment of financial contributions. Kāinga Ora seek the following specific drafting amendments to address these concerns:

District plans ~~shall~~ may include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent for effects associated with stormwater quality and quantity treatment at the point of connection to the development only where off-site is required, as set out in a Stormwater Management Plan (required as a condition of a network discharge consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution. A financial contribution will not be required where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose. A financial contribution will not be required where on site stormwater

quantity and quality mitigation is provided to an adequate level to reduce downstream effects.

Note: financial contributions cannot be imposed against Minister of Education or Minister of Defence

3.16.2 Analysis

770. I agree with submitters who have requested the deletion of Policy FW.4. I consider that the policy is unnecessary and, as noted by some territorial authorities, there are a range of funding tools available to territorial authorities for this purpose. Many councils already charge development contributions which is a more development-specific response. I consider flexibility should be retained for territorial authorities to choose the right funding tools and mechanisms for the local situation, and it is unnecessary for the RPS to specify which tools to utilise.

771. On this basis, I recommend the deletion of Policy FW.4.

3.16.3 Section 32AA Evaluation

772. In accordance with section 32AA of the RMA, I consider the deletion of Policy FW.4 of Change 1 is the most appropriate for the following reasons:

- The deletion of the policy provides appropriate flexibility for territorial authorities to determine the appropriate funding mechanism for off-site stormwater quality and quantity treatment. This is a more effective and efficient way of ensuring this infrastructure is paid for in an equitable way.

3.16.4 Recommendations

773. I recommend the deletion of Policy FW.4.

3.17 Issue 14: Policy FW.5 – Water supply planning for climate change and urban development

3.17.1 Matters raised by submitters

Support

774. Policy FW.5 is supported as notified by CDC [S25.039], HCC [S115.070], WCC [S140.071], Fish and Game [S147.069], and Taranaki Whānui [S167.0112].

Support in part

775. A total of 10 submitters support in part Policy FW.5 and seek amendments.

776. KCDC [S16.056] seeks the inclusion of the verb 'consideration' in the policy to align with the policy title and avoid inconsistency with the structure of the RPS and consideration focus of the policy. KCDC seeks the following specific amendments:

Policy FW.5: Water supply planning for climate change and urban development - consideration When considering a change, variation or review of a regional or district plan ~~particular regard~~ consideration shall be given to:

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(a) ...

Explanation

Policy FW.5 requires water supply planning to ~~adequately considered~~ including consider the impacts of climate change and new urban development.

777. UHCC [S34.048] supports the intent of the policy but considers that it should be specific to changes, variations, or reviews which deal with public potable supply only. UHCC seek the following specific amendments:

When considering a change, variation or review of a regional or district plan which includes a requirement for a public potable water supply particular regard shall be given to.....

(a) climate change impacts on public potable water supply, including water availability and demand..."

778. SWDC [S79.044] considers that the policy does not assist in resolving conflicts between resources within Change 1, particularly the ability to deliver long term affordable growth, while significantly increasing environmental protections. SWDC considers that where growth has been planned in conjunction with the community, mana whenua and other stakeholders, the protection and enabling of municipal water takes, subject to Te Mana o te Wai and a range of 'use management' including efficiency measures, should be protected. SWDC seek the following amendments to Policy FW.5:

When considering a change, variation or review of a regional or district plan particular regard shall be given to:

(a) climate change impacts on water supply, including water availability and demand;

(b) demand from future population projections, growth strategies adopted by Councils, and the ability to deliver well functioning urban environments;

(c) development of future water sources, storage, treatment and reticulation; and

(d) protection of existing and future water sources.

Or, similar relief to the same effect;

AND;

Any consequential amendments to give effect to the relief sought

779. Wellington Water seeks a number of amendments to Policy FW.5:

- clause (a) of Policy FW.5 should reflect the potential for saline intrusion into the aquifer ([S113.039], supported by Rangitāne [FS2.22]):

(a) climate change impacts on water supply, including water availability and demand, including the potential for saline intrusion into the aquifer;

- clause (d) should reflect ki uta ki tai for protection of water sources ([S113.040], supported in part by Rangitāne [FS2.23], and opposed in part by Hort NZ [FS28.069]):

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(d) protection of existing and future water sources identified in Source Water Risk Management Plans and including by via a catchment approach (ki uta ki tai).

- A new clause should be added to support the importance of water demand management in achieving Te Mana o te Wai ([S113.041]):

(e) The benefits from, and implications for, water demand management.

780. Hort NZ [S128.044] seeks that the policy is applied more broadly than just to urban development:

Water supply planning for climate change ~~and urban development~~ – consideration

781. Hort NZ [S128.045] (supported by Wairarapa Water Users Society [FS9.012] and Irrigation NZ [FS21.012], opposed in part by Rangitāne [FS2.13]) seek an amendment to clause (c), as follows:

(c) development of future water sources, storage, treatment and reticulation, including water storage schemes; and

782. Ātiawa [S131.094] (supported by Rangitāne [FS2.65] and Ngā Hapu [FS29.364]) supports water supply planning for climate change and urban development but seeks clarity about why the approach in the policy only applies to a change, variation, or review of a regional or district plan. Ātiawa seeks that this policy also apply to resource consent applications to ensure that water supply planning is considered as part of resource consent applications:

Policy FW.5: Water supply planning for climate change and urban development - consideration

When considering an application for resource consent, change, variation or review of a regional or district plan particular regard shall be given to:

[...]

783. Sustainable Wairarapa Inc [S144.042] is concerned that currently there is no specific work to protect of the water sources for Wairarapa towns in the Tararua Ranges within the DOC estate. DGC, iwi, the regional council and district councils should develop a working arrangement to ensure these water sources receive best practice protection.

Oppose in part

784. Forest and Bird [S165.073] (supported by Rangitāne [FS2.79] and Ātiawa [FS20.078], opposed by BLNZ [FS30.319]) seeks amendments to Policy FW.5 to ensure the policy meets the NPS-FM objective and policies:

When considering a change, variation or review of a regional or district plan give effect to the hierarchy of obligations in Te Mana o te Wai, as set out in Objective 2.1 of the NPSFM 2020 and have particular regard shall be given

tø:

Oppose

785. PCC [S30.068] (supported by PPFL [FS25.101]) seeks the deletion of Policy FW.5 as they consider the matters addressed in the policy are already addressed in Long Term Plans,

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Asset Management Plans, and will be considered in the Wellington region Future Development Strategy. It is unclear how these requirements align with the existing requirements of the NES for Sources of Human Drinking Water.

786. WFF [S163.072] (supported by BLNZ [FS30.144], and opposed by Rangitāne [FS2.35], Forest and Bird [FS7.115], Ātiawa [FS20.237] and Ngā Hapu [FS29.088]) seeks the deletion of Policy FW.5 on the basis that the intent of the policy appears to be restricted to a concern for urban supplies and urban growth projections and not rural supplies and primary production values.

3.17.2 Analysis

787. I do not agree with the relief sought by PCC or WFF to delete Policy FW.5. I consider the intent of the policy is appropriate for inclusion in the RPS and that there should be consideration of climate change impacts on water supply and demand for future population projections. I do not consider that the mechanisms under the LGA, mentioned by PCC, are sufficient to ensure that development planning adequately considers impacts of climate change on the region's water supply for urban development.

788. I acknowledge the relief sought by KCDC to change the policy direction from 'particular regard' to 'consideration'. However, I disagree with this amendment as in my opinion, 'consideration' is not strong enough direction to ensure water supply planning is sufficiently incorporated into future development.

789. I agree with the relief sought by UHCC to apply Policy FW.5 to development that relates to public potable water supply. However, to be consistent with my recommendations in relation to Policies FW.1 and FW.2 in section 3.15.2, I recommend that instead of referring to 'public potable water supply', the policy refers to community and group drinking water supplies. I consider this amendment makes it clear that the policy applies specifically to these water sources rather than on a broader basis.

790. I also do not consider that the amendments to clause (b), sought by SWDC, are necessary. Council growth strategies should be considering the impacts of climate change already, including in the delivery of well-functioning urban environments and this is a requirement under Policy 1(f) of the NPS-UD.

791. I agree with the relief sought by Wellington Water to include reference in clause (a) to the potential for saline intrusion into aquifers. I also agree that 'ki uta ki tai' should be included in the policy. However, I do not consider that it is necessary to limit clause (d) to those water sources identified in Source Water Risk Management Plans. I also disagree with the relief sought by Wellington Water to include a new clause relating to water demand management. In my opinion water demand management is a tool that sits outside of the RMA and it is therefore inappropriate to include this in the RPS.

792. I do not agree with Hort NZ that Policy FW.5 should apply more broadly than urban development or to the inclusion of 'water storage schemes' in clause (d). The policy is intended to address the immediate effects of urban development and intensification, alongside other policies, to provide an integrated approach in giving effect to the NPS-UD and the NPS-FM. I consider the inclusion of 'water storage schemes' could have unintended

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consequences without an adequate evidential base provided by the submitter for their inclusion in the RPS.

793. I do not consider that it is appropriate to apply Policy FW.5 to individual resource consent applications, as sought by Ātiawa. I acknowledge the concerns raised by the submitter in this regard, however I consider that water supply planning for climate change requires a more strategic approach than can be applied through a resource consent process. The policy provides sufficient direction for the Council and territorial authorities to ensure future plan changes are considering water supply planning for climate change in how to provide for urban development on a regional or local basis. I consider it would be challenging to do this on an ad hoc, site-by-site basis.
794. I acknowledge the concerns of Sustainable Wairarapa Inc, regarding protecting water sources in the Tararua Ranges within the DGC estate. However, I consider that what the submitter is seeking is a matter that sits outside the RMA process, and a partnership approach between DGC, iwi, the Council and territorial authorities requires a non-regulatory response.
795. I agree with Forest and Bird that the policy chapeau should include reference to Te Mana o te Wai. However, I do not agree that the level of specificity suggested by the submitter is warranted, and that the chapeau can simply state 'give effect to Te Mana o te Wai'. The concept of Te Mana o te Wai includes the hierarchy of obligations, and it is unnecessary to refer to the NPS-FM objective.

