

Wellington Regional Council Proposed Change 1 to the Regional Policy Statement 2024

Report and recommendations of the
Freshwater and Part 1, Schedule 1
Independent Hearings Panels

21 June 2024

Commissioners:

Dhylum Nightingale (Chair)

Gillian Wratt

Glenice Paine

Ina Kumeroa Kara-France

1. Introduction

1. This report recommends that Wellington Regional Council approves Proposed Change 1 to the Regional Policy Statement (RPS) for the Wellington Region (Proposed Change 1 or PC1) with the recommended modifications as shown in Appendix 1 and for the reasons explained in this Report.
2. Proposed Change 1 was publicly notified on 19 August 2022. It is the first amendment to the RPS since it became operative in 2013 (superseding the first RPS which was operative in 1995).¹
3. More than 156 submissions and 31 further submissions were received on the change proposal from 161 parties. Hearings commenced on 19 June 2023 and ran for 22 days spread out over 10 months. All the hearings were held at the Naumi Hotel conference room in Wellington City.
4. The Hearing Panels received a considerable volume of evidence including around:
 - a. 17 s 42A Reports (3579 pages in total – 1280 in Reports and 2299 in Report Appendices);
 - b. 12 statements of Council technical evidence, and;
 - c. 128 statements of evidence from submitters.
5. Proposed Change 1 is a complex and ambitious planning document. We were challenged with integrating three pieces of national direction:
 - a. The National Policy Statement on Urban Development 2020 (NPS-UD);
 - b. The National Policy Statement for Freshwater Management 2020 (NPS-FM), and;
 - c. The National Policy Statement for Indigenous Biodiversity 2023 (NPS-IB).

¹ It is the first amendment using a submissions and hearing process; in December 2022, the RPS was amended without a First Schedule process to include the housing bottom lines for Tier 1 urban environments as required by clause 3.6(4) of the NPS-UD: [Public-notice-Housing-Bottom-Lines-Update-changes-to-Operative-RPS-Dec-2023.pdf](#) (gw.govt.nz).

6. Although not the specific purpose of Proposed Change 1, its provisions also give effect to national direction in the following instruments:
 - a. New Zealand Coastal Policy Statement (NZCPS);
 - b. National Policy Statement on Electricity Transmission (NPS-ET);
 - c. National Policy Statement for Renewable Energy Generation (NPS-REG);
 - d. National Policy Statement on Highly Productive Land (NPS-HPL), and;
 - e. National Policy Statement on Industrial Process Heat (NPS-IPH).

7. The following management strategies and plans developed under the Climate Change Response Act are also relevant to Proposed Change 1 and are matters that were given regard to in our Report:
 - a. The National Adaptation Plan²
 - b. The Emissions Reduction Plan³.

8. As is common in the resource management and planning environment, all parties and the Panels were working on shifting sands, with:
 - a. The gazettal of the National Policy Statement on Indigenous Biodiversity (NPS-IB) on 31 May 2023, some 9 months after Proposed Change 1 was notified;
 - b. Amendments to the NPS-FM taking effect on 5 January 2023;
 - c. The Regional Council introducing Variation 1 on 13th October 2023, which was heard as part of Hearing Stream 7, to add freshwater visions for two whitua;
 - d. The enactment and then repeal of the Natural and Built Environment Act 2023, and;
 - e. The introduction on 23 May 2024 of the Resource Management (Freshwater and Other Matters) Amendment Bill.

9. We sought advice from Counsel for the Council where we felt that was required, to help us understand the impact, if any, of these policy and

² Ministry for the Environment, 2022, *Aotearoa New Zealand's first national adaptation plan*, Wellington.

³ Emissions Reduction Plan, prepared under s 5ZI of the Climate Change Response Act 2022, May 2022, Ministry for the Environment.

legislative changes. We have not considered the Bill introduced on 23 May 2024 as it is not yet law.

2. Background to Proposed Change 1

2.1 An integrating frame approach

“When RPS Change 1 was being developed near on two years ago, there were four key issues that Council wanted to see included. Its impetus was the NPS-UD, the National Policy Statement for Urban Development. The Council could just have gone ahead and introduced this new set of provisions to enable further housing intensification, but the Council determined that they wanted to actually look at the issues in tandem; they wanted to bound urban development with climate change, biodiversity, freshwater and other matters, to make sure that we didn’t enable that further development without actually putting the environmental boundaries around it.”⁴

Daran Ponter, Chair, Wellington Regional Council.

