



Proposed Change 1 to the Regional Policy Statement for the Wellington Region
Hearing Stream 5 – Freshwater and Te Mana o te Wai, Wednesday 22 November 2023

1. Tēnā koutou katoa, tēnei te mihi atu ki a koutou katoa. Ko Melanie McCormick tēnei.
2. Good morning, Madam Chair, Commissioners, Staff Officers. My name is Melanie McCormick, I am a Senior Consultant from Te Kōnae Limited, and I have been engaged by Ngā Hapū o Ōtaki (NHoŌ) to provide the oral submission on Hearing Stream 5 (Freshwater and Te Mana o te Wai) to Proposed Regional Policy Statement Change 1.
3. Firstly, I appreciate where our further submission points have been supported by the Reporting Officer and where our relief sought has been included in the proposed drafting. Thank you.
4. NHoŌ, together with Ātiawa ki Whakarongotai and Ngāti Toa Rangatira (and the community representatives) are currently developing the Whaitua Kāpiti Implementation Plan. Where possible, I have sought to align my commentary with the available Whaitua Kāpiti commentary.
5. I will now provide comments on specific provisions or broad themes.
6. Please note that grey highlighted text indicates NHoŌ suggested amendment, red and blue underline or strikethrough are amendments suggested by the Reporting Officer.

Interim effects of provisions in absence of NPS-FM implementation

7. I am generally satisfied with the amendments made to provisions where, previously (as notified), there was a lack of clarity and direction regarding the interim effect in the absence of Whaitua / NPS-FM implementation. This ensures that environmental outcomes continue to be met, until such a time that catchment specific planning provisions are developed in accordance with the National Policy Statement for Freshwater Management (NPS-FM).
8. The exception to this general support is the proposed changes to Policy 41, as set out below.

Policy 41

9. I disagree with the Reporting Officer's recommendation to delete subclause (b) and (c) of Policy 41. Ms Pascall has agreed with the relief sought by HortNZ's submission in her Rebuttal Evidence, on the basis that:

“clauses (b) and (c) of Policy 41 are unnecessary and that Policy 41 should focus on situations where the regional plan has not yet set environmental outcomes, target attribute states, or limits. On this basis, I recommend deleting clause (b) and (c) of Policy 41.”

10. The effect of this deletion is a policy gap in the management of the effects of earthworks and vegetation clearance where target attributes have been established and where there is an absence of target attribute states. While I acknowledge and accept that the purpose Policy 15 is to require regional plans and district plans to manage the effects of earthworks and vegetation clearance through drafting policies, rules and/or methods, the purpose of Policy 41 is to set the policy direction on how those effects must be considered and managed (through a regional consent application) once the framework (i.e. target attribute states and other aspects of the NOF) are drafted.
11. By deleting subclause (b) and (c) there is no requirement for a regional resource consent application to consider the extent to which the proposed activity will meet the relevant environmental outcomes, target attribute states and limits once they have been established, despite any future direction on an regional plan.
12. *Relief sought: Reinstate the proposed wording of subclause (b) and (c) of Policy 41, provided in the Reporting Officers s42a report, Appendix 2:*

- (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.

Chapter introduction 3.4 – principles of Te Mana o te Wai

13. NHOŌ support in part the amendments made to the chapter introduction (3.4) that set out the hierarchy of obligations of the NPS-FM. NHOŌ request further amendment is made to include the six principles (i.e. mana whakahaere, kaitiakitanga, manaakitanga, governance, stewardship and care and respect) that encompass Te Mana o te Wai (as drafted in the NPS-FM). This inclusion complements the Reporting Officers amendment (at pg. 1 of Ms Pascall's Rebuttal Evidence Appendix Two, Appendix 2: Recommended Amendments to Provisions – Hearing Stream 5 – Freshwater and Te Mana o te Wai):

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.

14. I note that principles form an important part of Te Mana o te Wai and the implementation of the national direction on freshwater management. Further, the principles are particularly relevant to Whaitua Kāpiti and inform Objective 2, of the Whaitua Committee Te Mana o te Wai objectives which are publicly available here: <https://www.gw.govt.nz/environment/freshwater/protecting-the-waters-of-your-area/whaitua-kapiti/#objectives>. I note that NHOŌ are not requesting that these are inserted into the RPS Change 1 at this stage, rather I have provided this information to support my rationale for including the principles of Te Mana o te Wai from the NPS-FM.