3.17.3 Section 32AA Evaluation

796. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Policy FW.5 are the most appropriate for the following reasons:
- The amendments ensure that Te Mana o te Wai is given effect in water supply planning for climate change in urban development
 - The amendments improve the efficiency and effectiveness of the policy by providing clarity about where and when the policy applies.

3.17.4 Recommendations

797. Accordingly, I recommend the following amendments to Policy FW.5:

Policy FW.5: Water supply planning for climate change and urban development – consideration

When considering a change, variation or review of a regional or district plan, **local authorities must give effect to Te Mana o te Wai, and** particular regard shall be given to:

- (a) climate change impacts on **community drinking water supplies and group drinking water supplies**, including water availability and demand **and the potential for saline intrusion into aquifers**;
- (b) demand from future population projections;
- (c) development of future water sources, storage, treatment and reticulation; and

(d) an integrated approach, ki uta ki tai, in the protection of existing and future water sources.

Explanation

Policy FW.5 requires water supply planning to adequately considered including the impacts of climate change and new urban development.

3.18 Issue 15: Policy FW.6: Allocation of responsibilities for land use and development controls for freshwater

3.18.1 Matters raised by submitters

798. A total of 13 submissions and 10 further submissions were received on Policy FW.6.

Support

799. The policy is supported as notified by Fish and Game [S147.075] (opposed by Wellington Water [FS19.139] and BLNZ [FS30.244]), Ātiawa [S131.0106] (supported by Ngā Hapu [FS29.221]), and Taranaki Whānui [S167.0124].

Support in part

800. UHCC [S34.058] seeks an amendment to clarify that territorial authorities do not have functions to control activities to achieve target attribute states or discharges to water, and that this is a regional function.

801. GWRC [S137.006] seek amendments to align with the wording of s30 of the RMA. The specific amendment sought, is as follows:

(a) Wellington Regional Council has primary responsibility for freshwater. Wellington Regional Council shall be responsible for the control of the use and development of land for the purposes of maintenance and enhancement of water quality and ecosystems in water bodies, and maintenance of water quantity water quality and quantity.

802. WCC [S140.083] (supported in part by Wellington Water [FS19.060]) seeks an amendment to clarify that the responsibility of the land use management (earthworks and vegetation clearance) of the riparian margins of water bodies is managed by regional councils.

803. Kāinga Ora [S158.030] (with a neutral/not stated position from WCC [FS13.037]) seeks that the policy be amended to align with the NPS-FM and the NES-F, as follows:

(b) In relation to wetlands, Wellington Regional Council is responsible for managing land use within, and within a 100m setback margin of natural wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream for the purpose of protecting wetlands

804. Forest and Bird [S165.081] (opposed by Wellington Water [FS19.036] and BLNZ [FS30.319]) seeks an amendment to Policy FW.6 on the basis that the title of the policy suggests that only relates to freshwater, but clause (b) applies to 'natural wetlands', which (currently) includes coastal wetlands. Forest and Bird seek clarification that the regional council also has responsibility for coastal wetland, either through an amendment to Policy FW.6 or in a different policy. Additionally, Forest and Bird notes that some of the NES regulations (e.g.

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r52) apply to an area 100m from the natural inland wetland. It is not clear whether this is clearly captured in the policy.

805. Rangitāne [S168.059] (supported by Sustainable Wairarapa Inc [FS31.169]) seek amendments to Policy FW.6 so that it accurately reflects the Council's responsibilities under the NES-F in relation to wetlands and to explicitly state that district and city councils' control everything else which is not controlled by the regional council.

Neutral/not stated

806. MDC [S166.060] seeks clarification about Method 5, which relates to the implementation of Policy FW.6, about how the responsibilities between territorial authorities and the Council are distributed and how joint processing will work and who will manage it.
807. Rangitāne [S168.013] (supported by Sustainable Wairarapa Inc [FS31.057]) considers that Policy FW.6 does not provide sufficient clarity or direction about the division of responsibilities. Rangitāne consider that freshwater is not just a regional and/or territorial authority responsibility and that the management of freshwater should be led by mana whenua, in collaboration with councils. Rangitāne request that the regional council transfers the management of freshwater to mana whenua (via a mechanism such as a s33 RMA transfer of functions, powers or duties).

Oppose

808. PCC [S30.079] (supported by PPFL [FS25.112]) oppose Policy FW.6 on the basis that it uses terminology that is inconsistent with national direction, and duplicates other parts of regulations. PCC also note that the reference to a 10m setback is less stringent than the 100m setback required under the NES-F. PCC seek the following specific amendments:

Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to protect and enhance the health and well-being of water bodies and freshwater ecosystems:

[...]

(b) In relation to wetlands, Wellington Regional Council is responsible for managing land use within, and within a ~~10m margin~~ 100m setback of natural wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream of a wetland for the purpose of protecting wetlands;

(c) ~~city and district councils~~ territorial authorities are responsible for the control of land use and subdivision. ~~City and district councils~~ Territorial authorities must include objectives, policies, and methods in district plans to promote positive effects, and avoid, remedy or, or mitigate adverse effects (including cumulative effects) of land use and subdivision on the health and wellbeing of water bodies, freshwater ecosystems and receiving environments (as required by NPS-FM 3.5 (4))

They must carry out their responsibility in regard to the NPS-FM through their functions under Section 31 of the RMA and must not duplicate or replicate objectives, policies, rules or other methods that fall under the functions of Wellington Regional Council in a regional plan.

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809. HCC [S115.082], seeks the deletion of Policy FW.6 on the basis that it repeats provisions of the RMA and NPS-FM.

3.18.2 Analysis

810. I agree with submitters who have sought amendments to Policy FW.6, clause (b), to accurately reflect the requirements of the NES-F in terms of the setback from natural wetlands within which the Council is responsible for the management of land use. The NES-F sets rules for activities that occur within natural inland wetlands and on the margins of natural inland wetlands. I recommend amending clause (b) as follows:

(b) In relation to wetlands, Wellington Regional Council is responsible for managing land use within, and within a 100m ~~margin~~ setback of natural wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream of a wetland for the purpose of protecting wetlands;

811. I agree with the amendments sought by GWRC to amend clause (a) to accurately reflect section 30 of the RMA. I consider this amendment provides drafting clarity.

812. I also agree with WCC's relief sought to clarify that the Council is responsible for earthworks and vegetation clearance in riparian margins of water bodies. I consider this amendment provides clarity to users of the RPS about who is responsible for this area.

813. I agree in part with the relief sought by PCC to replace 'city and district councils' with 'territorial authorities'. I consider this provides drafting clarity and consistency with other provisions of the RPS. However, I do not consider it is necessary to explicitly state that provisions in district plans must not duplicate or replicate those provisions that fall within the functions of the regional council. I consider this is clear in the earlier clauses of Policy FW.6 where it clearly states the responsibilities of the respective councils, as well as the amendments I am recommending to various policies within this topic to make these responsibilities clear.

814. I disagree with Forest and Bird's assertion that the definition of 'natural wetlands' includes coastal wetlands. This is not the case. As noted earlier in this report, Clause 3.21 of the NPS-FM provides a definition of 'natural inland wetland'. The definition specifically excludes the coastal marine area. Policy FW.6, at clause (b), in my opinion is specific to the requirements of the NES-F, which covers natural inland wetlands, as defined by the NPS-FM. As such, I do not consider that it would be appropriate to include coastal wetlands in this policy.

815. I also consider that Forest and Bird's alternative relief to create a new policy that focuses on the responsibilities in relation to coastal wetlands is outside the scope of Change 1 as this policy would relate to coastal matters which are addressed in chapter 3.2 of the Operative RPS, which is not part of Change 1. Provisions within Change 1 only reference the coastal marine area insofar as they are part of the receiving environment of freshwater bodies.

816. I note the relief sought by Rangitāne for the Council to transfer its powers in relation to freshwater management to mana whenua. The submitter has referenced s33 of the RMA which at the time of the submission provided for this transfer. While I acknowledge

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Rangitāne's concern that freshwater is not solely the responsibility of local authorities, such a transfer of power must follow the process set out in the Natural and Built Environment Act 2023. As this process has not been initiated, it would be inappropriate for the RPS to allocate this responsibility to mana whenua at this time.

817. If a transfer of power is desired, this process needs to occur prior to, and outside of, any plan change process following significant engagement between the Council and mana whenua/tangata whenua partners.

818. I consider that Change 1 has provided for a strong partnership approach with mana whenua/tangata whenua in a number of provisions including in the development of regional and district plan provisions, and in the resource consent process. These directions are much stronger than the operative RPS. While I acknowledge this direction may not go far enough for Rangitāne, it represents a step-change from current practice and is in line with the direction of the NPS-FM. On this basis I recommend rejecting the relief sought by Rangitāne.

3.18.3 Section 32AA Evaluation

819. In accordance with section 32AA, I consider the amendments I am recommending to Policy FW.6 are the most appropriate for the following reasons:

- The amendments provide clarity about the responsibilities of the regional council in relation to natural inland wetlands and riparian margins. This improves the efficiency and effectiveness of the policy and removes any confusion between the RPS and national direction in this regard.

