

BEFORE THE HEARING PANEL

UNDER THE Resource Management Act 1991 (**Act**)
IN THE MATTER OF Proposed Change 1 to the Wellington Regional
Council's Regional Policy Statement (**PC1**)
BETWEEN **WELLINGTON REGIONAL COUNCIL**
Local Authority
AND **WAIRARAPA FEDERATED FARMERS**
Submitter 163 to PC1

**HEARING STREAM FIVE
HEARING STATEMENT OF ELIZABETH MCGRUDDY ON BEHALF OF
WAIRARAPA FEDERATED FARMERS**

15 NOVEMBER 2023

INTRODUCTION

1. Wairarapa Federated Farmers (**WFF**) made a submission on Proposed Change 1 (**PC1**) to the Wellington Regional Policy Statement (**RPS**).
2. The purpose of this Hearing Statement is to summarise Federated Farmers' submission in respect of Hearing Stream 5 (**HS5**) including submission points made at WFF 1.4, 1.5, 4.1 to 4.4, 8.11, 8.12, 8.13, 8.15, 9.10, 9.11, 9.12, 10.5, 11.3, 11.8, 11.14 and 12.8.
3. It should be read alongside the Statement of Evidence of Natasha Berkett which addresses:
 - a) Objective 12
 - b) Policy 12, 13, 15, 17, 44
 - c) Method 34
4. This statement addresses the following matters:
 - (a) General matters:
 - The matters set down for the Freshwater Plan Process (FPP)
 - WFF Primary Relief
 - (b) Specific matters:
 - Introduction
 - Definitions
 - Consideration Policies: Policy 40, Policy 41, Policy 44, Policy FWXXB
 - Links to Target Attribute States: Policy 12, Policy 14, Policy 15
 - Supporting Ecosystem Health: Policy 18, Method FW.1, Method 30
 - Water Supply and Demand: Policy FW.7, Method 34, Method 48, Policy 18, Policy 40

GENERAL MATTERS

FRESHWATER PLAN PROCESS

5. WFF agree with the Reporting Officer recommendation that Policy 15 and Policy 41 should be considered under the Schedule One process, for the reasons set out by the Officer.

FFNZ PRIMARY RELIEF

6. WFF relief sought generally that the scope of PC1 be restricted to those changes necessary to give effect to the National Policy Statement for Urban Development; and specifically (WFF 4.1, 4.2). that the proposed amendments to Chapter 3.4 be deleted and considered in the full review of the RPS scheduled in 2024, and in a RPS Change specific to water in parallel with the NRP Change scheduled for urban whitua in 2023.
7. WFF reiterate that this approach could have provided a more measured, integrative and consultative process for proposing changes to both the RPS and NRP in respect of the urban whitua; and provided for a higher quality of engagement in respect of the Kapiti and Wairarapa Coast Whitua, preliminary to a second NRP Change for the rural whitua in 2024.
8. WFF reasons are set out in the original submission (WFF 2.3) including that RPS Change One includes provisions under consideration in HS5 which have recently been the subject of protracted mediation through the pNRP process. Notwithstanding those mediated agreements, Council seek to re-litigate key provisions (eg, earthworks and vegetation): WFF record concern that this is at odds with good faith mediation and has the effect of de-stabilising the business and investment certainty which should be attendant on clear and stable regulatory settings.
9. To the extent that the proposed amendments to Chapter 3.4 are progressed, WFF proposes alternate relief on specific provisions below, including to provide for:
 - A strong enabling framework for action on the ground catchment partnerships
 - A strong enabling framework for water security and storage.

SPECIFIC MATTERS

INTRODUCTION

10. The s42A report recommends amendments to include the concept of Te Mana o te Wai. WFF recommend further amendments to include text from the NPS-FW 1.3 Fundamental Concept, ie:
 - Te Mana o te Wai is about restoring and preserving the balance between the water, the wider environment and the community

11. The Council rebuttal report recommends amendments to recognise an integrated approach, ki uta ki tai. WFF recommend further amendments to recognise the importance of catchment communities coordinating to achieve catchment-scale action on the ground, ie, words to the following or similar effect:
 - The management of freshwater requires an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment, and requires an enabling approach that recognises the strength of attachment between people and place and supports catchment communities coordinating for effective catchment-scale action.

