

Before the Hearings Commissioners

Under the Resource Management Act 1991 (the **RMA**)

In the matter of a submission by Waka Kotahi NZ Transport Agency
(Submitter S129 and Further Submission FS3) on Plan
Change 1, Hearing Stream 5.

and in the matter of Wellington Regional Policy Statement

**Primary statement of evidence of Catherine Lynda Heppelthwaite for
Waka Kotahi regarding Plan Change 1, Hearing Stream 5 on the
Wellington Regional Policy Statement**

Dated 3 November 2023

1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

- 1.0 My full name is Catherine Lynda Heppelthwaite. I am a principal planner for Eclipse Group Limited. I am presenting this planning evidence on behalf of Waka Kotahi New Zealand Transport Agency (**Waka Kotahi**).
- 1.1 I hold a Bachelor Degree in Resource Studies obtained from Lincoln University in 1993. I am a full member of the New Zealand Planning Institute, a member of the Resource Management Law Association and the Acoustical Society of New Zealand. I have more than 25 years' experience within the planning and resource management field which has included work for local authorities, central government agencies, private companies and private individuals. Currently, I am practicing as an independent consultant planner and have done so for the past 18 years.
- 1.2 I have extensive experience with preparing submissions and assessing district and regional plan and policy statements in relation to infrastructure. I am currently assisting Waka Kotahi and KiwiRail in relation to planning processes for the NPSUD and MDRS and other plan changes including Whangarei District Plan Change 1, Natural Hazards.

2 CODE OF CONDUCT

- 2.0 I have read the Environment Court's Code of Conduct for Expert Witnesses (2023) and I agree to comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my areas of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

3 SCOPE OF EVIDENCE

- 3.0 My evidence will address the following:
- a. The statutory and higher order planning framework;
 - b. Waka Kotahi submissions and further submissions;
 - c. Council's s42A recommendations and evidence; and
 - d. Further amendments required.

3.1 In preparing my evidence, I have considered the RMA Hearings Panel Report for Hearing Stream 5 (**42A Report**) on Freshwater/Te Mana o te Wai prepared by Ms Kate Pascall¹.

4 THE STATUTORY AND HIGHER ORDER PLANNING FRAMEWORK

4.0 In preparing this evidence I have specifically considered the following:

- a. The purpose and principles of the RMA (sections 5-8);
- b. Provisions of the RMA relevant to plan-making and consenting;
- c. National Policy Statement Freshwater 2020 (updated February 2023);
- d. Resource Management (National Environmental Standards for Freshwater) Regulations 2020;
- e. National Policy Statement on Urban Development 2020; and
- f. New Zealand Coastal Policy Statement 2010;

4.1 In addition, the S42A Report contains a clear description of the relevant statutory provisions² with which I generally agree or accept and will not repeat here.

¹ Dated 20 October 2023.

² For example Sections 2.1 and 2.2 of the s42A Report.

5 WAKA KOTAHI SUBMISSIONS AND FURTHER SUBMISSIONS

5.0 In summary, the Waka Kotahi primary submission seeks to:

- a. support provision of direction to territorial authorities to receive Financial Contributions to manage actual effects in **Policy FW.4**³;
- b. support in part **Policy 45 (Table 4)** and seeks to clarify what ‘efficiently’ means in relation to water use and to ensure the functional and operational needs of infrastructure are recognised and provided for⁴; and
- c. support **Method FW.2** as notified⁵.

5.1 Waka Kotahi also made the following further submissions:

- a. opposed⁶ Royal Forest and Bird Protection Society of New Zealand Inc (**F&B**)⁷ submission which sought a new **overarching vision** to apply to all FMUs in Greater Wellington;
- b. for **Policy 14**:
 - i. supports⁸ in part BP Oil NZ Ltd, Mobil Oil Ltd and Z Energy Ltd (**the Oil Companies**) amendments to Policy 14 (e)⁹ and (j)¹⁰; and
 - ii. support¹¹ Kainga Ora¹² amendments to Policy (i).
- c. for **Policy 18**:
 - i. support¹³ for Dr Sarah Kerkin¹⁴ to either make the restoration of wetlands a non-regulatory method; or amend the policy so the requirement to restore only applies to natural wetlands and not to areas like the peatland that have been so degraded they have ceased to be natural wetlands;

³ Submission S129.019.

⁴ Submission S129.020.

⁵ Submission S129.040.

⁶ FS3.013.

⁷ Submission 165.019.

⁸ FS3.019 and FS3.020.

⁹ Submission S157.026.

¹⁰ Submission S157.030.

¹¹ FS3.021.

¹² Submission S158.019.

¹³ FS3.022.

¹⁴ Submission S96.014.

