

**Hearing Statement of Kate Pascall – RPS Proposed Change 1 – Hearing Stream 5:
Freshwater and Te Mana o te Wai**

Monday 20 November 2023

1. Tēnā koutou katoa, Chair Nightingale and members of the hearing panel. My name is Kate Pascall and I am the author of the 'Freshwater and Te Mana o te Wai' section 42A report for Hearing Stream 5. I am a Senior Environmental Planner with GHD Limited, and I have been contracted by the Council as the reporting officer for this topic. My qualifications and experience are set out in my section 42A report.
2. The scope of my report was the submission points relating to amendments to Chapter 3.4 (Freshwater including public access) of the RPS, Objective 12 and associated policies, methods, definitions and Anticipated Environmental Results. These provisions were all notified under the Freshwater Planning Process of the RMA.
3. The Council received 633 submission points and 626 further submission points on the provisions relating to this topic. I have recommended a number of amendments to the provisions based on these submissions in my section 42A report and further amendments through my rebuttal evidence in response to the evidence of submitters.
4. I am joined this morning by Mr Stu Farrant, Ecological Engineer, who has provided primary and rebuttal evidence of a technical nature for this hearing stream in relation to hydrological control. Mr Farrant will also provide a summary statement shortly and is available to answer questions from the Panel.
5. I understand that my section 42A report and all submissions and evidence will be taken as read, and as such this opening statement is limited to providing a summary of the key recommendations I have made.

Objective 12 and Mana Whenua/Tangata Whenua Statements of Te Mana o te Wai

6. One of the more significant amendments I am recommending is to Objective 12 which sets out how the concept of Te Mana o te Wai applies in the regional context. As notified, Objective 12 repeated the NPS-FM content and included two Statements of Mana Whenua/Tangata Whenua Expressions of Te Mana o te Wai, being Rangitāne o Wairarapa and Kahunugnu ki Wairarapa. The Statements are included within the body of Chapter 3.4 as notified.
7. A number of submitters were concerned that proposed Objective 12 repeated the content of NPS-FM rather than providing regional context. I agree with these submitters, and I have recommended a replacement objective, drawing on the mana whenua/tangata whenua statements and the common themes from the Whaitua Implementation Programmes ('WIPs') completed to date. I have recommended further amendments through my rebuttal evidence in response to evidence from Rangitāne and others which I consider ensure the objective better reflects the values and aspirations for freshwater in the region.
8. Submitters also raised concerns about how the mana whenua/tangata whenua statements of Te Mana o te Wai should be implemented relevant to the substantive RPS objectives and policies, because the statements use the same types of provisions as the RPS, such as 'objectives' or 'policies'. Submitters were concerned that this created confusion and I agree with those concerns. To resolve this issue, I have recommended two new policies specific to the statements which provide clearer direction about how the statements should be applied, and I have also recommended relocating the statements to a new appendix. I note that Rangitāne have suggested further amendments to these policies through evidence, which I have responded to in my rebuttal evidence.

Freshwater Visions

9. The absence of long-term freshwater visions in Change 1 was noted by a number of submitters, with the Council providing two visions in their own submission for Whaituag Te

Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua. Clause 3.3 of the NPS-FM requires the inclusion of long-term freshwater visions as objectives in the RPS for each freshwater management unit or part freshwater management unit.

10. The freshwater visions are important for implementing the National Objectives Framework (the NOF), which requires the setting of environmental outcomes for freshwater, freshwater values, and target attribute states (amongst other things) in regional plans.
11. The Council has recently notified Variation 1 to Proposed Change 1 to include visions for Te Whanganui-a-Tara and Te Awarua-o-Porirua. The notification of this variation provides a statutory line of sight to the recently notified Plan Change 1 to the Natural Resources Plan, where the Council has commenced its implementation of the NPS-FM for these two whaitua.
12. I have recommended not including visions put forward through submissions given the variation is now in train. I acknowledge that the visions proposed in Variation 1 are limited to two whaitua only. However, I consider further work and engagement with mana whenua and the community on the remaining freshwater visions should be undertaken prior to including them in the RPS. On this basis, I recommended rejecting these submissions in my section 42A report and provided further commentary in response to this matter in my rebuttal evidence.

Urban development effects on freshwater

13. A large number of submissions and further submissions were received on Policy 14, Policy FW.3 and Policy 42 which manage the effects of urban development on freshwater. Policy 14 directs the content of regional plans in relation to urban development while Policy FW.3 directs district plans. Policy 42 is a consideration policy that applies to regional resource consents relating to urban development that affects freshwater.

