

**Before the Independent Hearings Panel
At Greater Wellington Regional Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Proposed Change 1 to the Regional Policy Statement for the Wellington region

Hearing topic Freshwater

**Joint statement of planning evidence of Joe Jeffries and Maggie Cook on
behalf of Wellington City Council**

Date: 3 November 2023

INTRODUCTION:

- 1 My full name is Joseph Francis Jeffries. I am employed as a Principal Planner by Wellington City Council (WCC) and my name is Margaret (Maggie) Findlay Cook, I am employed as a Senior Planning Advisor at Wellington City Council.
- 2 We have prepared this joint statement of evidence on behalf of WCC to provide planning evidence on matters relevant to WCC's submission to Greater Wellington Regional Council's (GWRC) Proposed Change 1 (PC1) to the Regional Policy Statement for the Wellington Region (RPS).
- 3 Specifically, this statement of evidence relates to matters being considered under the Freshwater Planning Process.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

Joe Jeffries

- 4 I hold the qualifications of Master of Planning Practice (Hons) from the University of Auckland, and Bachelor of Arts from the University of Otago.
- 5 I have over 11 years of experience in planning policy and have provided evidence as an expert planning witness on behalf of councils, central government, and private sector clients throughout New Zealand.
- 6 I joined WCC as a Principal Planner in 2023. Prior to my current position I was employed as a planning consultant with Barker and Associates between 2021 and 2023. In that role:
 - 6.1 I provided expert evidence on behalf of Kāinga Ora on the Proposed Selwyn District Plan on the natural hazards, commercial and mixed use, residential zones, and rezoning topics.

- 6.2 I provided expert evidence on behalf of Stride Investment Management Limited, Oyster Management Limited, Argosy 2 Property No 1 Limited, and Precinct Properties New Zealand Limited on the Wellington City Proposed District Plan (PDP), and on Hutt City Council's intensification plan change PC56.
- 6.3 I was the project manager for the preparation of the Napier Hastings Future Development Strategy.
- 7 I was employed as a Senior Policy Planner at Hutt City Council (HCC) between 2017 and 2021. I was HCC's lead planner on Plan Change 43 – a full review of the Residential Chapter of the District Plan. This included preparing the s42a report, acting as the reporting planner through the hearings, and leading Environment Court mediation for Council. I also worked on the early stages of the development of the Hutt City District Plan Review including the response to the National Policy Statement on Urban Development 2020 (NPS-UD).
- 8 I worked as a Policy Planner for Auckland Council between 2012 and 2017. In this position, I gave evidence as an expert witness on the Auckland Unitary Plan on the Precincts and Rural Urban Boundary topics.

Maggie Cook

- 9 I hold the qualification of a Bachelor of Environmental Planning with a specialised major in Freshwater science from Waikato University. I am a Graduate Member of the New Zealand Planning Institute.
- 10 I have five years' experience in planning and resource management. I have previous experience in both policy and resource consents with roles at Napier City Council and Environment Canterbury. In my current and previous roles I have:

- 10.1 Been directly involved in drafting the original submission and further submission on Change 1 to the RPS on behalf of WCC;
 - 10.2 Acted as reporting officer for the WCC Proposed District Plan Three Waters hearing;
 - 10.3 Been subject matter expert for Freshwater Consents and case law for the Canterbury Region; and
 - 10.4 Helped develop best practise guidance for the implementation of the National Policy Statement for Freshwater Management 2020 in the Canterbury Region.
- 11 We confirm that we are continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

CODE OF CONDUCT

- 12 While this is a local authority hearing, we have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. We have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the Hearings Panel. My qualifications as an expert are set out above. Except where we state we rely on the evidence of another person, we confirm that the issues addressed in this statement of evidence are 3 within my area of expertise, and we have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

SCOPE OF EVIDENCE

- 13 Our statement of evidence addresses the following matters:

- a. New Policy: Hydrological Control
- b. New Definition: Hydrological Control
- c. Policy 14
- d. Policy FW.6
- e. Policy FW.2

14 In preparing my evidence, we have reviewed the s42A report, s32 evaluation, and the technical evidence provided by Stu Farrant.

OVERVIEW

15 While we generally support the intent of RPS PC1 in giving effect to the NPS-FM, we have a number of concerns, particularly the significant overlap in the function and responsibility for managing land use and urban development.