3.18.4 Recommendations

820. I recommend the following amendments to Policy FW.6:

Policy FW.6: Allocation of responsibilities for land use and development controls for freshwater

Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to protect and enhance the health and well-being of water bodies and freshwater ecosystems:

- Wellington Regional Council has primary responsibility for freshwater. Wellington Regional Council shall be responsible for the control of the use and development of land for the purposes of ~~water quality and quantity the maintenance and enhancement of water quality and ecosystems in water bodies, and the maintenance of water quantity.~~
- In relation to wetlands, Wellington Regional Council is responsible for managing land use within, and within a 100m ~~margin setback~~ of natural wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream of a ~~wetland~~ for the purpose of protecting wetlands;
 - Wellington Regional Council is responsible for earthworks and vegetation clearance in riparian margins of water bodies.
- City and district councils ~~Territorial authorities~~ are responsible for the control of land use and subdivision. ~~City and district councils~~ ~~Territorial authorities~~ must

include objectives, policies, and methods in district plans to promote positive effects, and avoid, remedy or, or mitigate adverse effects (including cumulative effects) of land use and subdivision on the health and wellbeing of water bodies, freshwater ecosystems and receiving environments (as required by NPS-FM 3.5 (4)). They must carry out their responsibility in regard to the NPS-FM through their functions under Section 31 of the RMA.

Explanation

Policy FW.6 outlines the allocation of responsibilities for land use and development controls for freshwater between Wellington Regional Council and territorial authorities.

821. Accordingly, I recommend that the submissions and further submissions on Issue 10: Policy FW.6 be accepted, accepted in part, or rejected as detailed in **Appendix 2**.

3.19 Issue 16: Policy FW.7 – Water attenuation and retention – non-regulatory

3.19.1 Matters raised by submitters

822. A total of 26 submissions and 24 further submissions were received in relation to Policy FW.7

Support

823. Policy FW.7 is supported as notified by BLNZ [S78.002] (supported by Wairarapa Water Users Society [FS9.002], Irrigation NZ [FS21.002], and opposed by Ātiawa [FS20.310]), Wairarapa Water Users Society [S145.003] (supported by Irrigation NZ [FS21.013]), HCC [S115.086], WCC [S140.087], Fish and Game [S147.080] (opposed by Wellington Water [FS19.144] and BLNZ [FS30.249]), Ātiawa [S131.0112] (supported by Ngā Hapu [FS29.228]), Taranaki Whānui [S167.0130], Hort NZ [S128.052], and Rangitāne [S168.0180] (supported by Sustainable Wairarapa Inc [FS31.110]).

824. Ian Gunn [S139.009], supports Policy FW.7 but also seeks the addition of examples of nature-based solutions to the policy and additional text in the explanation in relation to changing approaches to flood management through nature-based solutions.

Support in part

825. Through a number of separate submission points, Sustainable Wairarapa Inc [S144.043], [S144.044], [S144.045], [S144.046], [S144.047], and [S144.061] seeks a number of amendments to Policy FW.7 to provide more examples of nature-based solutions, including researching and prototyping nature-based solutions as part of their promotion, requirements to maintain and enhance the groundwater recharging capacity of the region's stock water races, adding information regarding legislative change to support non-regulatory policies, and providing opportunities for increased recharge. The submitter also seeks an amendment to clause (b) to replace the reference to community supplies with 'public water supply'.

826. WFF [S163.083] (supported by Hort NZ [FS28.085], Wairarapa Water Users Society [FS9.008], BLNZ [FS30.155] and Irrigation NZ [FS21.008], and opposed by Forest and Bird

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- [FS7.126], Ātiawa [FS20.248], and Ngā Hapu [FS29.099]) supports Policy FW.7 but seeks that it be expressed as an objective.
827. Forest and Bird [S165.087] (opposed by BLNZ [FS30.319]) seeks an amendment to italicise 'nature-based solutions'.
828. Rangitāne [S168.060] (supported by Sustainable Wairarapa Inc [FS31.170]) seek amendments to Policy FW.7 so that it is clear who the policy applies to and to be clearer about what types of flood management are considered 'nature-based solutions'. Rangitāne consider built or engineered flood management solutions would not fit within the definition.
829. Irrigation NZ [S86.005] (supported by BLNZ [FS30.045], Hort NZ [FS28.084], and Wairarapa Water Users Society [FS9.015]), seek an amendment to clause (b) of Policy FW.7 to provide further specification about natural and built solutions to attenuate and retain water to provide adequate provision for primary industries.
830. Te Tumu Paeroa [S102.049] considers that Policy FW.7 should be a consideration policy, rather than a non-regulatory policy on the basis that this amendment will work towards strengthening a change of view and promoting and encouraging ecosystem health.
831. Dairy NZ [S136.019] (supported in part by Wairarapa Water Users Society [FS9.005] and Irrigation NZ [FS21.005] and opposed by Wellington Water [FS19.0010]) seeks the deletion of Policy FW.7 and that the issue be addressed through a full review of the RPS.
832. Wellington Water [S113.045] seeks an amendment to clause (b) of Policy FW.7 to support public health outcomes. The following specific amendments are sought:

(b) built solutions including storage at community, farm, and domestic (rain tanks) scales, groundwater augmentation, built retention (wetlands, bunds), while ensuring appropriate consideration of public health outcomes.

Oppose

833. KCDC [S16.073] and UHCC [S34.059] consider that the matters addressed by Policy FW.7 should be addressed through regulatory policies, rather than non-regulatory.
834. PCC [S30.084] (supported by PPFL [FS25.117]) considers the matters in Policy FW.7 are already covered by other regulatory and consideration policies and consider the policy should be deleted or amended to provide clarity and direction to RPS users.

3.19.2 Analysis

835. I acknowledge the concerns raised by several submitters that Policy FW.7 duplicates other regulatory provisions of Change 1 and that it should be a regulatory policy. Policy FW.7 does not relate to consent requirements and is part of a broader suite of mechanisms that sit outside of the RPS including catchment programmes and other actions (riparian management, hillslope erosion control, flood management). The Wairarapa Water Resilience Strategy (WWRS) also recommends non-regulatory programmes for water attenuation and retention. On this basis, I consider that it is appropriate that Policy FW.7 remains a non-regulatory policy.

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836. I understand from Council officers that Policy FW.7 is intended to apply to the rural sector, rather than to urban environments or activities, and is intended to assist with the implementation of the WWRS. As notified, Policy FW.7 does not specifically state that this is the intended purpose of the policy – that is to implement a non-statutory strategy as part of a wider suite of non-RMA methods. Although there have been no specific submission points requesting amendment to this policy to clarify that it relates to the WWRS, I note that as Policy FW.7 has been notified under the FPP, the Panel is not bound by the scope of submissions in making its recommendations³⁰. As such I recommend amendments to Policy FW.7 to make it clear that it relates to the implementing the WWRS rather than applying on a broader scale.
837. As background, the WWRS was developed in 2021 to respond to the future effects of climate change, manage demand, and use water more efficiently. It is a key step in implementing the Ruamāhanga WIP which recommends a broad approach to water resilience issues³¹. It sets an outcome of “Secure, efficient, and resilient supplies of freshwater for all people of Wairarapa, in a way acceptable to tangata whenua and within acceptable environmental standards”.³² And it sets guiding principles and priority uses and resilience solutions relating to both demand and supply, including:
- Slowing flows in rivers, lakes and streams
 - Sequestering water into groundwater and/or surface storage such as reservoirs and tanks for later use
 - Holding moisture in soils and vegetation and by providing shading to reduce evaporation.
838. I do not consider that there is a need to provide additional examples of ‘nature-based solutions’ in this policy (as requested by Mr Gunn) as this is a defined term in Change 1, and further amendments to that definition have been recommended by the reporting officer for the Climate Change: Climate Resilience and Nature Based Solutions topic in Hearing Stream 3³³. That definition includes a comprehensive list of examples of nature-based solutions. I consider that the concerns of submitters in relation to Policy FW.7 in this regard can be alleviated through the italicisation of the term ‘nature-based solutions’ to make it clear that this is a defined term.
839. I also disagree with the relief sought by Sustainable Wairarapa Inc to include researching and prototyping of nature-based solutions. I consider that this would be sufficiently covered by the policy as notified. Similarly, I consider it is unnecessary to include reference to maintaining and enhancing the groundwater recharging capacity of the region’s stock water races, information relating to legislative change to support non-regulatory policies.

³⁰ Clause 49(2) of Schedule 1 Part 4 the RMA

³¹ Specifically Recommendations 70-74 of the Ruamāhanga Whaitua Implementation Programme [Final-Ruamhanga-WIP-August-2018-Pdf-version.pdf \(gw.govt.nz\)](#)

³² Wairarapa Water Resilience Strategy (2021), pg. 16. [cc95da_fdb607c16f3f46b0bb93e96cc022d582.pdf \(growwairarapa.nz\)](#)

³³ Section 42A Report – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, page 28-29 [s42A \(gw.govt.nz\)](#)

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840. I also do not consider that any additional examples are required in clause (b) in relation to a wider range of storage options. This clause is an inclusive, rather than exclusive, list and so other solutions are not excluded from consideration. I do agree that clause (b) should include provision for supporting public health outcomes, as sought by Wellington Water. However, I consider that this should refer to 'the health needs of people' to be consistent with my recommended amendments to Policy 17 (section 3.13) other provisions and the inclusion of a definition of 'the health needs of people'.
841. I do not agree that Policy FW.7 should be deleted. I consider it provides useful guidance and direction to support the adoption of alternative solutions for water management and resilience in rural environments.
842. I disagree with the relief sought by WFF to reframe Policy FW.7 as an objective. The policy supports the implementation of both Objective 12 (Te Mana o te Wai) and Objective 20 (relating to natural hazard and climate change mitigation and adaptation activities). As such, I consider there is already a firm basis in the objectives for the matters addressed by the policy. The policy sets out non-regulatory methods for achieving these objectives which I consider is appropriate.

3.19.3 Section 32AA Evaluation

843. In accordance with Section 32AA of the RMA, I consider the amendments I am recommending to Policy FW.7 are the most appropriate for the following reasons:

- The amendments provide clarity that the policy applies to rural areas of the Wairarapa in order to implement the Wairarapa Water Resilience Strategy.
- The amendments provide a clear link to the definition of 'nature-based solutions' to provide guidance on the types of solutions that fall within this definition, but provides sufficient flexibility for other solutions to be put forward where they achieve a similar outcome.