12. The s42A report recommends amendments to include a brief description of the Whaitua and WIPs. WFF recommend further amendments to clarify that the WIPs completed to date have already identified FMUs or part FMUs¹, eg:
 - The WIPs include identification of freshwater management units (FMUs) and include freshwater values.....

13. In respect of regional state and trends the Introduction has not been updated to include recent regional information. WFF recommend that amendments be made to the following or similar effect to reflect Council evidence presented to the pNRP Hearing:
 - There is strong evidence of overall water quality improvement at the regional level over the past decade²

¹ For example the Ruamahanga Whaitua commissioned a number of reports prior to identifying FMUs in the WIP: <https://www.gw.govt.nz/assets/Documents/2021/12/Draft-RWC-FMU-Map.pdf>

² Statement of Right of Reply Evidence of Antonius Hugh Snelder on behalf of Wellington Regional Council, Technical – Regional Water Quality Trends, 4 May 2018

DEFINITIONS

14. The reporting officer recommends a number of new definitions: most rely on definitions already operative in the NRP including the definitions for minimise, vegetation clearance, health needs of people, community drinking water supply, group drinking water supply, functional need, and aquatic compensation and offset (derived from the biodiversity compensation and offset definitions).
15. WFF agree that it is appropriate that the RPS and NRP rely on the same definitions and it appears to be an oversight that the proposed definition for earthworks is not as per the NRP:
 - WFF recommend that the RPS definition of earthworks be the same as the NRP definition

CONSIDERATION POLICIES

16. HS5 includes several consideration policies, proposed to apply in respect of resource consents.
17. WFF agree that consideration policies may appropriately direct regional and district plans but does not generally agree that RPS consideration policies should direct resource consents.
18. The Operative RPS includes consideration policies for resource consents which are generally intended as interim provisions wherein they cease to have effect when more specific plan provisions are in place.
19. This is specifically the case for Policy 40 Aquatic Ecosystem Health, Policy 41 Earthworks and Vegetation, and is at least implicit for Policy 44 Water Takes.
20. The reporting officer implies that there may be a “gap” in these areas pending NRP changes (eg, rebuttal report para 161, 175). WFF does not agree: all these matters are the subject of comprehensive provisions in the NRP (link below), and any applications for resource consents are bound by the conditions imposed by operative rules in respect of all these areas.³
21. In this context, WFF recommend that:

³ <https://www.gw.govt.nz/assets/Documents/2023/07/Natural-Resource-Plan-Operative-Version-2023-incl-maps-compressed.pdf>

- Policy 40, 41 and FWXXB be deleted
- Policy 44 be amended to delete “resource consents”

LINKS TO TARGET ATTRIBUTE STATES

22. Council proposes amendments to several policies to make a link to target attribute states to be set under the National Objectives Framework (NOF) in upcoming NRP changes:
- Principally, Policy 12 (management of water bodies)
 - Additionally, Policy 14 (urban development) and Policy 15 (earthworks and vegetation)
23. WFF agree that the link would appropriately be made in Policy 12, ie, directing regional plans to identify target attribute states and how to achieve them.
24. WFF does not agree that further elaboration of the same point in Policy 14 and Policy 15 is necessary.
25. WFF further note that Policy 14 and Policy 15 employ different text in pursuit of the same end: Policy 14 proposes wording in clause (d) *identify how to achieve target attribute states*, whereas Policy 15 proposes different wording for clause (a)i. If it is deemed necessary to retain these clauses (in addition to the direction already provided in Policy 12), WFF suggest the language of Policy 14 should be consistent with the language of Policy 15.
26. Policy 15 goes on to propose clause (a)ii which addresses what to do in the absence of target attribute states; whereas Policy 14 does not. Again, WFF suggest the two policies should be consistent. On our reading, the reporting officer appears to be assuming a “gap” in managing sediment if clause (a)ii is not included in Policy 15. However, as noted in the previous section, WFF submit there is no gap. To the contrary, the NRP comprehensively manages the effects of earthworks and vegetation clearance.
27. WFF has separately provided planning evidence in respect of Policy 15 (specifically in relation to the district plan provisions set out in (b). On balance – recognising that there is no practical gap which needs to be filled by amendments to Policy 15 – WFF recommend that the proposed amendments to Policy 15 be set aside and the Operative Policy be retained.