10. Proposed Change 1 was publicly notified on 19 August 2022.
11. As stated in the public notice⁵, the focus of Proposed Change 1 is to “implement and support the National Policy Statement on Urban Development 2020 (NPS-UD) and to start the implementation of the National Policy Statement for Freshwater Management 2020 (NPS-FM).” Proposed Change 1 also addresses “issues related to climate change, indigenous biodiversity and high natural character”.
12. The NPS-UD and NPS-FM are therefore a primary driver for the scope, timing, processes and approach to Proposed Change 1.⁶
13. The NPS-UD requires RPS’ and District plans to notify changes by 20 August 2022 to give effect to Policies 3 and 4 of the NPS-UD.⁷ These policies require Tier 1 urban environments (such as Wellington), to have, as part of providing for well-functioning urban environments, sufficient development capacity to meet demands, specific housing density and minimum building heights in particular zones unless exceptions or

⁴ Hearing Transcript, HS3 – Climate Change, Day 1, pages 5- 6, lines 228 – 238, as read by the Reporting Officer for the Climate Resilience and Nature-Based Solutions subtopic, Ms Guest, reading a statement by Daran Ponter.

⁵ Public notice, Proposed Change 1: <https://www.gw.govt.nz/assets/Documents/2022/08/Public-Notice-to-notify-Proposed-Change-1-to-the-RPS-For-website-.pdf>

⁶ Section 32 report Evaluation of provisions for Proposed Change 1 to the Regional Policy Statement for the Wellington Region, August 2022, pages 9 and 11: <https://www.gw.govt.nz/assets/Documents/2022/08/RPS-Change-1-Section-32-Report-August-2022.pdf>

⁷ Clause 4.1(2), NPS-UD.

‘qualifying matters’ are justified. The NPS-UD requires other policies in the national policy statement to be given effect to as soon as practicable.

14. The key urban development policy issues that Change 1 is intended to address are as set out in the Wellington Region Housing and Business Capacity Assessment, namely the lack of sufficient, affordable and quality housing supply and choice in the Wellington Region to meet current demand, the needs of projected population growth and the changing needs of diverse communities. A central objective of Change 1 is therefore to address these development capacity issues by providing for well-functioning urban environments and enabling urban intensification in appropriate locations.
15. As acknowledged in Mr Ponter’s quote above and in the Council’s s32 Report, the Council sought to implement the NPS-UD in an integrated way, aware that urban development does not occur in isolation to managing natural and physical resources. Achieving integrated management of resources is of course the core purpose of a RPS as discussed further in the Integrated Management chapter of Part B of this Report. Therefore, in addition to including issues, objectives, policies and methods to give effect to the NPS-UD, Change 1 also includes provisions aimed at addressing degradation of freshwater, loss and degradation of indigenous biodiversity and the impacts of climate change.
16. In recognising the connection between these issues, and the constraints in responding to national policy for urban development capacity and intensification, Proposed Change 1 takes an “integrating frame” approach as illustrated in Figure 1 below, reproduced from the s32 Report.⁸

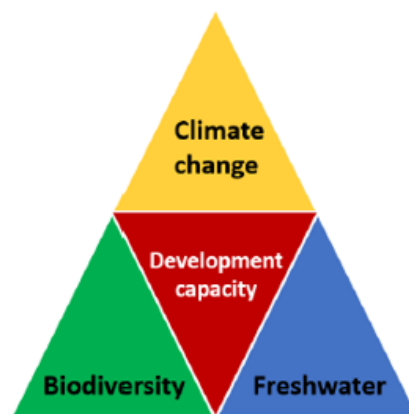


Figure 1: The “integrating frame” approach of RPS Change 1.

⁸ Section 32 Report, page 16.

2.2 Consultation and engagement

17. The section 32 report and the section 42A Overview Report for Hearing Stream 1 (HS1) describe at a high level the work Council undertook with representatives from mana whenua/tangata whenua partners to prepare Proposed Change 1 including consultation on draft provisions between May to July 2022. The six mana whenua/tangata whenua partners Council engaged with are:
 - Ngāti Kahungunu ki Wairarapa;
 - Rangitāne o Wairarapa;
 - Te Rūnanga o Toa Rangatira;
 - Te Ātiawa ki Whakarongotai;
 - Ngā Hapū o Ōtaki; and
 - Taranaki Whānui (through Port Nicholson Block Settlement Trust).
18. The section 42A report also describes the key engagement activities undertaken over a 12-month period with territorial authorities in the Region⁹ and other key stakeholders such as the Ministry for the Environment, Waka Kotahi New Zealand Transport Agency, Greater Wellington's Farming Reference Group and others.
19. The Regional Council also provided a draft of Proposed Change 1 to the following parties for feedback: all six mana whenua/tangata whenua, certain Ministers, Wellington Water Limited, neighbouring regional councils and all territorial authorities in the region.¹⁰
20. Pre-notification consultation with territorial authorities followed the process required in the Wellington Triennial Agreement (2019-2022) including allowing at least 30 working days for comments.