15. Relief sought: Include the principles of the NPS-FM in the Chapter 3.4: Chapter Introduction as follows:

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 encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater and includes a hierarchy of obligations, as follows:

Te Mana o te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform this RPS and its implementation. The six principles are:

(a) Mana whakahaere: 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

(b) Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations

(c) Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others

(d) Governance: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future

(e) Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations, and

(f) Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

Objective 12

16. While I acknowledge the Reporting Officer's rationale for drafting a 'regionally-specific' objective for Te Mana o te Wai in the Wellington region, I am concerned that this process (i.e. the Reporting Officer drafting Objective 12) effectively represents the status-quo where mana whenua are not in partnership with the council to draft relevant provisions such as Objective 12.
17. I do not disagree with all the content of Objective 12 and note that some of the wording is drawn from mana whenua requested relief and relevant WIPs, however, further to my point above, using hearing processes to draft policy is burdensome for mana whenua, and not, in my view reflective of a Te Tiriti partnership and contrary to the national direction that provides for active involvement (section 3.2(2)(a) of the NPS-FM) and the principle mana whakahaere, which refers to 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 (section 1.3(4)(a) of the NPS-FM).
18. Further, as previously stated, Whaitua Kāpiti is in-train and therefore the Reporting Officer has not had the benefit of understanding the our local interpretation of Te Mana o te Wai, our aspirations (and issues) for the health and wellbeing of freshwater and the wider environment in the Kāpiti rohe to inform the redrafting of Objective 12. Therefore I am recommending amendments to the title of Objective 12 that reflects that Objective 12 is relevant to the completed Whaitua, being Ruamahanga and Te Whanganui-a-Tara.
19. On balance, I do not request that proposed version of Objective 12 is deleted or 'deferred' as this will delay the overall purpose of improving the health and wellbeing of freshwater and the wider environment, and flow-on effects to future plan changes. The timing and sequencing of Whaitua processes and scheduling of plan changes to give effect to the NPS-FM have resulted in a fragmented planning framework.
20. Rather, NHO support and request the relief sought provided by Ātiawa ki Whakarongotai in their Hearing Stream 5 presentation and talking points that seeks amendment to the heading of Chapter 12. I have included the suggested amendment from Ātiawa ki Whakarongotai below This recognises the completed statements on Te Mana o te Wai, and does not attempt to pre-empt the forthcoming statements.
21. *Relief sought:*
"Objective 12 – ~~Te Mana o te Wai in Ruamahanga, Te Whanganui-a-Tara~~ Te Mana o te Wai in the Wellington Region.
22. As noted in the presentation and talking points by Ātiawa ki Whakarongotai, NHO respectfully acknowledge that a Te Mana o te Wai objective must also be included for Te Awarua-a-Porirua. Recognising that this is a matter for Ngāti Toa Rangatira to identify, we have not presumed to identify the appropriate reference to Te Awarua-a-Porirua here as part of Objective 12

Consequential amendment to the relief sought in Object 12 to Chapter 3.4 – Chapter Introduction

23. NHO oppose the suggested amendments made by the Reporting Officer (upon legal advice) that seek to absolve the councils need to directly refer to the number of iwi / name iwi (mana whenua / tangata whenua) in the rohe. While I support that this plan change process is not the

appropriate platform to confirm or deny mana whenua status, it is important to note that the suggested wording is a departure from referring to the six iwi (mana whenua / tangata whenua) in the rohe, and could suggest that this matter is open to renegotiation.

24. NHOŌ consistently oppose the inclusion of Muaūpoko interests in the Wellington region, including Kāpiti. While Muaūpoko may have historical associations with Wellington and Kāpiti, these associations are recognised as historical only. NHOŌ refers to the evidence provided by Ngārongo Iwikatea Nicholson in support of Ngāti Toa Rangatira claim which were upheld and settled by the Crown, this evidence sets out the extinguishment of Muaūpoko rights in our rohe. From both a tikanga Māori perspective and a Crown law perspective, Muaūpoko do not hold mana whenua (including for the purpose of the Resource Management Act) in our rohe.
25. NHOŌ support and request the relief sought provided by Ātiawa ki Whakarongotai in their Hearing Stream 5 presentation and talking points that seeks amendment to Chapter 3.4: Chapter Introduction. I have included the suggested amendment from Ātiawa ki Whakarongotai below:
26. *Relief sought: Amend the note of Chapter 3.4 – Chapter Introduction as follows:*
Note: ~~There are six iwi wishing to express their meaning of Te Mana o Te Wai as part of this objective.~~ There are Three expressions of *Te Mana o Te Wai* have been included in the RPS at this time, from Rangitāne o Wairarapa, ~~and~~ Kahungunu ki Wairarapa, ~~and~~ Taranaki Whānui. ~~Others~~ Ngā Hapū Ōtaki, Te Ātiawa ki Whakarongotai and Ngāti Toa Rangatira are currently working within the Whaitua Kāpiti Te Tiriti Whare model to develop a collective expression of Te Mana o Te Wai. A further expression of Te Mana o te Wai from Ngāti Toa Rangatira (for Te Whanganui-a-Tara and Te Awarua-o-Porirua) ~~will be added either through the Schedule 1 process or in future plan change.~~
27. These changes are consequential to the requested changes to Objective 12. Also, under the Te Mana o te Wai principles, *mana whakahaere*, *kaitiakitanga* and *manaakitanga*, NHOŌ seek clear recognition of their engagement, alongside Ātiawa ki Whakarongotai, Ngāti Toa Rangatira and the community to develop a Whaitua Kāpiti expression of Te Mana o te Wai.