HYDROLOGICAL CONTROL

16 The WCC submission generally supports the concept of on-site stormwater management. However, we do not support the proposed policy (Policy FW.X Hydrological Control for urban development – regional plans) in its current form as set out in the s42a report, specifically the direction for hydrological controls to be given effect to by the Regional Plan and the removal of the requirement from District Plans.

17 In particular, our concern with the proposed policy (Policy FW.X Hydrological Control for urban development – regional plans) is that it requires hydrological control provisions to be included in Regional Plans that apply to greenfield, brownfield, and infill development, without any exclusions for development connected to existing stormwater networks.

18 While we have concerns with the concept of hydrological control as formulated in the s42a report, we consider that if hydrological control is

to be required it is more appropriate for this to be managed by the District Plan when use, subdivision or development is connected to the local stormwater network. This allows for WCC to carry out its functions set out under s31 of the RMA, to manage local three waters infrastructure and to give effect to the NPS-FM 2020.

- 19 While Regional Councils can utilise land use controls to manage water quality (as set out under s9 of the RMA), these statutory powers are generally used to manage non-point source contaminants (e.g., land use consents for farming activities to manage the leaching of nitrogen and phosphorus into waterways). However, when a development is connected to a stormwater management network, the stormwater runoff from the site enters the piped stormwater network and is eventually discharged into a receiving waterbody. This discharge¹ is typically consented by Regional Councils, as it is more appropriate for water quality targets to be enforced through stormwater consent conditions and associated stormwater management strategies.
- 20 Therefore, the proposed requirement for land use consent for hydrological controls in the regional plan requires two consenting processes to manage the same discharge when development is connected to a stormwater network.
- 21 The WCC Proposed District Plan requires land use, subdivision and development to achieve hydraulic neutrality with respect to stormwater runoff comparable to an undeveloped greenfield state through on-site stormwater management methods. The intent of the hydraulic neutrality provisions in the PDP is to mitigate potential adverse effects of flood hazards, potential adverse effects on the existing stormwater network and to give effect to sections 3.5(4) of the NPS-FM. Section 3.5(4) of the NPS-FM sets out requirements for territorial authorities to manage the adverse effects of urban development on the health and

¹ As set out in section 15 of the RMA.

wellbeing of water bodies, freshwater ecosystems and receiving environments.

22 As set out in Mr Farrant’s evidence², the main difference between hydraulic neutrality and hydrological control is the type of on-site management proposed for stormwater runoff and volumes. In our view, relying on the evidence of Mr Farrant, the key differences between hydraulic neutrality and hydrological control can be summarised as follows:

Hydraulic Neutrality	Hydrological Control
Intent: Stormwater peak flow reduction	Intent: Stormwater volume reduction
Solution: On-site stormwater management solution	Solution: On-site stormwater management solution
Detention: Range of on-site solutions including rain tanks that temporarily store runoff from roofs, slowly releasing this water back into the stormwater network over a longer duration ³ .	Retention: Retention is typically achieved through either capture and reuse of rainwater/stormwater from impervious surfaces or the capture and controlled infiltration of rainwater/stormwater ⁴ .

23 Additionally, this framework has not taken into consideration the building consent requirements associated with hydrological control solutions, including rain tanks that connect to the associated dwelling for non-potable water use as set out in paragraph 56 Mr Farrant’s evidence⁵.

² <https://www.gw.govt.nz/assets/Documents/2023/10/HS5-GWRC-Technical-Evidence-Stu-Farrant-271023.pdf>

³ <https://www.wellingtonwater.co.nz/assets/Resources/Developing/Managing-Stormwater-Runoff.pdf?file-size=1.3+MB&file-type=pdf>

⁴ <https://www.gw.govt.nz/assets/Documents/2023/10/HS5-GWRC-Technical-Evidence-Stu-Farrant-271023.pdf>

⁵ <https://www.gw.govt.nz/assets/Documents/2023/10/HS5-GWRC-Technical-Evidence-Stu-Farrant-271023.pdf>

24 Therefore, under the proposed RPS policy framework, a typical development that connects to the stormwater network in Wellington City would require the following authorisations for stormwater:

<u>Consenting requirement for connecting to Local stormwater network</u>	<u>Consenting Authority</u>
Connection to the three waters network (including stormwater) ⁶	Territorial Authority
On-site stormwater management solutions (Water sensitive urban design and Hydraulic Neutrality) ⁷	Territorial Authority
On-site stormwater management solutions (hydrological control) ⁸ and building consent ⁹	Regional Council and Territorial Authority

25 The proposed RPS framework would require developers to implement on-site stormwater management but from two separate consenting authorities, therefore duplicating regulatory functions. As such we consider that the framework proposed is unnecessarily complex, onerous and cost prohibitive without appropriate justification as to how this will improve environmental and other resource management outcomes.

