

BEFORE THE GREATER WELLINGTON REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND of proposed Change 1 to the Wellington Regional Policy Statement.

**Evidence of Murray John Brass on behalf of
the Director-General of Conservation / *Tumuaki Ahurei*
Hearing Stream 6 Indigenous Ecosystems
dated 29 January 2024**

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Introduction

1. My full name is Murray John Brass.
2. I have been asked by the Director-General of Conservation / *Tumuaki Ahurei* ('the D-G') to provide planning evidence on the proposed Wellington Regional Policy Statement Change 1 ('WRPS PC1').
3. This evidence relates to Hearing Stream 6 Indigenous Ecosystems.

Background information

4. I am employed by the Department of Conservation (DOC) in Dunedin as a Senior RMA Planner. My qualifications and experience are as set out in my earlier evidence for Hearing Stream 2 Integrated Management.
5. Although this is not a Court hearing, I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court Practice Note 2023. I have complied with the Practice Note when preparing my written statement of evidence and will do so when I give oral evidence before the hearing.
6. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
7. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

8. This evidence covers matters raised in the D-G's submission relating to indigenous ecosystems.

Material Considered

9. I have read the following documents:
 - Wellington Regional Policy Statement Proposed Change 1;
 - The s32 Evaluation Report dated August 2022;
 - The D-G's submission dated 12 October 2022;

- The D-G's further submission dated 19 December 2023;
- Other submissions where they are referred to in my evidence;
- The s42A report for Hearing Stream 6: Indigenous Ecosystems, dated 11 December 2023;
- The technical evidence of Dr Fleur Maseyk dated 5 December 2023, the technical evidence of Dr Philippa Crisp dated 12 December 2023, and the legal submissions on behalf of Wellington Regional Council dated 19 December 2023.

Statutory considerations

10. The s32 Report identifies the overall planning context for the proposed change, with further specific assessment relevant to indigenous biodiversity provided in the s42A Report. I am generally comfortable with those assessments, and where I have specific points to make these are addressed in the content of my evidence below. I consider that the key document to consider is the National Policy Statement for Indigenous Biodiversity 2023 (NPSIB).
11. While there may be future changes to the NPSIB, I agree with the Council's legal submissions that it remains in force at this time. I also note that these RPS changes were developed before the NPSIB came into force, and the requirements of s6(c), s30(1)(ga) and s31(b)(iii) of the RMA continue to apply in any case.

Overview of provisions

12. The D-G's submission covered a range of matters. I have focussed my evidence on those matters which remain in contention – either where the s42A Report does not support the relief sought by the D-G, or where other parties oppose that relief or seek other changes. This includes:
 - Giving effect to the NPSIB;
 - Objectives 16-16C;
 - Policy 23;
 - Policy 24 and Appendix 1A;
 - Definitions.

13. While this evidence addresses those specific matters, I confirm that I remain available should the Panel have questions on any other matters.

Issue 2: Giving effect to the NPSIB

14. The D-G's submission generally sought the retention of the proposed changes. However, a number of submitters have requested removal of all indigenous ecosystem provisions – as I understand those submissions, they consider that the NPSIB requires consultation with communities, so the Council should re-start the process in accordance with those consultation requirements.
15. I do not agree with that proposition. The NPSIB does not require 'all or nothing' compliance, so I see no barrier to making changes now which do not in themselves give full and final effect to the NPSIB. I understand NPSIB 4.1(1) "*Every local authority must give effect to this National Policy Statement as soon as reasonably practicable*" to mean that councils should give effect to those elements of the NPSIB that they can (ie that are "reasonably practicable") rather than waiting for further review.
16. I also note that, as addressed in the s42A Report, the drivers for these changes (including the state of Wellington's indigenous biodiversity) pre-date the NPSIB so are not dependent on it, and have gone through the full 1st Schedule process.
17. I therefore consider that the proposed changes are appropriate to achieve the purpose of the Act and are efficient and effective in their own right independent of the NPSIB, but that where it is within scope the Panel should seek to also give effect to the NPSIB.

Issue 2.2: What is the most appropriate approach to give effect to the NPSIB

18. The s42A Report recommends that a new Policy IE.2A be added to give effect to Clause 3.16 of the NPSIB regarding indigenous biodiversity outside SNAs.
19. Although this addition was not directly sought by the D-G's submission, I consider that it aligns with the D-G's submission points relating to the exposure draft of the NPSIB, and it is now appropriate to reflect the gazetted NPSIB rather than the exposure draft version.
20. More importantly, I consider that the addition is appropriate to give effect to NPSIB Clause 3.16, and to the relevant council functions under s30(1)(ga) and s31(b)(iii) of the RMA. Those functions require that indigenous biodiversity be maintained at the

region and district levels. This could not be achieved by only protecting significant vegetation and habitats under s6(c) of the RMA, and the SNA provisions of the NPSIB, as loss of biodiversity outside those areas would inevitably lead to overall loss at the region and district levels. I consider it is therefore necessary to provide recognition, protection and management of indigenous biodiversity values outside SNAs.