Appendix 5

28. At this stage, Ngā Hapū o Ōtaki do not wish to include expressions of Te Mana o te Wai, or other elements from the Whaitua Kāpiti Implementation Plan (yet to be finalised) within an appendix.
29. There are both practical and meaningful reasons for this. Firstly, it does not uphold the values, in particular the rangatiratanga of Ngā Hapū o Ōtaki. In my view, the approach suggested by the Reporting Officer does not recognise the mana of the kōrero. Secondly, while it may appear to be 'tidier' to fold the expressions into an appendix, I am concerned that appendices are, at times not fully engaged with by plan users. I do not think the intent of the NPS-FM in directing the involvement of tangata whenua was to have outcomes such as this.
30. I acknowledge the Reporting Officer's comments at para. 183 of the s42a report, that future plan changes will further give effect to Te Mana o te Wai statements, my interpretation of Ms Pascall's comments here, is that the mana whenua statements on Te Mana o te Wai are not the end goal,

rather the means / methods to meet the end goal. However, I am still of the view that an appendix is not the appropriate place for such expressions.

Policy FWXXB: Mana whenua / tangata whenua and Te Mana o te Wai – consideration

31. On the matter of ‘Policy FWXXB: Mana whenua/tangata whenua and Te Mana o te Wai – consideration’ I do not think ‘have regard to’ the mana whenua / tangata whenua Te Mana o te Wai statements is strong enough direction. In my view, ‘having regard to’ does not adequately reflect the intent of the NPS-FM and Te Mana o te Wai. The Regional Policy Statement should provide policy guidance that Te Mana o te Wai should be recognised and provided for through a resource consent processes, including at the whitua level.
32. Notwithstanding, my comments above (i.e. NHoŌ do not support any future expressions of Te Mana o te Wai to be included in an appendix), I think it is important to comment on the direction here on the consideration of Te Mana o te Wai and resource consents.
33. Future plan changes to give effect to the forthcoming Whitua Kāpiti Implementation Plan should fully incorporate expressions and statements as objectives, policies and rules in the planning framework.

Whaitua, Freshwater Management Units and Catchments

34. There appears to be misunderstanding of the interpretation and use of whitua, in particular through Policy 12. For Whitua Kāpiti, the word, whitua refers to geographical extent for the purposes of undertaking the work programme to implement the NPS-FM. The geographical extent reflects Kāpiti Coast District Council boundaries. It does not represent a catchment or a ‘supercatchment’.
35. Freshwater Management Units (**FMUs**) are the spatial extent within which values and outcomes will be applied and targets and limits set. In this context, the Kāpiti Whitua (as it is referred to in subclause (i) Policy 12) is not an FMU, rather it is a whitua with the meaning in my paragraph 34 above.
36. Therefore, I suggest further drafting is required to correct the way whitua and FMUs are referred to in Policy 12 (ca) as follows:

37. *Relief sought:*

“(ca) identify FMU or part of an FMUs that require specific management within the FMUs whitua identified in clause (c), in partnership with mana whenua/tangata whenua, and for each FMU or part of an FMU:...

38. Also relevant, to this matter is to note that NHoŌ support the amendments by Ātiawa to Chapter 3.4 – Chapter Introduction below, that are consistent with my suggestions and rationale above (para. 34-35). For convenience I have included the amendment made by Ātiawa ki Whakarongotai in their presentation and speaking notes below:

39. *Relief sought:*

Since 2018, There are five whitua (areas) in total being...

and

(c) manage freshwater through the following whitua 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~~