2.3 Submissions

21. The time period for submissions was doubled to 40 working days and ran from 19 August until 14 October 2022. The Council granted various submitters approval to file late submissions.¹¹

⁹ Section 42A Overview, HS1, para 26. The territorial authorities in the Region are Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council, Kāpiti Coast District Council, South Wairarapa District Council, Carterton District Council and Masterton District Council.

¹⁰ Section 42A Overview, HS1, para 30.

¹¹ Section 42A Overview, HS1, para 43.

22. 151 submissions were received. A Summary of Decisions Requested was publicly notified on 5 December 2022 and provided in two formats – by Submitter and by Chapter. Every submission point was given a unique identifier.
23. The further submission period was extended to 11 working days and ran from 5 December to 19 December 2022. Four addenda were notified to address errors or omissions in the Summary of Decisions Requested. 31 further submissions were received including some further submissions received after the closing date, which Council accepted under s 37 of the RMA.

2.4 Parallel planning processes

24. The Regional Council notified Change 1 under two planning processes under Schedule 1 of the RMA:
 - a. The Freshwater Planning Process (FPP) under section 80A and Part 4 of Schedule 1 for provisions that form a freshwater planning instrument (FPI); and
 - b. The Part 1, Schedule 1 (P1S1) standard process for all other provisions (ie the standard First Schedule process).

2.4.1 Freshwater Planning Process

25. The FPP involves a specific statutory process including the appointment of a freshwater hearings panel (FHP) by the Chief Freshwater Commissioner to make recommendations to Council on submissions on the FPI.
26. The FHP was appointed on 28 March 2023 as a four-person panel with a quorum of three members. Commissioner Craig Thompson was appointed as Chair of the FHP, and Commissioner Gillian Wratt was also appointed as Freshwater Commissioner. Commissioners Glenice Paine and Ina Kumeroa Kara-France were appointed as the respective tangata whenua and Council nominees.
27. The FHP's Terms of Reference from the Chief Freshwater Commissioner require it to complete its recommendations to the Regional Council by 21 June 2024. Under the Terms of Reference, the Panel's report is to contain:
 - a. the Panel's recommendations on the freshwater plan provisions and matters raised in submissions;

- b. identification of any recommendations that are outside the scope of the submissions;
 - c. the Panel’s reasons for accepting or rejecting submissions; and
 - d. a further evaluation of the FPI in accordance with s 32AA of the RMA.
- 28. As well as the requirements in the Terms of Reference, the Panel has the duties, functions and powers set out in Schedule 1, Part 4 of the RMA and is able to determine its own procedures for hearing submissions and deliberating on proposals for the FPI.
- 29. The FPP was introduced to enable regional councils to make changes to their FPIs in a robust but more efficient way than the Part 1, Schedule 1 planning process. The FPP has reduced timeframes and limited appeal rights where the Council accepts the Panel’s recommendations.
- 30. The Freshwater Commissioner provided a set of guiding principles for the FHP, including:
 - a. Be inclusive and acknowledge the broad range of interests, capability and capacity represented in submissions;
 - b. Where practicable use collaborative and active participation processes to enhance / complement the formal hearings process; and
 - c. Undertake proceedings in a time-efficient manner.

2.4.2 Part 1, Schedule 1 process

- 31. The Regional Council’s elected members approved the establishment and membership of the P1S1 Panel on 30 March 2023 as a three-person panel with a quorum of two. The Council appointed Commissioner Dhilum Nightingale as Chair of the P1S1 Panel, with Commissioners Paine and Kara-France also appointed to that Panel therefore providing for some overlapping membership with the FHP.
- 32. The Terms of Reference provided the P1S1 Panel with delegated powers to consider and hear submissions on Proposed Chage 1 and make recommendations to Council. The Panel’s responsibilities include:
 - a. Ensuring the hearing and consideration process is carried out in a way that is effective and timely;

- b. Providing submitters with the best possible opportunity to be heard in support of their submission;
- c. Receiving submissions with an open mind and giving due consideration to each submission; and
- d. Ensuring the decision-making process is robust and transparent.