3.19.4 Recommendations

844. I recommend the following amendments to Policy FW.7:

Policy FW.7 – Water attenuation and retention in Wairarapa rural areas

Promote and support water attenuation and retention in rural areas of the Wairarapa including:

(a) nature based solutions including slowing water down in the landscape and increasing groundwater recharge (riparian management, wetland enhancement/restoration, flood management); and

(b) built solutions including storage at community, farm, and domestic (rain tanks) scales, groundwater augmentation, built retention (wetlands, bunds), while ensuring appropriate consideration of the health needs of people.

Explanation

Policy FW.7 supports the implementation of the Wairarapa Water Resilience Strategy by promot~~ing~~es and support~~ing~~s natural and built solutions to attenuate and retain water.

845. Accordingly, I recommend that the submissions and further submissions on Issue 11 are accepted, accepted in part, or rejected as detailed in Appendix 2.

3.20 Issue 17: Method FW.1 – Freshwater Action Plans

3.20.1 Matters raised by submitters

846. A total of 9 submissions and 10 further submissions were received in relation to Method FW.1.

Support

847. Sustainable Wairarapa Inc [S144.049], Forest and Bird [S165.097] (opposed by BLNZ [FS30.319]), and Ātiawa [S131.0117] (supported by Ngā Hapu [FS29.233]) support the method as notified.

848. While Ātiawa stated their support for this method, they also seek that the Council and mana whenua/tangata whenua partnership model should be enabled through funding/resourcing. Ātiawa also notes that it is not clear when a Freshwater Action Plan would not be required as part of the NPS-FM which sets out the framework for all freshwater management. Ātiawa seek amendments to Method FW.1 to provide this clarity:

Prepare Freshwater Action Plans in partnership with mana whenua/tangata whenua, as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP, for each whaitua no later than December 2026. The freshwater action plans may describe both regulatory measures and non-regulatory measure to achieve target attribute states. Mana whenua are enabled to partner with the Regional Council through adequate funding and resourcing. will outline non-regulatory measures, which, along with limits and other rules, will achieve target attribute states. Where an action plan is required by the NPS-FM it shall contain both regulatory and non-regulatory actions.

Support in part

849. Hort NZ [S128.055] and Fish and Game [S147.088] (opposed by Wellington Water [FS19.152] and BLNZ [FS30.257]) consider that Freshwater Action Plans should be prepared with communities and other stakeholders, as well as in partnership with mana whenua/tangata. Hort NZ seeks the following specific amendment to Method FW.1:

Prepare Freshwater Action Plans in partnership with mana whenua / tangata whenua, and with communities as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP.

850. Fish and Game [S147.088] (opposed by Wellington Water [FS19.152] and BLNZ [FS30.257]) are also concerned that implementation of the NOF, contained in Part 3, Subpart 2 of the NPS-FM has been deferred. Fish and Game seeks the following specific amendments:

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Prepare Freshwater Action Plans in partnership with mana whenua/tangata whenua and stakeholders, and in consultation with landowners and community, as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP, for each whaitua no later than December 2026. [etc]..."

851. Rangitāne [S168.064] (supported by Sustainable Wairarapa Inc [FS31.174]) seeks an amendment to Method FW.1 so that the second to last and last sentences do not contradict each other.
852. Taranaki Whānui [S167.0141] seeks the retention of Method FW.1 as notified but notes that they would like to see clear statements on the resourcing/funding and capability building of mana whenua partners included in the description.

Not stated/neutral

853. Ngāti Toa [S170.089] (supported by Ngā Hapu [FS29.203]) seeks an amendment to Method FW.1 to clarify the role of tangata whenua in the process.

Oppose

854. WFF [S163.089] (supported by BLNZ [FS30.161] and opposed by Forest and Bird [FS7.132], Ātiawa [FS20.254] and Ngā Hapu [FS29.105]) seek the deletion of Method FW.1 on the basis that it should be deferred to the upcoming NRP changes in 2023 and 2024.

3.20.2 Analysis

855. Method FW.1 gives effect to the NPS-FM which:
- Provides for (but does not require) the preparation of an action plan to achieve target attribute states for attributes in Appendix 2A of the NPS-FM ('Attributes requiring limits on resource use') (Clause 3.12(1)).
 - Requires the preparation of action plans for achieving target attribute states for attributes in Appendix 2B of the NPS-FM ('Attributes requiring action plans') within a specified timeframe (Clause 3.12(2)(a)).
 - Provides the choice of using action plans (or regional plan rules or conditions) to achieve any other target attribute states or otherwise support the achievement of environmental outcomes. (Clause 3.12(4)).
856. Clause 3.15 of the NPS-FM then sets out the content requirements of Freshwater Action Plans and the process for their preparation. This includes consultation with communities and tangata whenua and the direction that Action Plans must be published 'as soon as practicable'.
857. I agree with the relief sought by Hort NZ and Fish and Game that Method FW.1 should include communities and stakeholders in the preparation of Freshwater Action Plans. This amendment is consistent with clause 3.15(5) of the NPS-FM. I note Fish and Game's suggested amendments reference 'consultation' with these parties, however I consider 'engagement' is more appropriate in this context. Although not requested by submitters, I also consider that this list should include 'territorial authorities' to ensure they are included in the process of developing freshwater action plans. I therefore recommend

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accepting the relief sought by Hort NZ and accepting in part the relief sought by Fish and Game, and accepting in part the further submissions of Wellington Water and BLNZ.

858. I acknowledge the concerns of Fish and Game regarding the timeframe for implementing the NOF. However, I disagree with the statement, and implication, that it has been 'deferred' entirely. Change 1 represents a significant step towards implementing the NOF, ahead of more detailed changes to the NRP to introduce target attribute states and other requirements of the NOF. The preparation of Freshwater Action Plans is one part of that, and I consider the timeframe of December 2026 is appropriate. This timeframe takes into consideration the need to complete the upcoming NRP plan change process which will include the preceding steps of the NOF. In my opinion, it would be inefficient to commence the action plan process prior to those plan changes being completed as the content of the plan changes may change through the submissions and hearing process. I also consider that this is in line with the NPS-FM's requirement to publish Freshwater Action Plans 'as soon as practicable'.
859. Both Rangitāne and Ātiawa sought amendments to Method FW.1 to clarify the last two sentences. I agree with the amendment sought by Ātiawa in this regard and consider this provides a simpler and clearer way of expressing that Freshwater Action Plans may include regulatory and non-regulatory methods.
860. I acknowledge the relief sought by Ātiawa in relation to the Council providing funding for mana whenua/tangata whenua to enable the partnership approach. As has been noted by other reporting officers for other topics where a similar submission point has been made, the Council acknowledges its role as a partner to the mana whenua and tangata whenua of the Wellington Region. Since the notification of Change 1, funding for work programmes where the Council and mana whenua/tangata whenua are working as partners is supplied through Kaupapa Funding Agreements. These Agreements provide resourcing for mana whenua/tangata whenua, enabling them to work with the Council. As such, I do not consider that provision for funding should be specified in Method FW.1.
861. I also note the relief sought by Ngāti Toa in relation to clarifying the role of tangata whenua in the process of developing Freshwater Action Plans. I consider that the method sufficiently addresses this matter in the opening sentence, where it states "Prepare Freshwater Action Plans in partnership with mana whenua/tangata whenua". In my opinion this implies the Council will be working very closely with the partners throughout the development of these Action Plans.
862. Consistent with my analysis and recommendations on similar submission points on other provisions, I disagree with the relief sought by WFF to delete Method FW.1 and defer the changes to a later plan change. The development of Freshwater Action Plans is a requirement of the NPS-FM.

3.20.3 Section 32AA Evaluation

863. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Method FW.1 are the most appropriate for the following reasons:
- The amendments are efficient and effective as they provide clarity about how Freshwater Action Plans will be developed and their content.

3.20.4 Recommendations

864. I recommend the following amendments to Method FW.1:

Method FW.1: Freshwater Action Plans

Prepare Freshwater Action Plans in partnership with mana whenua / tangata whenua, and through engagement with communities, stakeholders and territorial authorities, as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP, for each whitua no later than December 2026. The freshwater action plans may describe both regulatory and non-regulatory measures to achieve target attribute states. will outline non-regulatory measures, which, along with limits and other rules, will achieve target attribute states. Where an action plan is required by the NPS-FM it shall contain both regulatory and non-regulatory actions.

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865. Accordingly, I recommend that the submissions and further submissions are accepted, accepted in part, or rejected as detailed in Appendix 1.

3.21 Issue 18: Implementing the harbour and catchment management strategy for Porirua Harbour (Method 30)

3.21.1 Matters raised by submitters

866. The Council received four submissions and four further submissions on Method 30.

Support

867. Te Tumu Paeroa [S102.085], Fish and Game [S147.094] (opposed by Wellington Water [FS19.158] and BLNZ [FS30.263]) support the method as notified.

Not stated/ neutral

868. BLNZ [S78.025] (opposed by Ātiawa [FS20.333]) accepts that the amendment to Method 30 is required to give effect to the NPS-UD but neither supports nor opposes the method. BLNZ seeks that the method be retained as notified.

Support in part

869. Ātiawa [S131.0127] (supported by Ngā Hapu [FS29.244]) consider that the Council should work in partnership with Porirua mana whenua to develop and implement the Porirua Harbour Catchment Strategy, if this is desired by mana whenua. Ātiawa seeks that this partnership be enabled by funding and resourcing through the Council.

3.21.2 Analysis

870. I acknowledge the relief sought by Ātiawa that a partnership approach with mana whenua/tangata whenua should be taken in relation to Method 30. I note that Change 1 makes a minor amendment to this method to reflect that the Porirua Harbour strategy has now been prepared, and the method is to now implement the strategy. As such, I consider that in implementing the strategy a partnership approach should be taken with

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mana whenua/tangata whenua, as requested by Ātiawa. I recommend amendments to this effect.