SUPPORTING ECOSYSTEM HEALTH

28. Council propose several provisions intended to support improvements in ecosystem health, including Policy 18 (freshwater ecosystem health), Method FW.1 (freshwater action plans) and Method 30 (Porirua Harbour).
29. These three provisions provide for the active involvement of, or partnership with mana whenua/tangata whenua, and Council recommend that one of these (Method FW.1) be amended to provide for engagement with communities, stakeholders and territorial authorities.
30. WFF agree with this recommendation, and recommend it be extended to include the same amendments to Policy 18 and Method 30; recognising that the opportunity and challenge is whole-of-catchment and whole-of-community.

WATER SUPPLY AND DEMAND

31. Council propose several provisions intended to address water supply/demand challenges and to help give effect to Policy 18 (promoting off-line storage):
 - Principally, Method 34 (regional water supply strategy)
 - Additionally, several urban provisions (Policy FW.1, FW.2, FW.5)
 - Plus one rural provision (Policy FW.7)
 - And Method 48 (allocation review).
32. WFF agree that water resilience is a key challenge across the region in the upcoming period (WFF 1.4, 1.5) including in the context of climate change adaptation. Related to this we briefly reiterate points made in HS3 including that the First National Adaptation Plan records that:
 - *“Programmes targetted at water security will make the natural environment more resilient and support Maori, food and fibre producers and rural communities”*
 - *“Landowners, food and fibre producers and rural communities are especially vulnerable to both acute climate events and more gradual climate change impacts that affect water availability and security. These effects also limit options for landowners to implement climate-resilient landuses, including owners of undeveloped land”*

- *“The water availability and security programme will enable the transition to a sustainable food and fibre sector, and support the resilience of rural communities and the welfare of animals”*
33. The water availability and security programme referenced in the NAP refers to a programme of work led by MPI (WFF 9.12) which highlights that global and domestic food production principally relies on irrigated, rather than rainfed land; and further that:
- *“Secure and reliable access to water is a necessary precondition for most future investments in landuse change, high value processing, and for reducing exposure to drought and climate-related events”⁴*
34. In this context, WFF reiterate that the water resilience challenge is of sufficient scale and urgency that it should be elevated to an explicit objective to the following or similar effect:
- Provide for secure and reliable access to water to provide for social, economic and cultural wellbeing.
35. In support of such an objective, WFF generally agree with the intent of the provisions listed above. In respect of each (WFF is neutral on the urban provisions):
- Method 34: Regional Water Supply Strategy
 - amend (d) to read “secure sustainable water supplies for urban and rural communities...” to clarify the intent
 - WFF is confused as to the intent and effect of the recommended amendment to clause (e) “*while considering the health needs of people*”: WFF recommend this be deleted
 - add a clause to provide for prioritising the collection of real-time data to support dynamic management of water
 - add a date for preparation/completion of the strategy – WFF recommend an early date cognisant of the importance, eg, December 2024 or earlier if practicable

⁴ <https://www.mpi.govt.nz/dmsdocument/47770-Water-Availability-and-Security-in-Aotearoa-New-Zealand>

- Policy FW.7: Water attenuation and retention in rural areas
 - WFF agree this policy should apply across all rural areas
 - WFF recommend (a) and (b) be amended to read enable nature based solutions and enable built solutions
 - As above, WFF is confused as to the intent and effect of the recommended amendment to clause (b) “*while ensuring appropriate consideration of the health needs of people*”: WFF recommend this be deleted