2.5 The Panels' Approach to the Hearings

- 33. Hearings commenced on 26 June 2023 and ended on 16 April 2024.
- 34. The Council's original intention was for the topics that included both FPI and 'non freshwater' (P1S1) provisions to be heard jointly by both panels (namely General and Overarching Matters, Climate Change, Urban Development and Small topics/wrap up and Integration). The remaining hearing topics (Integrated Management, Freshwater and Indigenous Ecosystems) would be heard solely by the FHP.
- 35. However, the Panel chairs decided early in the process that we would sit jointly for all Hearings to "mitigate the risk of the loss of integration which could occur if provisions which are written to be considered and decided on together, are put through separate planning processes".¹²

2.6 Changes in Panel Membership

- 36. Unfortunately, Commissioner Thompson had to stand down for personal reasons on 25 August 2023 shortly prior to Hearing Stream 3 – Climate Change (HS3) commencing. On the advice of the Chief Freshwater Commissioner, the Minister for the Environment appointed Commissioner Nightingale as a Freshwater Commissioner, and she took on the additional role of Chair of the FPP, and Commissioner Wratt was also appointed to the P1S1 panel.¹³ The advantage of these changes was that as of 24 August 2023, both panels had completely overlapping membership, with a single Chair. We sat together for all hearings until hearings concluded on 16 April 2024, the last day of Hearing Stream 7 (HS7) hearings.
- 37. In hindsight, it was beneficial to sit jointly as this was a helpful way of ensuring submissions were considered holistically and that the 're-categorisation' of provisions (discussed below), could occur without any

¹² First minute and directions of Hearings Panels dated 26 May 2023, paragraph 16: <https://www.gw.govt.nz/assets/Documents/2023/05/FIRST-MINUTE-AND-DIRECTIONS-OF-HEARINGSPANELS.pdf>.

¹³ As recorded in Minute 11, [Minute-11-Changes-to-Membership-of-Independent-Hearing-Panels-240823.pdf](https://www.gw.govt.nz/assets/Documents/2023/05/Minute-11-Changes-to-Membership-of-Independent-Hearing-Panels-240823.pdf) (gw.govt.nz).

risk of the 'right panel members' not being present to hear and deliberate on submissions that we recommended be moved between the two planning processes once we had heard submitters.

38. As it turned out, having fully overlapping panel membership was also beneficial because in our view, other than HS5 (Freshwater and Te Mana o te Wai), no other hearing stream contained 'solely' Freshwater provisions so the Council's original plans for the hearing streams could have led to the awkward situation of a provision that was re-categorised to the P1S1 stream, not in fact having been properly heard and considered by the P1S1 panel. This could have meant that the process rather than the substance, inappropriately determined the categorisation of a provision.
39. From the beginning of HS3 hearings, the two panels had completely overlapping membership. All Minutes were issued jointly.
40. The panel members have a diverse range of skills and experience including law, resource management policy and NPS implementation, science and governance, tikanga, te Ao Māori and sites of significance to mana whenua.
41. Dhilum Nightingale chaired the P1S1 Panel throughout the Hearing, and also the FHP from the start of Hearing Stream 3 (HS3). Dhilum is a Barrister in Kate Sheppard Chambers specialising in resource management law, and also practices in the areas of employment and humanitarian immigration law. Dhilum has an LLM and a planning degree and is a Freshwater Commissioner and Chair-endorsed RMA Hearings Commissioner. She has worked in a range of private, public sector and in-house environmental legal roles for more than 23 years. Dhilum is of Sri Lankan heritage and was born in Tamaki Makaurau and has lived in Te Whanganui-a-Tara / Wellington for more than two decades.
42. Gillian Wratt is an experienced senior executive and director with an extensive background in science and environmental management and policy, including as Chief Executive of Cawthron Institute and Antarctica New Zealand. She is a certified Environment Commissioner with experience as an RMA Commissioner and on Environmental Protection Authority EEZ and Hazardous Substances and New Organisms decision making committees. She is based in Whakatu/Nelson and has several governance roles in the science and not-for-profit sectors.
43. Glenice Paine was appointed to the Environment Court as Deputy Commissioner in 2017. She is an RMA accredited Commissioner and

Mediator. She has a background in the conservation and resource management fields and has held appointments on various Environmental Protection Authority Boards of Inquiry. Glenice has an extensive background in leadership and governance within Iwi/Māori organisations and recently completed three terms on the Nelson City Council Environment and Climate Change Committee. Additional previous roles include being a member Te Tau Ihu Rivers & Freshwater Advisory Committee, and a directorship on the South Island whanau ora commissioning agency, Te Putahitanga o Te Waipounamu. Glenice affiliates predominantly to Te Atiawa Te Tau Ihu and Ngai Tahu.