26 Therefore, we recommend that the hydrological controls policy is amended to be a requirement of the district plan only. The regional council's involvement with this matter should be through the

⁶ Rule THW-R1 and THW-R2 of the WCC PDP

⁷ Rule THW-R4, THW-R5 and THW-R5 of the WCC PDP

⁸ Rule WH.R5 and P.R5 of GWRC Natural Resource Plan proposed plan change one

⁹ <https://www.aucklandcouncil.govt.nz/building-and-consents/building-renovation-projects/add-rainwater-tank/Pages/check-if-you-need-consent-to-add-an-outdoor-water-tank.aspx>

requirement to prepare and implement stormwater management strategies in accordance with global stormwater consents (as required currently by the Natural Resources Plan). This allows for Territorial Authorities to fulfil their obligations to manage urban development under s3.4(5) of the NPS-FM 2020, and the requirements for hydrological control under the Regional Plan would therefore only relate to development not connected to the existing stormwater network. We therefore recommend the changes as set out in Appendix A to address this matter .

HYDROLOGICAL CONTROL DEFINITION

27 While we agree with the reporting officer that a new definition is required, we consider the proposed definition describes discharges, as set out under s15 of the RMA, and does not demonstrate how hydrological controls actually manage stormwater runoff, as outlined in paragraph 42 to 51 of the expert evidence provided by Mr Farrant¹⁰. Therefore, we recommend redrafting the proposed definition, as set out in Appendix A:

POLICY 14

28 The WCC submission sought amendment of Policy 14 to remove reference to “gully heads”. In the s42A report the reporting officer accepts this requested amendment and makes several further changes in response to other submitters.

29 While we support the recommended amendment to remove “gully heads” in accordance with the WCC submission, we are opposed to the s42a report amendments to clauses (f) and (k).

¹⁰ <https://www.gw.govt.nz/assets/Documents/2023/10/HS5-GWRC-Technical-Evidence-Stu-Farrant-271023.pdf>

30 The s42a amended wording of these clauses are as follows:

“(f) – require 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;”

...

“(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;”

31 We consider that the water sensitive urban design requirements under clause (f) duplicate the stormwater quality management requirement under clause (k). As a fundamental principle of water sensitive urban design is to manage stormwater at its source as a means to improve water quality, both clauses are essentially requiring the same thing.

32 Clause (f) is also unreasonable in terms of requiring the *avoidance* of adverse effects of contaminants rather than *minimisation*. Contamination is simply the presence of a substance at concentrations above a certain level¹¹. In most waterbodies contaminants are present naturally at low levels, therefore contaminants cannot be avoided entirely.

33 Therefore, to refine Policy 14, we recommend the deletion of subclause (f).

¹¹ Chapman PM. Determining when contamination is pollution - weight of evidence determinations for sediments and effluents. *Environ Int.* 2007 May;33(4):492-501. doi: 10.1016/j.envint.2006.09.001. Epub 2006 Oct 6. PMID: 17027966.

POLICY FW.6

- 34 The WCC submission sought amendment of Policy FW.6 to clarify that Regional Councils have responsibility for land use management of the riparian margins of water bodies. In the s42a report the reporting officer accepts this amendment. We note and support this s42a recommended amendment.
- 35 WCC also made a further submission (FS13.0010) in support of Wellington Water's primary submission on Policy FW.6 which seeks clarification of the respective roles and functions of territorial authorities and regional councils regarding water quality.
- 36 Paragraph 62 of the s42a report incorrectly classifies the WCC further submission FS13.0010 as being neutral. Instead, the WCC position in its further submission was to support the Wellington Water submission in part and recommend that their submission be allowed.
- 37 In our view Policy FW.6 does not adequately clarify the respective roles and responsibilities of territorial authorities and regional councils. Specifically, the policy still has a clear overlap between regional council 'use and development of land' in subclause (a) and territorial authority 'land use and subdivision' in subclause (c), particularly when dealing with development connected to local stormwater and wastewater networks. The Three Waters chapter of the Wellington Proposed District Plan already has measures to manage land use and development effects on the stormwater network. The policy as proposed does not promote integrated management as there is an overlap in responsibility for land use between GWRC and Territorial Authorities.
- 38 To be consistent with s31 of the RMA and 3.5(4) of the NPS-FM, we consider it appropriate for territorial authorities to manage the adverse effects of land use, subdivision and development, and for Regional Councils to manage the associated discharge of contaminants. This will

ensure consistent integrated management without undue duplication and bureaucratic burden.