871. In relation to funding and resourcing, I have noted in paragraph 860 in this report that the Council has now established Kaupapa Funding Agreements with mana whenua/tangata whenua partners in the region for this purpose. As such, I do not consider that any amendment is required to Method 30 to refer to funding or resourcing.

3.21.3 Section 32AA Evaluation

872. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Method 30 are the most appropriate way because it provides clarity that mana whenua/tangata whenua will be involved in the implementation of the Porirua Harbour and catchment strategy.

3.21.4 Recommendations

873. I recommend the following amendments be made to Method 30:

Method 30: Implement the ~~Prepare a~~ harbour and catchment management strategy for Porirua Harbour

Implement the ~~Prepare a~~ harbour and catchment management strategy for Porirua Harbour, [in partnership with mana whenua/tangata whenua](#), to address the restoration of Porirua Harbour and reduce the discharge of sediment, nutrients and contaminants into the harbour.

Implementation: Wellington Regional Council, Porirua City Council and Wellington City Council

874. Accordingly, I recommend the submissions and further submissions on Method 30 be accepted, accepted in part, or rejected as detailed in Appendix 2.

3.22 Issue 19: Methods to be deleted (Method 31 and Method 35)

3.22.1 Matters raised by submitters

Method 31

875. A total of five submissions and two further submissions were received on Method 31. The deletion of Method 31 is supported as notified by HCC [S115.0102], WCC [S140.0105] and Taranaki Whānui [S167.0155].

876. BLNZ [S78.026] (opposed by Ātiawa [FS20.334]) accepts that the deletion of Method 31 is required to give effect to the NPS-UD but neither supports nor opposes its deletion.

877. Ātiawa [S131.0128] (supported by Ngā Hapu [FS29.245]) is concerned that the deletion of this method will result in these effects not being addressed and properly managed.

Method 35

878. The Council received five submissions and three further submissions on Method 35. The deletion of Method 35 is supported as notified by HCC [S115.0106] and WCC [S140.0109].

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879. BLNZ [S78.027] (opposed by Ātiawa [FS20.335]) accepts that the deletion of Method 35 is required to give effect to the NPS-UD but neither supports nor opposes the deletion. BLNZ seek that Method 35 is deleted as notified.
880. Taranaki Whānui [S167.0159] seeks the deletion of Method 35 as notified. No reasons were provided by the submitter for this relief sought.
881. Ātiawa [S131.0132] (supported by Ngā Hapu [FS29.250]) are concerned that if Method 35 is deleted, there will be no mechanism to prepare a regional approach to stormwater management. Ātiawa seek that Method 35 is retained in the RPS.

3.22.2 Analysis

Method 31

882. I note the concern raised by Ātiawa that the deletion of Method 31 may result in these effects not being managed adequately. In relation to earthworks, vegetation disturbance, cultivation and harvesting, I consider that Policy 15 and Policy 41 and my recommended amendments to these policies in section 3.12 will have a greater impact on managing these effects than existing Method 31 provides for.
883. However, in relation to the second clause of Method 31, I consider that deleting this could have unintended consequences. Method 31 links to objectives and policies within both the Freshwater and Air Quality chapters. Change 1 appears to have inadvertently proposed the deletion of this method on the basis of its relationship to freshwater, without consideration of the implications for the Air Quality provisions.
884. On this basis, I recommend reinstating Method 31, but deleting the references to earthworks, vegetation disturbance, and cultivation.

Method 35

885. I acknowledge the concern raised by Ātiawa about the deletion of Method 35. However, this method will be unnecessary given the direction to prepare Freshwater Action Plans under the NPS-FM, and proposed Method FW.1. These action plans will set out the steps require to achieve target attribute states. I also consider that the more directive policies proposed in the RPS in relation to urban development and the management of stormwater will remove the need for specific action planning in relation not stormwater.
886. On this basis, I recommend deleting Method 35 as proposed in Change 1.

3.22.3 Section 32AA Evaluation

887. In accordance with section 32AA of the RMA, I consider my recommended amendment to reinstate Method 31, insofar as it relates to air quality matters, is the most appropriate way to achieve the objectives of the RPS because it ensures this method is retained for the purposes of implementing provisions that are not part of Change 1.

3.22.4 Recommendations

888. I recommend reinstating Method 31, with the following amendments:

Method 31: Protocol for management of ~~earthworks and~~ air quality between local authorities

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With interested parties prepare protocols and definitions to guide changes to district and regional plans to avoid gaps, uncertainty and unnecessary overlaps in the regulation of:

~~(a) — earthworks, including vegetation disturbance, cultivation and harvesting; and~~

~~(b) — management of odour, smoke and dust.~~

Implementation: Wellington Regional Council* and city and district councils.

889. Accordingly, I recommend that the submissions and further submissions on Method 31 and Method 35 be accepted, accepted in part, or rejected as detailed in Appendix 2.

3.23 Issue 20: Preparing a regional water supply strategy (Method 34)

890. Method 34 is a non-regulatory method that supports the implementation of several provisions within Change 1 including Freshwater and Climate Change provisions. This method is an existing method within the Operative RPS that directs the preparation of a water strategy. Change 1 proposes to amend this method so that it is specific to water supply along with several other amendments to give effect to the NPS-FM and support the implementation of other provisions in Change 1.

3.23.1 Matters raised by submitters

891. A total of 15 submissions and 17 further submissions were received on Method 34.

Support

892. Sustainable Wairarapa Inc [S144.050] (supported by MDC [FS14.042]), Fish and Game [S147.095] (opposed by Wellington Water [FS19.159] and BLNZ [FS30.264]), Ātiawa [S131.0131] (supported by Ngā Hapu [FS29.249]), and Taranaki Whānui [S167.0158] support Method 34 as notified.

Support in part

893. UHCC [S34.038] supports this method in principle, but considers it is unclear which mechanism territorial authorities would use to give effect to the measures identified in the method, and how this will work within the context of Three Waters reform. UHCC seeks a review and amendment to the method to address these issues and ensure that responsibilities can feasibly be supported under the RMA. UHCC also seeks an amendment to clause (g) to read "developing methods to protect future and existing public potable water supply sources".

894. Irrigation NZ [S86.006] (supported by BLNZ [FS30.046], Hort NZ [FS28.086], and Wairarapa Water Users Society [FS9.016]) considers the importance of a regional water strategy and its direct relationship with the quality and quantity of freshwater has been underestimated. Irrigation NZ also considers that there needs to be greater emphasis on the importance of water storage as part of future resilience and that under Method 34, biodiversity and cultural factors are the only considerations, with no mention of wider factors, such as primary industry. Irrigation NZ contend that the aims of a regional water supply plan should take direction from the WWRS. Irrigation NZ seeks an amendment to Method 34 to place a greater emphasis on the importance of water storage as part of a resilient regional water supply strategy.

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895. Wellington Water [S113.046] supports the concept of a regional water supply strategy but seeks amendments to:

- Align with Taumata Arowai guidance
- Refer to 'use of water', rather than 'allocation', in clause (a)
- Update the method to reflect the potential for water reform
- Address whether (and/or how) the strategy will still be relevant if water reform occurs
- Reflect public health concerns regarding alternate water supplies in urban areas
- Address water scarcity, operational resilience, growth and Te Mana o te Wai as part of clause (d)
- Give effect to water safety plans and other requirements of Taumata Arowai as appropriate
- Apply ki uta ki tai to source protection.

896. Hort NZ [S128.057] supports the development of a regional water supply strategy and consider that it could cover both urban and rural communities. Hort NZ seeks the following specific amendment:

(d) secure sustainable water supplies for urban and rural communities across the region, preparing for climate change;

897. Rangitāne [S168.062] (supported by Sustainable Wairarapa Inc [FS31.172]) seeks amendments to clause (f) and (g) so that they fit grammatically with the opening clause.

898. WCC [S140.0108] seeks amendments to Method 34 so that it does not apply to city and district councils. WCC considers that water allocation and efficiency is a regional council responsibility.

899. Forest and Bird [S165.0109] (supported by Hort NZ [FS28.088] and opposed by Ātiawa [FS20.079] and BLNZ [FS30.319]) considers the development of the strategy should provide for engagement with stakeholders and the community. Forest and Bird seek the addition of 'and engaging with stakeholders and the community' after the words 'tangata whenua'.

Not stated/neutral

900. MDC [S166.068] consider that further clarity is required with regard to implementation and transitional arrangements for Entity C (three waters).

901. Ngāti Toa [S170.073] (supported by Ngā Hapu [FS29.187]) is concerned that there is no mention of tangata whenua in this method and how they impact iwi, hāpu and Māori. Ngāti Toa seek clarity about how these methods will impact iwi, hāpu and Māori.

Oppose in part

902. HCC [S115.0105] oppose the inclusion of non-regulatory methods that apply to territorial authorities. HCC seeks amendments to Method 34 so that it does not apply to city and district councils.

Oppose

903. WFF [S163.094] (supported by BLNZ [FS30.166], supported in part by Hort NZ [FS28.087], and opposed by Forest and Bird [FS7.137], Ātiawa [FS20.259] and Ngā Hapu [FS29.110]) seeks the deletion of the amendments to Method 34 and that these amendments be deferred to the 2024 RPS Review. WFF also notes that the Three Waters review may alter the landscape on this matter and questions why the method is restricted to urban supplies, particularly clause (d).

3.23.2 Analysis

904. I agree with submitters seeking greater clarity about how this method applies to territorial authorities and its relevance in the context of Three Waters reform and the role of Taumata Arowai.

905. I agree with the relief sought by Wellington Water to ensure that public health concerns are considered in relation to alternate water supplies in urban areas. However, I consider that this should refer to the 'health needs of people', which I am recommending be included as a defined term in the RPS. Including this term and its related definition in Method 34 will ensure that these health outcomes are considered.