- Method 48: Allocation Review
 - WFF acknowledge that much of the region is deemed fully or over-allocated; and that the effect is that many landowners, including maori landowners, do not currently have access to the reliable water needed to sustain or diversify their farms
 - Having said that, WFF submit (WFF 11.14) that the key issue constraining farm resilience/diversification is not allocation per se, but rather minimum flows, ie, the key issue is that everyone needs water at the time there is least water available (eg, in the middle of a dry summer)
 - In this context, WFF strongly recommend that the emphasis should be on securing reliable water (through a portfolio of nature based and built solutions) as is intended by the other provisions above. The practical effect is that this review (process/timing) should proceed cognisant of those other initiatives
 - In respect of clause (e), WFF question the reference to “iwi and hapu” as distinct from mana whenua/tangata whenua
 - In respect of clause (f), this should be amended to include consideration of first in first served alongside consideration of the efficiency of use of existing investments in water supply/reticulation/irrigation systems (as set out in WFF 11.14 against the risk of farming families being left high and dry with stranded assets)
 - In respect of clause (g), WFF recommend that the reference to “equitable” allocation be deleted (consistent with earlier

hearing streams identifying issues with introducing this (undefined) concept in an RMA instrument)

- In respect of (g) and (h), WFF support the intent but suggest the solution lies with the other provisions above, ie, investing in storage to secure the reliability of supply which is a pre-condition for de-risking diversification and securing contracts for high value crops – WFF recommend deletion of both clauses
- WFF recommend an additional clause directing the mapping of areas/blocks of land which are currently water-constrained to help inform consideration of options and alternatives
- WFF recommend a further clause be added directing that the review will be informed by excellent, up-to-date information on actual current takes (as distinct from paper allocation) and disaggregated by whaitua/sector/season, to help inform understanding of the supply-demand gap, and again the options and alternatives for addressing it

36. Returning to Policy 18, clause (l) promotes off-line water storage, while clause (q) restricts the removal of wetland plants. In the context that water attenuation and storage schemes will almost inevitably be located in lower-lying damp areas (rather than on dry ridges), WFF submit the RPS should clarify that there is a consenting pathway for water storage (similar to that proposed in clause (n) in respect of piping rivers, ie, where there is a functional need and the effects are managed).

37. At the national level, the NES provides a consenting pathway as set out by MfE in a recent factsheet⁵ (our emphasis):

- *The provisions at 3.22 provide the ability to apply for resource consent for some specified purposes to undertake activities in or near wetlands.*
- *There are 'gateway tests' that must first be met and the impacts of the activity must be managed by applying the effects management hierarchy (see NPS-FM 3.21 and 3.22(3)). For example, councils may grant resource consents for the construction or upgrade of specified*

⁵ <https://environment.govt.nz/assets/publications/Essential-Freshwater-Natural-inland-wetlands-factsheet.pdf>

infrastructure that will provide significant national or regional benefits, if:

- the regional council is satisfied that there is a functional need for that infrastructure in that location*
- the infrastructure will provide significant national or regional benefit*
- the effects are managed through application of the effects management hierarchy.*

- **Since ‘specified infrastructure’ includes regionally significant infrastructure identified as such in a regional policy statement or plan, regional councils are encouraged to begin the process of identifying appropriate infrastructure in their policy statements and plans**

38. WFF recommend that:
- Policy 18 be amended to provide a consenting pathway for water storage (subject to the gateway tests set at the national level)
 - The definition of “regionally significant infrastructure” be amended to include water storage infrastructure (WFF 12.8)
39. WFF finally note that – in respect of wetlands - Policy 40 clause (n) directs that removal of indigenous wetland plants be “avoided”. This directive is at odds with Policy 19 and with the NPS-FW and should be deleted - noting however that WFF recommendation is to delete the policy as a whole.
40. In summary: WFF support the intent in HS5 to provide for water storage as part of a more water-secure future and recommend changes to regulatory policies to ensure there are not inadvertent regulatory barriers.

CONCLUSION

41. WFF relief seeks that the provisions under consideration in HS5 be deferred to the scheduled upcoming review of the RPS.
42. To the extent provisions are retained, WFF is open to alternate relief to address the concerns set out in its submission and in this Hearing Statement.