- 39 Therefore we recommend that policy FW.6 is amended to clarify that regional council is responsible for the discharge to land and water to maintain and enhance water quality, rather than land use and development, and City council is responsible for land use and the management of the stormwater network, as set out in Appendix A:

POLICY FW.2: REDUCING WATER DEMAND – DISTRICT PLANS

- 40 The WCC submission opposed Policy FW.2 and sought its deletion on the basis that the policy duplicates requirements under the Building Act, and that managing water demand is better addressed through non-District Plan methods such as addressing leaks.
- 41 In the s42a report the reporting officer has recommended amending Policy FW.2 to delete clause (a) and to clarify that clause (b) largely applies to installation of rainwater tanks.
- 42 While we prefer the s42A wording of Policy FW.2 to the notified version, as it reduces the range of district plan provisions required to address water demand, we concur with the WCC submission in opposing the policy in its entirety.
- 43 As discussed above, the new hydrological control policy, recommended to be introduced through the s42a report, contains provisions for retention based on-site stormwater management solutions. Therefore, Policy FW.2 duplicates the requirements of the new hydrological control policy.
- 44 In addition to unnecessarily duplicating the requirements of the new hydrological control policy, we consider that it is inappropriate for the RPS to require District Plans to address water demand management. In our view this issue is better addressed through methods outside of the

District Plan such as water pricing, addressing leaks, and infrastructure investment signalled through Long Term Plans.

45 For the above reasons we therefore recommend that Policy FW.2 is deleted in its entirety.

CONCLUSION

46 To give effect to section 3.5(3) of the NPS-FM 2020, we would welcome the opportunity to be involved in caucusing with other planning experts on the above matters.

47 In our view, the amendments to RPS PC1 set out in this statement of evidence will help give effect to the objectives and policies of the NPS-FM, will contribute to integrated management of freshwater in accordance with local authority functions under s30 and s31, and are consistent with the purpose and principles of the Resource Management Act 1991.

Date: 3/11/2023

Name: Joe Jeffries, Principal Planning Advisor and Maggie Cook, Senior Planning Advisor

Wellington City Council

Appendix 1 – Recommended amendments to provisions.

Black Text – Section 42A report recommended provisions.

Blue Text - Amendments recommended in this statement of evidence.

Policy FW.X Hydrological Control for Urban Development – Regional Plan

Regional District 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 in relation to the management of a stormwater network.

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 for development directly discharging into sensitive receiving environments.

Hydrological control must be set for greenfield, brownfield, and infill development as follows:

(a) For greenfield development:

- i. ~~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;~~
- ii. ~~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:

- i. ~~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.~~

Hydrological Control definition:

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~~ through on-site management 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.'

Policy 14: Urban development effects on freshwater and the coastal marine area receiving environments – regional plans

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and methods for urban development:

...

~~(f) 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;~~

...

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:

(a) Wellington Regional Council has primary responsibility for freshwater. Wellington Regional Council shall be responsible for the control of the discharges from 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...

Appendix 2: Section 32AA Further Evaluation Report

We have undertaken a s32AA evaluation for the amendment the RPS , we consider that:

- a. The changes will provide greater improvement of integrated management of freshwater;
 - b. The changes enable better implementation of the provisions and provide greater certainty for developers;
 - c. The changes reduce the potential tensions between the implementation of hydraulic neutrality and hydrological control;
 - d. The Changes will better give effect to the NPS-FM 2020;
 - e. They are more efficient and effective than the notified provisions in achieving the objectives of the District Plan; and
 - f. They are consistent with the notified objectives of the RPS.
2. The environmental, economic, social and cultural effects of the recommended amendments in comparison to the s42a version are detailed below. The effects are loosely grouped into four categories for convenience but have some category overlap.

Environmental	There are unlikely to be any environmental costs compared to the notified provisions. The proposals will also have a range of positive effects.
Economic	Lowered costs for consenting and modelling processes.
Social	There are unlikely to be any social costs compared to the notified proposal.
Cultural	These benefits will be received by the community at large. Compared to the notified proposal, no cultural costs have been identified.