21. I also note that the same considerations as above apply to the proposed new clauses (ba) and (d) in Policy IE.3, and I confirm that I support those changes.

Issues 5-8: Objectives 16-16C

22. The D-G's submission sought that these objectives be retained as notified. The S42A Report recommends a number of changes to the drafting, mainly to ensure alignment with the RMA and the NPSIB and to improve clarity.
23. I confirm that I support those changes, and consider that they improve the provisions for the reasons set out in the s42A Report. I also confirm that I agree with the s42A Report in not accepting various submissions seeking to weaken or narrow the objectives, which would fail to give effect to either the RMA or the NPSIB.

Issues 9: Policy 23

24. The D-G's submission sought that this policy be retained as notified.
25. The S42A Report recommends two sets of changes. The first of those being to distinguish between the NPSIB identification criteria applying in the terrestrial environment and the RPS criteria applying elsewhere. I agree that it reflects the requirements of national direction.
26. The second key change to this policy recommended in the s42A Report is to delay the requirement for mapping Significant Natural Areas to 4 August 2028, which is the final date required by the NPSIB. I agree that this still gives effect to the NPSIB, and is available to the Panel under the overall statutory framework and the evidence presented on the state of (and threats to) indigenous biodiversity in the Wellington Region.

Issue 10: Policy 24 and Appendix 1A

Policy 24

27. The D-G's submission sought that Policy 24 be retained as notified, subject to any changes which might be required to give effect to the NPSIB.
28. The s42A Report recommends significant changes to Policy 24, mainly in response to the NPSIB and to manage giving effect to the various other national directions which also apply. This includes splitting out the provisions relating to biodiversity offsetting and biodiversity compensation into a new Policy 24A.
29. I am generally comfortable with the approach taken and the structure of provisions proposed in the s42A report, for the reasons given in that report.
30. The proposed new clause (a) for the terrestrial environment only refers to clauses 3.10 and 3.11 of the NPSIB. However, clauses 3.12 to 3.15 and clause 3.17 are also relevant, as they modify the effect of clause 3.10 in specified circumstances. I suggest it would be clearer to expand the reference in Policy 24(a) to include all of these, for example:

“Clause 3.10 and Clause 3.11, and clauses 3.12 to 3.15 and 3.17 where relevant, of the National Policy Statement for Indigenous Biodiversity 2023 to manage adverse effects on significant indigenous biodiversity values in the terrestrial environment”.

Policy 24A

31. The recommended new Policy 24A both separates out the provisions relating to biodiversity offsetting and biodiversity compensation from Policy 24 and substantially re-writes them for alignment with the NPSIB and in response to the evidence of Dr Maseyk.
32. I consider that those changes are appropriate as:
 - They reflect expert evidence and best practice for biodiversity offsetting and compensation;
 - They are within the scope of the D-G's submission relief, to retain the notified provisions subject to review if required to give effect to an NPSIB;

- They give effect to the NPSIB, and are able to be implemented through this RPS change;
- Where the changes are more restrictive than the NPSIB (e.g. “10% net gain”) or more specific (e.g. Appendix 1A), I consider that these changes are clearly justified as appropriate for the Wellington Region in the technical evidence of Dr Maesyk and Dr Crisp and the s42A Report. It is my understanding that the role of an RPS is not to simply repeat the requirements of national direction, but rather to implement that direction in the regional context, which I consider those changes will do.

Appendix 1A

33. Appendix 1A incorporates Table 17, which contains a list of ecosystems and species which are to be assessed when applying the limits to the use of biodiversity offsetting and compensation. The D-G's submission sought that this table be updated prior to the final decision to ensure that it is as up to date as possible.
34. The s42A Report recommends that the Table be updated based on the technical memo from Dr Crisp, along with some structural and drafting changes intended to improve clarity. In principle I support those changes.

Issue 19: Definitions

35. The D-G's submission sought that the definitions relating to indigenous biodiversity generally be retained, subject to any changes required for consistency with the NPSIB. The S42A Report recommends various changes to align with the Interpretation section of the NPSIB, and I confirm that I support those changes.
36. The D-G's submission sought one specific change, which was to the definition of 'threatened ecosystems or species'. The D-G sought some drafting changes for clarity, and the addition of reference to the New Zealand Threat Classification System for species. The s42A Report has responded by recommending that threatened ecosystems and threatened species be defined separately, and that for species the reference be to the New Zealand Threat Classification System. I confirm that I support that change as improving clarity and certainty.

General comment – other changes

37. The s42A Report recommends a large number of other changes which I have not addressed above. These are generally intended to give effect to the NPSIB, to recognise the role of mana whenua, and for consistency with other changes recommended in the s42A Report. I confirm that I have reviewed those other changes and am generally supportive.



Murray Brass

DATED this 29th day of January 2024