44. Ina Kumeora Kara-France holds a Master of Business Administration in International Business, and a Post Graduate Diploma in Business Māori Development and is a certified Commissioner for the Resource Management Act 1991. A specialist advocate for Mana Whenua regarding Tikanga Māori, Mātauranga Māori, cultural values, sites of significance, Te Mana o Te Wai, Iwi environmental management plans and cultural impact assessments. Ina has Resource Consents, Future Development Strategy, Regional Policy Statement and District Plan Change experience. Ina has 2 years with WSP NZ Ltd, and 30 years of experience. Ina is a full-time Independent Hearing Commissioner and an Expert Consenting Panel member for the Environmental Protection Authority. Ina is a Board member of the New Zealand Conservation Authority and Board Liaison for Tāmaki Makaurau, Te Tai Tokerau and Te Hiku o Te Ika Conservation Boards. Ina affiliates to Waikato-Tainui, Ngāti Kahungunu, Ngāti Tuwharetoa, Te Ati Hau-nui-A-Paparangi, Ngarauru and Ngāti Koata Iwi.

2.7 Overview of the Hearings

45. Table 1 below lists the Reporting Officers for each of the Hearing Streams, the number of original and further submission points, the s42A Reports and the dates of the Councils' Rebuttal and Reply evidence. In total there were seven hearing streams:
1. Hearing Stream One - Overview and General Submissions (26 to 30 June 2023);
 2. Hearing Stream Two - Integrated Management (18 to 19 July 2023);
 3. Hearing Stream Three - Climate Change (28 to 31 August 2023);
 4. Hearing Stream Four - Urban Development (2 to 4 October 2023);
 5. Hearing Stream Five - Freshwater/Te Mana o te Wai (20 to 22 November 2023);

6. Hearing Stream Six - Indigenous Ecosystems (20 to 22 February 2024);
and
7. Hearing Stream Seven - Small Topics, Wrap up and Variation 1 (15 to 16 April 2024).

Table 1: Summary of reporting officer's and supporting documentation for each of the Hearing Streams of RPS Change 1.

Hearing Stream	Report Topic	Hearing Report Author	Number of Documents:				
			Reports	Sub Points	Further Sub Points	Rebuttal Evidence*	Right of Reply*
HS1 - General and Overarching Submissions	Overview Report	Kate Pascall	2	131	110	3	3
	General / Overarching Submissions	Sarah Jenkin					
HS2 - Integrated Management	Overarching Issues and Objectives, Integrated Management	Steph Bougen / Jerome Wyeth	1	153	183	3	2
HS3 - Climate Change	Climate Change General	Jerome Wyeth	6	1167	820	11	7
	Agricultural Emissions	Jerome Wyeth					
	Climate Resilience and Nature-Based Solutions	Pam Guest					
	Energy, Waste and Industry	Jerome Wyeth					
	Natural Hazards	Iain Dawe / James Beban					
	Transport	Louise Allwood					
HS4 - Urban Development	Urban Development	Mika Zollner	1	542	325	9	3
HS5 - Freshwater / Te Mana o te Wai	Freshwater / Te Mana o te Wai	Kate Pascall	1	653	625	4	6
HS6 - Indigenous Ecosystems	Indigenous Ecosystems	Pam Guest / Jerome Wyeth	1	574	521	5	3

Hearing Stream	Report Topic	Hearing Report Author	Number of Documents:				
			Reports	Sub Points	Further Sub Points	Rebuttal Evidence*	Right of Reply*
HS7 Small Topics, Wrap-up and Variation 1	Consequential Amendments	Louis Schwer	5	117	53	8	10
	Definitions - Regionally Significant Infrastructure National Grid and Strategic Transport Network	Shannon Watson					
	Natural Character	Iain Dawe					
	Omitted Submission Points	Mika Zollner					
	Variation 1	Richard Sheild / Sam O'Brien					
Totals			17	3337	2637	43	34
Total Includes Legal Documents*							

46. Our approach to the Hearings was to test the information we read and heard from submitters with Council Officers through, and across, Hearing Streams. We posed a series of questions, often quite extensive, to the Council in a Minute at the end of each Hearing addressing what we considered to be some of the key points remaining in contention after hearing submitters. The Officers and sometimes Counsel for Council addressed these questions in their Reply Evidence and Legal submissions. The Officers produced a 'green track-changed Reply version' with additional amendments. We are grateful to the Officers and Council's technical experts, other staff and Counsel for their comprehensive responses to our questions, which, in many instances, resulted in refinements or even significant revisions to their recommendations but in turn also often addressed outstanding submitter relief.