906. I also agree with Wellington Water's requested amendments to include reference to water scarcity, population growth and operational resilience in clause (d). However, it is unclear how a reference to Te Mana o te Wai could usefully be included in this method, particularly as there are already a range of provisions in Change 1 that require local authorities to give effect to Te Mana o te Wai.

907. As requested by Wellington Water, I consider that there should be reference to the requirements of Taumata Arowai in this method to ensure the content of the strategy complements rather than duplicates those requirements. I also agree with Wellington Water's suggested addition of a new clause to apply ki uta ki tai to source protection.

908. In relation to the issue of how Method 34 works in the context of Three Waters reform, I agree that much of this method would no longer be the responsibility of local authorities, but instead will be within the remit of the Wellington Water Services Entity, established under the Water Services Act 2022. However, the timeframe for the establishment of that entity remains uncertain, and as such I consider that Method 34 will remain relevant until the Entity is established. In the event that the Entity is established prior to the regional water supply strategy being established, I recommend that Method 34 should cease to have effect, and a note to this effect be added to this provision.

909. I agree with submitters who have suggested amendments to the method to ensure the content flows grammatically from the chapeau. I consider this provides drafting clarity and I have considered this in my recommended amendments outlined below.

910. WCC and UHCC have both raised a concern that Method 34 may not be within the functions of territorial authorities to implement. I agree that the content of Method 34 relates to water allocation, and as such should not apply to territorial authorities. I recommend removing reference to 'city and district councils' in Method 34.

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911. I disagree that Method 34 applies only to urban areas. By my reading, Method 34 is not specific to any community. Clause (d) refers on to 'communities across the region'. It does specify whether this is urban or rural communities. I consider this is appropriate and addresses the concerns raised by submitters in this regard, and make no recommended amendments.
912. I acknowledge the concern raised by Forest and Bird that as drafted Method 34 does not refer to developing the strategy with communities or stakeholders. In my opinion, the strategy should be developed in consultation with the community, and I recommend that this reference be added to the chapeau of Method 34. I do not consider it is necessary to specifically refer to 'stakeholders'.
913. In relation to the concerns raised by Ngāti Toa, that the role of mana whenua/tangata whenua is unclear in Method 34, I disagree. The chapeau states that the strategy will be prepared in partnership with mana whenua/tangata whenua. I consider that this is a strong directive that the Council must engage with mana whenua/tangata whenua throughout the process. This is consistent with other provisions throughout Change 1 that direct a partnership approach.

3.23.3 Section 32AA Evaluation

914. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to Method 34 are the most appropriate for the following reasons:
- The amendments provide clarity about what must be considered in the development of the water supply strategy
 - The amendments clarify that the method will not apply once the Eastern-Central Water Services Entity has been established.
 - The amendments provide drafting clarity and support its implementation.

3.23.4 Recommendations

915. I recommend the following amendments to Method 34:

Method 34: Prepare a regional water supply strategy

~~With interested parties p~~ Prepare a regional water supply strategy, in partnership with mana whenua / tangata whenua, and consultation with communities, to guide local authorities on how to:

- improve and maximise efficient allocation of water including economic, technical and dynamic efficiency; sustainable water use
- reduce leakage and wastage from reticulation systems;
- encourage efficient use of water including through onsite storage;
- secure sustainable water supplies for communities across the region, preparing for climate change, water scarcity, population growth and improving operational resilience;

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- (e) plan additional sources of water, including through storage (including rain tanks), treatment, and distribution systems, while considering the health needs of people;
- (f) manage water demand including through demand management and water conservation programmes and security of supply; and
- (g) developing methods to protect future and existing sources, taking into account the requirements of Taumata Arowai. rural and urban water quality
- (h) implement water safety plans and other requirements of Taumata Arowai as appropriate
- (i) Apply ki uta ki tai to source protection.

Implementation: Wellington Regional Council ~~and city and district councils,~~ and water infrastructure providers*

Note: Method 34 shall cease to have effect on the date that the Wellington Water Services Entity is established, under the Water Services Entity Act 2022.

916. I recommend consequential amendments to remove the reference to 'City and district councils' as authorities responsible for the implementation of Method 34.

3.24 Issue 21: New non-regulatory methods

3.24.1 Matters raised by submitters

917. Wellington Water [S113.048] (supported by Ngāti Toa [FS6.007]), [S113.049], and [S113.050] seeks the inclusion of two new non-regulatory methods in the RPS.

918. Wellington Water considers a new method is required to respond to increased urban development as required by the NPS- UD and the implications for water quality which need to be addressed under the NPS-FM. Wellington Water proposes the following new method to address this:

Method 57: Develop and implement a wastewater management strategy, in partnership with mana whenua/tangata whenua and in collaboration with territorial authorities and water infrastructure providers. The strategy shall:

- *Recognise the 100 year journey to improve water quality*
- *Set out how to achieve Te Mana o te Wai when managing wastewater*
- *Recognise that the journey may look different in different whaitua or for different mana whenua groups*
- *Be informed by the WIPs and associated documents from mana whenua groups (eg Te Mahere Wai or iwi statements)*
- *Create a framework of priorities and recognise that those priorities will change on the 100 year journey*
- *Result in a planning framework that both implements the NPS- FM and provides appropriate levels of flexibility for this early stage of the 100 year journey.*

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919. Wellington Water also considers that Te Mana o te Wai is reliant on consistent application of the principles listed in the NPS-FM and the provision of water services in Wellington is subject to increasing regulation and additional regulators. As well as a public health and environmental regulator, an economic regulator is expected to be established by 2025. Wellington Water considers it would be beneficial for water services regulators to work together in an integrated manner. On this basis, Wellington Water seeks the following new method in the RPS:

Method 58: Engage with Taumata Arowai and the water services economic regulator (when established) to ensure a consistent approach to Te Mana o te Wai, including consideration of limits, measures, targets and relationships, particularly where there are overlaps in functions and roles.

3.24.2 Analysis

920. I acknowledge the relief sought by Wellington Water in relation to establishing a regional wastewater management strategy and I agree that this is an important issue for the region. However, in my opinion such a strategy will duplicate ongoing work through the Whaitua Implementation Programme and the Freshwater Action Plans that are required by the NPS-FM. The addition of Freshwater Visions in the RPS, though not yet notified, will also provide long term direction on freshwater that will guide the approach to wastewater management. As such, I recommend rejecting the relief sought by Wellington Water in relation to new Method 57.

921. In relation to the relief sought to include a method that directs engagement with Taumata Arowai and the water services economic regulator, I agree that such a method would be useful in the RPS. I recommend accepting the relief sought.

3.24.3 Section 32AA Evaluation

922. I consider that the amendments I am recommending to Change 1 to include new non-regulatory methods are the most appropriate because they provide additional implementation direction and guidance to support the implementation of the regulatory provisions of the RPS.

3.24.4 Recommendations

923. I recommend including the following new Method in Chapter 4.5.3 of the RPS:

Method FW.X: Engagement with Water Regulators

Engage with Taumata Arowai and the water services economic regulator (when established) to ensure a consistent approach to Te Mana o te Wai, including consideration of limits, measures, targets and relationships, particularly where there are overlaps in functions and roles.

Implementation: Wellington Regional Council

924. I recommend that the submissions on Issue 16 be accepted, accepted in part or rejected as detailed in Appendix 2.

3.25 Issue 22: Freshwater Anticipated Environmental Results

3.25.1 Matters raised by submitters

925. A total of 10 submissions and 15 further submissions were received on the Freshwater Anticipated Environmental Results (AERs).

926. Ātiawa [S131.0152] (supported by Ngā Hapu [FS29.272]), support the overall intent of the Objective 12 Freshwater AER, but seek an additional AER to ensure that mana whenua involvement in resource management is assessed and action taken to achieve the AER. Ātiawa seeks the addition of a timeframe for the achievement of Objective 12 AER 1, to ensure the AER is not open-ended and to reduce slow uptake of the provision. Ātiawa consider this is consistent with the NPS-FM. The following specific amendments are sought:

- Objective 12 Freshwater AER 1:

Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out as soon as possible over time.

- Add a new AER to the Freshwater AERs:

Mana whenua and Regional Council work in partnership in the management of freshwater in the Wellington region. This partnership provides for governance and operational input into all aspects of resource management to address freshwater, including decision-making. Mana whenua values including their relationship with their culture, ancestral lands, water, sites, wāhi tapu and other taonga are protected and provided for. Mātauranga Māori is applied where appropriate, in accordance with tikanga and kawa, as guided by mana whenua.

927. Taranaki Whānui [S167.0186], [167.0187] and [S167.0188] with a not stated/neutral stance, seeks that amendments are made to the Freshwater AERs in partnership with mana whenua.

928. Ātiawa [S131.0153] (supported by Ngā Hapu [FS29.273]) supports the Objective 13 Freshwater AER and seeks that it be retained as notified.

929. Fish and Game [S147.0105] (opposed by Wellington Water [FS19.169] and BLNZ [FS30.274]), [S147.0106] (opposed by Ātiawa [FS20.119], Wellington Water [FS19.170] and BLNZ [FS30.275]), and [S147.0107] (opposed by Ātiawa [FS20.120], Wellington Water [FS19.171] and BLNZ [FS30.276]) supports in part the Objective 13 Freshwater AER, but considers it requires amendment to fully give effect to the NPS-FM, particularly Policy 10, the emphasis on interconnectedness in Part 3.5, and the attributes in Appendix A.2. Fish and Game also considers that, AER 4 is weakly worded, and it would benefit from the specification of increased 'valued' species diversity to eliminate the potential for pest species such as gambusia to give false indications of improved biodiversity.

930. The following specific amendments are sought by Fish and Game:

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- Objective 13 AER 1:

Macro-invertebrate diversity and sensitive macroinvertebrate taxa abundance in rivers and lakes is ~~maintained~~ improving across the Region.