14. These policies were of particular interest to territorial authorities, the development industry, mana whenua/tangata whenua, and Wellington Water.
15. A key area of concern was the apparent duplication presented by the notified versions of Policy 14 and Policy FW.3, with several territorial authorities concerned that, as notified, Policy FW.3 would require them to undertake functions of the regional council under section 30 of the RMA. I agree with these concerns in part and recommended amendments to some clauses in both policies to address this. I have also provided further commentary in my rebuttal evidence around the remaining areas of concern raised by some submitters in their evidence. However, generally I am comfortable with my section 42A recommendations and have not recommended further amendments in relation to potential duplication, with the exception of clause (h) of Policy 14.
16. Other concerns raised in submissions in relation to the urban development policies included providing clarity about the intent of some clauses, providing either stronger or less directive policy direction, and the application of these policies to the coastal marine area.
17. Through my rebuttal evidence, I have recommended further amendments to Policy 14 to provide clarity about the role of the regional council in managing the design and location of urban development in relation to freshwater, clarifying the policy direction in relation to the application of water sensitive design in managing contaminants in stormwater runoff, and providing a consenting pathway for urban development in relation to natural inland wetlands to align with clause 3.22(1)(c) of the NPS-FM. I have also recommended additional minor amendments to Policy FW.3, such as the reinstatement of 'gully heads' to clause (k), and a new clause requiring district plans to identify aquifers and drinking water sources and to provide information about how urban development in these areas is managed through the Natural Resources Plan.

Policy 15

18. Policy 15 manages the effects of earthworks and vegetation clearance, specifically erosion and sediment runoff. This policy applies on a general basis in the RPS and is not specific to freshwater. It also applies to both regional and district plans. Change 1 proposes amendments to this policy to include reference to target attribute states and deleting the reference to minimizing erosion and silt and sediment runoff.
19. Concerns raised in submissions included the proposed amendments requiring district plans to ensure target attribute states are achieved, the extent of the amendments such as the deletion of reference to minimizing erosion, and the potential gap created by the amendments in the intervening period between Change 1 becoming operative and target attribute states being set.
20. In response to these submissions, I have recommended significant amendment to the notified version of Policy 15 to make it clear what regional and district plans must manage respectively and to reinstate the requirement to minimise erosion. I have also included a clause which provides clarity about what is required where target attribute states have not been set. Through rebuttal I have also recommend further amendments to make it clear that both regional and district plans manage earthworks.

Policy 18

21. Policy 18 sets out the matters that must be addressed in regional plans to manage the health and wellbeing of waterbodies and freshwater ecosystem health. The policy is in the Operative RPS and Change 1 proposes amendments to give effect to the NPS-FM.
22. Submitters concerns about the notified amendments to Policy 18 included drafting clarity, giving effect to national direction, and the strength of the policy direction. I have

recommended drafting amendments in my section 42A report to address the concerns raised by submitters.

23. Further evidence was provided by submitters seeking further amendments to Policy 18. This includes a request from Winstone Aggregates to include a consenting pathway for aggregate and mineral extraction activities, along with other activities, in line with clauses 3.22 and 3.24 of the NPS-FM. As noted in my rebuttal evidence, I consider the amendments suggested by Winstone Aggregates are outside the scope of Change 1 and I have not recommended inclusion of these consenting pathways in Policy 18 on this basis.

Hydrological control

24. Change 1 as notified proposed the inclusion of requirements in Policy 14 and Policy FW.3 for regional and district plans to include requirements for hydrological controls in urban development. This is supported by a new definition of 'hydrological controls' which sets out in some detail what must be achieved. Submitters were not opposed to the concept of hydrological controls, but questioned the content of the definition and whether this should be a policy rather than a definition.
25. I agree with these submitters, and I have recommended a new policy that recasts the content in the definition as a policy. I have also recommended a slight change in terminology, from the plural 'hydrological controls' to the singular 'hydrological control' to change the focus from the methods and devices to the outcome that is sought from the management of stormwater management in urban development. In addition, I have recommended a revised definition of 'hydrological control' and supporting definition of 'undeveloped state'. I have also recommended that these requirements apply to the regional plan only.

26. Mr Farrant has also provided primary and rebuttal evidence on this matter which sets out in some detail the technical aspects of hydrological control and how it differs from hydraulic neutrality, and the importance of this for freshwater ecosystem health.
27. Through my rebuttal evidence, I have recommended further amendments to the policy and the associated definitions in response to concerns raised by some submitters in their evidence and the advice of Mr Farrant.

General issues, definitions etc

28. The remaining submissions relating to the freshwater topic are largely of a general nature or seek drafting clarity. In many cases I have agreed with the relief sought in these submissions and I have recommended amendments accordingly. I have also recommended the addition of several definitions to either support terms that were included in the notified version, but without definitions, or terms that I am recommending for inclusion through my amendments.
29. I am happy to answer any questions the Panel has in relation to this statement or my evidence.