47. This approach of 'refining as we go', meant that in the majority of instances, we agree with Council Officer's Reply version of the provisions for the reasons sets out in the s 42A Report, Rebuttal or Reply Evidence, and recommend that Council approve and adopt these provisions in the RPS. The Recommendations in our Report retains the following colour-coding in the Officers' Reply version:

- s42A recommended amendments to provisions shown in red underlined and marked-up text;
 - Rebuttal Evidence recommended amendments to provisions shown in blue underlined and marked-up text; and
 - Reply Evidence recommended amendments to provisions shown in green underlined and marked-up text (including any amendments Council officers support following expert caucusing or having considered any submitter comments post-caucusing).
48. Our Recommendations are shown using the Council’s Reply version colour coded as above. Where we have not amended the Council’s Reply version, that means we agree with the Council’s recommendations. Where we propose any amendments, those are shown in purple shaded tracking with additions underlined and deletions in strike through.
49. Our task was to achieve horizontal and vertical integration of provisions from national direction and across topics and at times this was not an easy task. We found there was at times somewhat of a siloed approach to the provisions. By this we mean that the Reporting Officers usually provided their assessment of the provisions coded to that particular Hearing Stream and did not look across the Change 1 chapters. This is no criticism of the Officers and we found that they all consistently provided very high quality and professional planning advice, well supported by Counsel, technical experts and Council staff. But ideally, we would have had more advice on how best to achieve better horizontal alignment across the Change 1 topics. We did not have a qualified planner on the Panels and while we were satisfied with some of the integration achieved through Hearing Stream 7 (HS7), we appointed a Special Advisor, Ms Sylvia Allan, a planning consultant, to assist with some specific integration-related questions we had on the FPI. Ms Allan’s advice is reflected in Part C of this Report.
50. We directed expert planners’ caucusing for four topics (although the two climate change topics were discussed in one caucusing session):
- a. Climate Change: Transport (caucusing held on 21 September 2023);
 - b. Climate Change: Climate Resilience and Nature-Based Solutions (caucusing held on 16 October 2023);
 - c. Climate Change: Natural Hazards (caucusing held on 16 October 2023); and

d. Indigenous Ecosystems: Regionally Significant Infrastructure
(caucusing held on 6 May 2024).

51. The caucusing was facilitated by Mr Jason Jones, Principal Consultant with Resource Management Group, and resulted in a narrowing of issues and consensus reached among the planners on some provisions.

2.8 Submissions

52. Clause 10(3) of Schedule 1, Part 1 of the RMA allows us to consider submissions by themes or grouped according to topics rather than needing to consider submissions individually. This is the approach we have taken in this report. We have also completed 'Accept/Reject' submission tables for each Hearing Stream, which are appended to our Report.

2.9 Acknowledgements

53. It was evident to us from the time we started preparing for Hearing Stream 1 (HS1), the massive amount of work the Council Officers put into their s42A Reports, and Rebuttal and Reply Evidence. They all paid close attention to submissions and expert evidence, and assessed and evaluated submitters' relief carefully, respectfully and with an open mind. This is clear from the significant changes between the notified version of Proposed Change 1 and the provisions the Officers support in their final Reply Evidence.
54. We sincerely thank the Officers for their dedicated work on these provisions, and every submitter and their representatives and advisors who prepared submissions, evidence and hearing presentations. As we said at the conclusion of the hearings, everyone's involvement has contributed greatly to the process and informed our understanding and response to the provisions and relief requested.
55. We also acknowledge the dedication and tireless work of the Hearings Advisors, Ms Jo Nixon and Ms Whitney Middendorf who ensured the hearings ran smoothly and effectively. The AVL transcription service Ms Nixon arranged was excellent to work with and produced a very accurate and timely record of the hearings which has assisted us in our deliberations.