- Objective 13 AER 4:

Existing fish habitat, fish populations and the diversity of valued fish fauna is maintained or increased across the region.

- Objective 13 AER 5:

There is no loss of the significant amenity and recreational values or significant indigenous ecosystems and habitats with significant biodiversity or other values associated with the rivers and lakes identified in Appendix 1.

931. Ātiawa [S131.0154] (supported by Rangitāne [FS2.68] and Ngā Hapu [FS29.274], and opposed by Wellington Water [FS19.006]) supports the overall intent of the Objective 14 AER to monitor the freshwater planning provisions, but seek a timeframe for AER 1. The following specific amendment is sought:

Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out as soon as possible over time.

932. Fish and Game [S147.0108] (opposed by Wellington Water [FS19.172] and BLNZ [FS30.277]) supports the Objective 14 Freshwater AERs as notified.

3.25.2 Analysis

933. I note the relief sought by Ātiawa to include a new Freshwater AER that relates to the Council and mana whenua/tangata whenua working in partnership on freshwater management. I agree that this partnership approach is necessary and a fundamental part of Te Mana o te Wai and giving effect to the NPS-FM. However, I do not consider that this AER is necessary on the basis that this partnership approach has been woven into the objectives and policies of Change 1, including in Objective 12 (as recommended to be amended in section 3.8 of this report) and the related policies. As such, I recommend rejecting the relief sought by Ātiawa.

934. I note the concern raised by Taranaki Whānui that the AERs should be developed and amended in partnership with mana whenua/tangata whenua. Unfortunately, there has been insufficient time to enable this to happen due to the large number of submissions in this topic and the resourcing constraints of mana whenua/tangata whenua. I agree with Taranaki Whānui that the AERs should be monitored in partnership with mana whenua/tangata whenua and I consider there is scope for this to occur once the NRP changes have been made and the provisions begin to be implemented. My recommended amendments to Objective 12 and the Integrated Management provisions of Change 1 require a partnership approach for implementing these provisions, and that implementation be guided by mātauranga Māori and Te Ao Māori.

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935. In relation to Fish and Game's suggested amendments to the AERs, I agree with the amendment sought to Objective 13 AER 1 to include reference to sensitive macroinvertebrate taxa abundance. I consider that there should be reference to improving diversity and abundance, however I consider that 'maintained' should be retained, so that the AER is 'at least maintained, and where possible improving, across the region.
936. I also agree with Fish and Game's relief sought to amend AER 4 as I consider this provides more clarity about the desired outcomes and that the focus is on fish species that are valued, rather than those that are pests. However, I disagree with Fish and Game's relief sought in relation to Objective 13 AER 5 to include reference to habitats with significant biodiversity or other values. Appendix 1 of the RPS sets out Rivers and Lakes with values requiring protection. Table 15 of the appendix sets out rivers and lakes with particular recreation or amenity values and Table 16 of the appendix relates to rivers and lakes with significant indigenous ecosystems. There is no corresponding table relating to other habitats with significant biodiversity or other values. As such I consider the amendment sought by Fish and Game in this regard is unnecessary and not supported by the content of Appendix 1. On this basis I recommend reject this relief sought.
937. Ātiawa sought the addition of timeframes to each of the AERs for Objectives 12, 13 and 14. I agree that there should be more specificity than the current reference to 'over time' but note that imposing specific timeframes in the RPS at this stage may be premature. I consider this matter could be addressed through the upcoming NRP changes where the detail on water allocation will be provided. However, I do agree that some amendment is warranted, and I recommend replacing 'over time' with 'as soon as practicable'.

3.25.3 Section 32AA Evaluation

938. In accordance with section 32AA of the RMA I consider the amendments I am recommending to the Freshwater Anticipated Environmental Results are the most appropriate for the following reasons:
- The amendments provide greater specificity of the outcomes that are sought for freshwater
 - The amendments to Objective 12 AER 1 and Objective 14 AER 1 provide more direction about how soon these AERs should be achieved.

3.25.4 Recommendations

939. I recommend the following amendments to Objective 12 Freshwater Anticipated Result 1:

Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out **as soon as practicable** over time.

940. I recommend the following amendments to Objective 13 Freshwater Anticipated Environmental Result 1:

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Macro-invertebrate diversity and sensitive macroinvertebrate taxa abundance in rivers and lakes is ~~maintained~~ improving across the Region.

941. I recommend the following amendments to Objective 13 Freshwater Anticipated Environmental Result 4:

~~There is no loss of existing fish habitat, nor reduction in fish populations and diversity. Existing fish habitat, fish populations and the diversity of valued fish fauna is maintained or increased across the region.~~

942. I recommend the following amendment to Objective 14 Freshwater Anticipated Environmental Result 1:

Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out as soon as practicable over time.

943. Accordingly, I recommend the submissions and further submissions on Issue 17 be accepted, accepted in part, or rejected as detailed in Appendix 2.

3.26 Issue 23: Definitions

3.26.1 Matters raised by submitters

General submission points on freshwater definitions

944. Winstone Aggregates [S162.034] (supported by Fulton Hogan Limited [FS11.029] and opposed by Ātiawa [FS20.302]) considers that the new definitions appear to be focused on indigenous biodiversity and do not appear to introduce definitions required by the NPS-FM. The submitter considers that the introduced policies and objectives in PPC1 do use terms referred to and defined in NPS-FM and therefore those terms should be included and defined in the RPS. Winstone Aggregates seek the inclusion of NPS-FM definitions and any updated definitions be added to the RPS.

945. PCC [S30.099] (supported by PPFL [FS25.132]) opposes the definitions generally and consider clear and concise definitions are critical to assist in interpretation and implementation of the RPS. PCC seek the addition of any further definitions for any terms that are unclear and where a definition would assist in interpretation and implementation, including any relevant terms proposed to be introduced in response to submissions.

Definition of hydrological controls

946. WCC [S140.0123] supports in part the definition of 'hydrological controls' but considers the definition does not provide a definition and instead provides guidance for how hydrological controls should be implemented. WCC seeks the addition of a new method using the current proposed definition of hydrological controls and a new definition of hydrological controls.

947. Wellington Water [S113.051] (with a not stated/neutral stance from WCC [FS13.044]) opposes the definition of 'hydrological controls' and considers the purpose of the definition is unclear and the intent of might be better served through a policy, rather

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than a definition. Wellington Water also consider the following issues should be addressed:

- The definition refers to annual means rather than annual peaks
- The practicability test for brownfield and infill developments may be better served with a more specific target
- It is unclear whether the modelling is based on an undeveloped state or the surrounding catchment also being in an undeveloped state. This would affect water flowing onto the site and water attenuation
- It is unclear what purpose the (a) clauses serve. The (b) clauses re to address stream scour that adversely impacts aquatic ecosystem health. If the (a) clauses are trying to achieve a different outcome to the (b) clauses, then this should be reflected in the policies. Currently the policies are only referring to one outcome, related to stream form.

948. Wellington Water seek the following amendments or seek a new policy, rather than a definition:

- Refer to annual means rather than annual peaks
- Include a more specific target in the practicability test for brownfield and infill developments
- Clarify whether modelling is based on an undeveloped state or the surrounding catchment also being in an undeveloped state
- Clarify the purpose of clause (a) and how it is different to clause (b)

949. PCC [S30.0106] (supported by PPFL [FS25.022]) opposes the definition of 'hydrological controls' and seeks its deletion or that it be amended so that it provides clear and appropriate direction to plan users. PCC seek this relief on the basis that:

- It is drafted as a rule or a standard rather than a definition and requires a level of assessment and judgement inappropriate for a definition.
- It lacks the necessary specificity required for a definition to enable effective and efficient implementation in a regulatory framework (district plan and regional plan).

950. UHCC [S34.0101] seek a definition of 'undeveloped state' as this is referred to in the definition of hydrological controls for greenfield and brownfield developments.

3.26.2 Analysis

951. I note the relief sought by Winstone Aggregates and PCC regarding additional definitions to provide clarity, consistent interpretation, and alignment with national direction. I agree with these submission points, and I have considered this throughout my analysis of submissions on the Freshwater topic and where relevant I have recommended additional definitions throughout this report.

952. Several submitters have requested relief in relation to the definition of hydrological controls. The remainder of this section of my report addresses this definition and the concerns raised by submitters.

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953. Hydrological controls manage stormwater flows and volumes to both control the amount of runoff from a site as well as managing the effects of contamination on freshwater ecosystem health.
954. At present, some territorial authorities in the Region, including WCC and PCC, require 'hydraulic neutrality' for new urban development. Hydraulic neutrality is a mechanism for addressing stormwater peak flowrates to reduce the risks of flooding downstream through the use of stormwater detention, where stormwater is held back in tanks or similar and released at a later stage, to ensure the risks of flooding are no greater in a developed state than the existing situation. Hydraulic neutrality therefore addresses water quantity but does not address the effects of stormwater runoff on water quality.
955. Mr Stu Farrant, Ecological Engineer, has previously provided evidence on behalf of the Council as part of the UHCC Intensification Planning Instrument hearing, and explains the purpose of hydrological controls as follows³⁴:

'Hydrological controls are measures which aim to match the predevelopment flowrates across the full spectrum of rainfall events. This requires measures to match the predevelopment amount or volume of runoff from a site which represents the natural 'loss' of water from evaporation and transpiration. This is typically termed retention and is increasingly required for new developments by councils across Aotearoa.

The widespread application of hydraulic neutrality without hydrological controls will result in ongoing and significant ecological degradation within freshwater streams.

Discharge of urban stormwater (regardless of whether hydraulic neutrality is achieved) without appropriate management of contaminants will contribute to reduced water quality. Contaminants (including heavy metals, sediments, nutrients, hydrocarbons and temperature) are generated by all impermeable surfaces and vary between and during rainfall events depending on duration of dry periods between rainfall, intensity of rainfall and landuse within catchment. Urban contaminants are both in dissolved and particulate form and are therefore readily transported to surface and ground water resources.'