- ii. support¹⁵ Horticulture New Zealand (**HortNZ**)¹⁶ who seek to amend (e) avoiding the loss of river extent and values to the extent practicable;
 - iii. support Director-General of Conservation (**DOC**)¹⁷ who seek amendment to (r) restoring and maintaining fish passage;
 - iv. oppose F&B¹⁸ who seek remove coastal wetlands from clause (c) and include a new policy specifically for coastal wetlands, also seeks amendments to clauses (i), (j) and (k), clauses (n)-(q) and clause (r);
- d. Support¹⁹ the Oil Companies²⁰ with an amendment to **Policy FW.3** clause (m) require hydrological controls to ~~avoid~~ reduce adverse effects of runoff quantity (flows and volumes) ~~and maintain, to the extent practicable, natural stream flows~~;
- e. Support²¹ Powerco Limited²² proposing an amendment to **Policy 40** to recognise that enhancement of waterbodies and freshwater ecosystems may not be necessary or practicable in all cases and that the policy focus is on the quality of fresh water rather than coastal water;
- f. Support Meridian Energy Limited²³ who propose to restore the operative wording to **Policy 41**; [submitter 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*²⁴.
- g. For **Policy 42**:
- i. Support²⁵ the Oil Companies²⁶ amendment to (g) which seeks clarify that the policies applies also to exceedances; and

¹⁵ FS3.024.

¹⁶ Submission S128.032.

¹⁷ Submission S32.031.

¹⁸ Submission S165.052.

¹⁹ FS3.026.

²⁰ Submission S157.034.

²¹ FS3.037.

²² Submission S134.015.

²³ Submission S100.020.

²⁴ S42A Report, paragraph 466.

²⁵ FS3.025.

²⁶ Submission S157.035.

- ii. Support²⁷ the Oil Companies²⁸ who seek an amendment to Policy 42(k) to utilise “reduce” rather than “avoid”.

5.2 The S42A Author addresses the Waka Kotahi submissions with the following recommendations:

- a. I agree with the Ms Pascall²⁹ that **Policy FW.4** (financial contributions) should be deleted for the reasons she has identified i.e. there are existing funding tools and deletion will retain flexibility for territorial authorities.
- b. The submission on **Policy 45** is considered to be out of scope³⁰. I have checked the notified version of PC1 and agree with Ms Pascall.
- c. For **Method FW.2**, changes are proposed to clarify that where regional and district consents for urban development and regionally significant infrastructure that relate to freshwater are both publicly notified, they will be jointly processed. The changes proposed better clarify the Method and I support their inclusion. Joint processing should result in more consistent environmental outcomes.

5.3 Responses to further submissions include:

- h. F&B sought to include **long-term visions for freshwater as objectives** in the RPS (consistent with Clause 3.3(1) of the NPS-FM). I agree with Ms Pascall’s analysis³¹ that the notification of Variation 1 and its two objectives have effectively ‘overtaken’ a range of submission points (on Plan Change 1) and that this matter is now best addressed as part of Variation 1.
- i. A range of changes are proposed for **Policy 14** (which applies to *urban development*). Regionally significant infrastructure is not within the ambit of this policy and in this regard, I have not addressed the detail of the changes further.
- j. for **Policy 18**:

²⁷ FS3.040.

²⁸ Submission S157.039.

²⁹ S42A Report, paragraph 770.

³⁰ S42A Report, paragraph 128.

³¹ S42A Report, Section 3.7.2.

- i. In relation to clause (c), I agree with Ms Pascall that NPS-FM Policy 6 requires *no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted*. It is not however clear to me why coastal wetlands have also been included in this provision and I do not support this.
 - ii. Ms Pascall has accepted the DOC submission relating to clause (r) restoring and maintaining fish passage by including “where appropriate”. I agree with the DOC that fish passage may not be appropriate where it allows predator species into some waterways.
 - iii. I support³² inclusion of the extent practicable at the end of (e) as it reflects NPS-FM Policy 7.
- k. **Policy FW.3** clause (m) (hydrological controls) has been deleted outright this removing the concern of the use of “avoid”.

Amendments to **Policy 40** are proposed. I support the change in (a) and (b) from ‘require’ to ‘manage’; this better reflects the ‘have regard to’ chapeau clause. Refinements to (f) and (h) improve clarity and new provision (o) to (r) reflect the NPS-FM Policies 6 to 10. References to coastal marine area and marine ecosystems have also been removed. These changes improve Policy 40.

- l. Changes to **Policy 41** are proposed which propose to manage effects of earthworks/vegetation removal so they minimise erosion, achieve FMU outcomes (where set) and minimise where there are no FMU outcomes. I support the amendments as they provide for minimisation of erosion then a tailored response depending on the presence of FMU outcomes. I also support the updates to the *Explanation* which acknowledges that it may not be possible to avoid all effects in all cases.
- m. For **Policy 42** amendments have been made to (g)³³ to better reflect regional plan ‘limits’ and to (k) to remove “avoid”. I agree with the amendments which improve clarity and policy implementation.

³² S42A Report, paragraph 660.

³³ S42A paragraph 395.

6 CONCLUSION

6.0 In conclusion, I generally accept the reasons for and support the amended provisions put forward by Ms Pascall.

Cath Heppelthwaite
3 November 2023