2.10 Record of the Proceedings

56. The RMA requires an FHP to regulate its own proceedings in a manner that is appropriate and fair in the circumstances and keep a full record of proceedings.
57. A full record has been kept on the [Hearings Webpage](#) of all proceedings, including all Minutes issued by the Chair/s of the Panels, a transcript of all hearings, all Officer Reports and Council technical evidence and legal submissions, all submissions and further submissions from submitters and evidence and legal submissions. A summary of the Minutes issued by the Chair/s of the Panels can be seen in Table 2.

Table 2: Summary of the Minutes issued by the Chair/s of the Panels throughout Hearings for RPS Change 1.

Minute	Date Issued	Relevant Hearings	Points covered
First Minute and Directions of Hearings Panels - 26 May 2023	26 May 2023	Panel Direction	This Minute sets out directions on key procedural matters for the hearing of submissions and further submissions on Proposed Change 1 to the Wellington Regional Policy Statement. Including: <ul style="list-style-type: none"> • Background • Notice of Hearing • Hearings Process • Key dates for s 42A reports, evidence and presentations at Hearings • Hearing Panels' Powers
Minute 2 - Directions regarding HS1 - Overview and General Submissions	15 June 2023	HS1	This Minute sets out directions for HS1, including: <ul style="list-style-type: none"> • Amendments to general timetabling directions for HS1 • Overview of Day 1, HS1 • Directions for s 42A presentations and Wellington Regional Council legal submissions • Directions for submitter presentations • Requests to speak on additional topics
Minute 3 - Timetabling Directions for HS2 and Future Hearings	16 June 2023	Panel Direction	This Minute sets out general timetabling directions for all Hearing streams from Hearing Stream Two onwards including pre-lodgement of evidence and presentations at Hearings and other timelines.

Minute	Date Issued	Relevant Hearings	Points covered
<u>Minute 4 - Further Directions for HS1 and Future Hearings</u>	22 June 2023	HS1 Panel Direction	<p>This Minute:</p> <ul style="list-style-type: none"> • Responds to requests by some submitters for additional time to present their submissions in HS1 • Requests information from Wellington Regional Council • Comments on submissions and evidence regarding the allocation of provisions between the P1S1 and FPP processes, and • Provides a direction on managing any conflicts of interest.
<u>Memorandum - Background information on Treaty partners provided by GWRC as requested in RPS Chairs Minute 4</u>	23 June 2023	Response to Panel Direction	<p>This memo records the response to a request for information in Minute 4 on the following issues:</p> <ul style="list-style-type: none"> • Background profiles and information on Treaty partners; and • Treaty of Waitangi Statutory agreements with the Greater Wellington Regional Council; and • Mana Whakahono a Rohe agreements; and • Iwi Environmental Management Plans; and • Cultural Values assessments and or Cultural Impact assessments.
<p><u>Minute 5 - Proposed Directions Regarding Allocation of Provisions between PS1 and FHP Processes</u></p> <p><u>Attachment to Minute 5 - James Winchester - Advice WCC IHP - Topic-allocation-between-PDP-and-ISPP 8 March-2023</u></p>	4 July 2023	HS1, Hearing Process and HS2	<p>This Minute addresses:</p> <ul style="list-style-type: none"> • proposed directions regarding allocation of provisions between the P1S1 and FPI Processes • HS 2 Integrated Management Presentation time extension requests. <p>The Minute attaches publicly available legal advice received by the Independent Hearings Panels conducting hearings on the Wellington City Proposed District Plan and the Wellington City Intensification Planning Instrument.</p>
<u>Minute 6 - Request from Regional Council for Extension of Timeframe for filing Evidence from s 42A Officer for HS2</u>	5 July 2023	HS2	<p>This Minute:</p> <ul style="list-style-type: none"> • Grants the Regional Council's filing extension request for the s 42A Author's Rebuttal Evidence • Sets new timetabling directions.
<u>Minute 7 - Request to Increase Representation of Members on P1S1 Panel</u>	19 July 2023	Hearing Process	<p>P1S1 Panel Minute:</p> <p>This Minute request Council issue a decision regarding the appointment of Commissioner Wratt to the P1S1 Panel in addition to her current appointment to the FHP prior to HS3 commencing in late August 2023.</p>