956. For these reasons, the Council included policy direction in Change 1 in relation to hydrological controls, along with a definition of this term.
957. Submitters have not opposed the principle of hydrological controls but have raised concerns that the definition as notified does not meet the requirements of a definition in an RMA document, and instead reads as a rule or policy. As notified, Policy 14 and Policy FW.3 require regional and district plans to include 'hydrological controls' for the purposes

³⁴ Statement of Evidence of Stuart Farrant on behalf of Wellington Regional Council, Hearing of Submissions and Further Submissions on the Upper Hutt City Council Proposed Intensification Planning Instrument, 19 April 2023, pp 6-7, gwrc-stu-farrant-uhcc-evidence.pdf (upperhuttcity.com)

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of managing stormwater runoff quality and quantity and this is dependent on the notified definition of hydrological controls.

958. I agree with submitters who consider that the definition as notified does not meet the requirements of a definition. I agree with Wellington Water that this definition should be re-cast as a policy.
959. I also consider that the use of the term 'hydrological controls' (i.e. plural) is potentially misleading as it could be interpreted as referring to the mechanisms, or devices, that should be applied to achieve the outcome that is sought. This is not the intention. The purpose is to control the hydrology of the site(s) in order to manage stormwater runoff and volume and subsequent impacts on freshwater ecosystem health – it is about management rather than methods. As such, I recommend a change to the singular 'hydrological control' to provide clarity that the focus is one of management rather than the devices or mechanisms.
960. I also recommend inserting a new policy in Change 1 that directs regional plans to require hydrological control of development sites, and that this policy include similar content to that of the notified definition. I have previously recommended (in section 3.11.2 of this report) the deletion of the requirement in clause (j) of Policy 14, which directs regional plans to include provisions that require hydrological controls in urban development on the basis that this will be addressed through a recommended new policy.
961. I note that as notified, Change 1 required both regional and district plans to include requirements for hydrological controls through Policy 14 and Policy FW.3 respectively. However, as the primary purpose of hydrological control is to manage the effects of stormwater runoff on freshwater ecosystem health, in my opinion these requirements should be located in the regional plan through appropriate provisions to manage urban development. I understand that such provisions are being developed as part of the upcoming Plan Change 1 to the NRP. As such, I am recommending that the new policy apply only to regional plans.
962. Hydraulic neutrality will still be required through district plans, and I have made a recommendation to add this requirement to Policy FW.3, as outlined in paragraph 471.
963. As I am recommending the content of the notified definition of hydrological controls be moved into a new policy, I recommend including a new definition of 'hydrological control' describing the environmental outcomes that are sought, as follows:

Hydrological control: means the management of a range of stormwater flows and volumes, and the frequency/timing of those flows and volumes, from a site or sites into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, scour, to protect freshwater ecosystem health and well-being.

964. I also agree with UHCC that there should be a definition of 'undeveloped state'. This term has recently been the subject of submissions on the Three Waters Chapter for the WCC Proposed District Plan. The reporting officer for that topic noted that informal and without prejudice discussions had occurred between WCC, the Council, and Wellington Water to determine an appropriate definition, which included considering matters of regional

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consistency and to ensure that the implementation of the modelling required by the definition is feasible. The definition recommended by the WCC reporting officer is as follows:

Undeveloped state: The modelled grassed (pastoral or urban open space) state of the site prior to urban development.

965. I consider that this definition should be adopted in the RPS to provide clarity for those implementing requirements relating to hydrological controls. I therefore recommend including the above definition of 'undeveloped state' in Change 1.
966. In relation to the concerns raised by Wellington Water about the use of 'annual volumes' rather than 'annual peaks' in the definition of hydrological controls, I do not consider that any further amendments are required. I have discussed these matters with Council officers and Mr Farrant. My understanding is that the reference to 'mean annual volumes' rather than 'annual peaks' is a simpler approach which matches mean annual volumes and the frequency of larger 2-year events. This can only be achieved through retention to mimic natural evapotranspiration and infiltration.
967. In relation to Wellington Water's request for a specific target for the practicability test for brownfield and infill developments, I agree that this requirement should be more specific, however I do not consider there is a need for a specific numeric target. Instead, I consider that this reference should be clarified by using the more directive 'minimise' so that the direction is to reduce the effect to the smallest amount possible. I am recommending elsewhere in this report to include the NRP definition of 'minimise' in the RPS which will assist in ensuring a consistent approach to this assessment.
968. Wellington Water have also sought clarification about whether the required modelling is based on an undeveloped state or the surrounding catchment also being an undeveloped state. The intent is that the modelling applies to a specific site, or area of urban development, rather than the wider catchment. I consider this clarification is provided through the inclusion of a definition of 'undeveloped state' which refers to the specific site of development.
969. Wellington Water have also sought clarification about the difference between clauses (a) and (b) of the definition. My understanding is that these clauses relate to two different metrics where clause (a) requires maintenance of a stable stream structure, through avoiding the effects of frequent smaller events and clause (b) relates to reducing the frequency of more erosive larger flows.
970. I note that the requirement to achieve hydrological control in the regional plan and requirements to achieve hydraulic neutrality in district plans may create an overlap between the requirements of the two plans and ultimately the solutions that are required to achieve both. To assist plan users and those undertaking urban development where these devices will be required, I recommend a new method is added to the RPS that directs the development of technical guidance on these stormwater management techniques. I consider that such guidance is necessary in this relatively new area of resource management in the Region. While this is not within the scope of submissions on this topic, I

note the FHP can make recommendations that go beyond the scope of submissions on the relevant provisions.

3.26.3 Section 32AA Evaluation

971. In accordance with section 32AA of the RMA, I consider the amendments I am recommending to the definition of 'Hydrological controls' along with my recommended new policy relating to 'Hydrological control' and definition of 'undeveloped state' are the most appropriate way, for the following reasons:

- The notified definition reads as a direction or requirement that is better expressed in a policy. This is an efficient and effective way to ensure that hydrological controls are included in regional plans to manage stormwater runoff from urban development sites.
- The inclusion of a new definition of hydrological control provides greater clarity about its purpose but provides sufficient flexibility for a range of different devices to be used to achieve the outcome sought by the new policy.
- The inclusion of a definition of 'undeveloped state' provides clarity and consistency of implementation.

3.26.4 Recommendations

972. I recommend the following new policy be added to the RPS:

Regional plans shall include policies, rules and/or methods for urban development that require hydrological control to avoid adverse effects of runoff quality and quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows. Hydrological control must be set for greenfield, brownfield, and infill development as follows:

- (a) For greenfield development:
- the modelled mean annual runoff volume generated by the fully developed area must not exceed the mean annual runoff volume modelled from the site in an undeveloped state
 - the modelled mean annual exceedance frequency of the 2-year Average Recurrence Interval (ARI) so-called 'channel forming' (or 'bankfull') flow for the point where the fully developed area discharges to a stream must not exceed the mean annual exceedance frequency modelled for the same site and flow event arising from the area in an undeveloped state.
- (b) For brownfield and infill development:
- the modelled mean annual runoff volume generated by the fully developed area must minimise any increase from the mean annual runoff volume modelled for the site in an undeveloped state, as far as practicable

- ii. the modelled mean annual exceedance frequency of the 2-year ARI so-called 'channel forming' (or 'bankfull') flow for the point where the fully developed area discharges to a stream, or stormwater network, shall be reduced to minimise any increase from the mean annual exceedance frequency modelled for the same site and flow event in an undeveloped state, as far as practicable.

Explanation

Policy XX requires regional plans to require hydrological control of urban development in order to manage water quantity and water quality as a result of stormwater runoff from impervious surfaces on a site. Hydrological control provides multiple benefits in terms of managing the frequency of small frequent runoff events that impact on stream resilience and freshwater ecosystem health, maintaining and improving water quality through diverting stormwater from streams as well as supporting resilience during and after intense rainfall events. Different requirements apply to greenfield and brownfield developments. Policy XX provides guidance about the outcomes that should be achieved from hydrological control, rather than the specific solutions that should be used. This approach enables solutions to be developed that are appropriate based on the characteristics of a particular area or site and supports flexibility and innovation.

973. I recommend that the definition of 'Hydrological controls' is amended as follows:

Hydrological control: means the management of a range of stormwater flows and volumes, and the frequency and timing of those flows and volumes, from a site or sites into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, or scour, to protect freshwater ecosystem health and well-being.

974. I recommend that a definition of 'undeveloped state' is included in the RPS as follows:

Undeveloped State: The modelled grassed (pastoral or urban open space) state of the site prior to urban development.

975. I recommend a new method is added to Chapter 4.5.2 Non-regulatory methods – information and guidance of the RPS as follows:

Method FW.X: Technical Guidance for Stormwater Management in Urban Development

Prepare technical guidance for stormwater management in urban development, in collaboration with territorial authorities and Wellington Water, that addresses hydrological control and hydraulic neutrality processes, methods, devices, and outcomes for application in the integrated planning and design of urban development.

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976. Accordingly, I recommend that the submissions and further submissions be accepted, accepted in part, or rejected as detailed in Appendix 2.

4.0 Conclusions

977. A wide range of submissions have been received in support of, partial support, in opposition or neutral to the provisions relating to Freshwater and Te Mana o te Wai in Change 1. A summary of these submissions and my responses to accept, accept in part, reject or make no recommendation to these submissions can be found in **Appendix 2**.

978. After considering all the submissions and reviewing all relevant statutory and non-statutory documents, I recommend that Change 1 should be amended as set out in **Appendix 1** of this report.

979. I consider the amended provisions will be efficient and effective in achieving the purpose of the RMA, the relevant objectives of Change 1 and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.

Recommendations:

I recommend that:

1. The Hearings Panel accept, accept in part, or reject submissions and associated further submissions as outlined in **Appendix 2** of this report.
2. Change 1 is amended in accordance with the changes recommended in **Appendix 1** of this report.