Minute	Date Issued	Relevant Hearings	Points covered
<u>Minute 8 - Request for Information to be provided in Regional Council's Reply</u>	21 July 2023	HS3	This Minute requests the Council address specific issues/questions in Reply Evidence/submissions.
<u>Minute 9 - Timeframe for Council to respond to further information request</u>	25 July 2023	HS2	This Minute: <ul style="list-style-type: none"> Grants the Regional Council's extension request for the HS2 Reporting Officer's Reply Evidence Sets new timetabling directions.
<u>Minute 10 - Directions regarding Recategorisation of Provisions and HS3 Extension Requests</u>	18 August 2023	Hearing Process and HS3	This Minute addresses: <ul style="list-style-type: none"> Re-categorisation of provisions Panels' approvals for: <ul style="list-style-type: none"> Submitter requests for extra presentation time Submitter late request to speak Regional Council request for extensions for filing rebuttal evidence
<u>Minute 11 - Changes to Membership of Independent Hearing Panels</u>	24 August 2023	Hearing Process	This Minute addresses the: <ul style="list-style-type: none"> Resignation of Chair Thompson from the FHP Appointment of P1S1 Chair Nightingale as a Freshwater Commissioner and Chair of the FHP. Appointment of Commissioner Wratt to the P1S1 Panel
<u>Minute 12 - HS3 - Council's Reply And Directions For Expert Caucusing</u>	8 September 2023	Hearing Process and HS3	This Minute addresses: <ul style="list-style-type: none"> Amendments to our directions in Minute 3 regarding the Council's Reply the specific issues/questions the Panels requested the Council Officer address in Reply Evidence/submissions Expert Caucusing Consolidated provisions and categorisation
<u>Minute 13 - Requests for extensions and other matters and response to caucusing questions</u>	20 September 2023	HS3 and HS4	This Minute responds to various procedural matters relating to HS4 – Urban Development and the caucusing directed for HS3 – Climate Change. <p>HS4 - Urban Development:</p> <ul style="list-style-type: none"> Requests for extension of presentation time during HS4 Filing of evidence outside the timetabled directions Late request to present in HS4 and to file legal submissions after submitters have been heard Council Rebuttal Information sought from Council for HS4

Minute	Date Issued	Relevant Hearings	Points covered
			<p>HS3 - Climate Change:</p> <ul style="list-style-type: none"> Expert caucusing – Submitters’ comments and timeline for caucusing for the Climate resilience, Nature based solutions and Natural hazards subtopics Council Reply to Caucusing
<p><u>Minute 14 - HS4 - Council’s Reply, Request for Information from Territorial Authorities and Various Procedural Matters Arising</u></p>	12 October 2023	HS3 and HS4	<p>This Minute:</p> <ul style="list-style-type: none"> Responds to a request for leave sought by Wellington Water Limited (S113) Requests further information from territorial authorities Provides timetabling directions for the Council’s Reply for HS4 Responds to late information provided by Winstone Aggregates (S162) and Stride Investment Management Limited and Investore Property Limited (S155) outside the evidence and legal submission filing deadlines, and Acknowledges comments received by Doctors for Active Safe Transport (DAST (S116)) on the HS3 – Transport Joint Witness Statement.
<p><u>Minute 15 - Responses from Territorial Authorities to Information Request about Centres Hierarchy (PDF 131 KB)</u></p>	27 October 2023	HS4	<p>This Minute responds to comments provided by some territorial authorities to the Panels’ information request regarding the centres hierarchy proposed by Kāinga Ora.</p>
<p><u>Minute 16 - Hearing Stream Four Responses and Hearing Stream Five Time Extensions (PDF 205 KB)</u></p>	13 November 2023 [Updated with links to documents 14 November 2023]	HS4 and HS5	<p>This Minute responds to:</p> <ul style="list-style-type: none"> HS4 Memorandum filed by counsel for Stride Investment and Investore Property HS4 presentation extension requests HS4 additional information sought by Panels from Waka Kotahi, and Response to memorandum filed by counsel for Kāinga Ora.
<p><u>Minute 17 - Matters relating to Hearing Stream 6 - Indigenous Ecosystems - 15 November 2023 (PDF 264 KB)</u></p>	15 November 2023	HS6	<p>This Minute covers:</p> <ul style="list-style-type: none"> Matters relating to HS6 – Indigenous Ecosystems. Porirua City Council document - “Response to request for pre-hearing discussion on Implementation of the National Policy Statement for Indigenous Biodiversity (NPS-IB)”

Minute	Date Issued	Relevant Hearings	Points covered
<u>Minute 18 - Councils Reply and Request for Information Sought from Submitters During the Hearing (PDF 279 KB)</u>	29 November 2023	HS5	This Minute: <ul style="list-style-type: none"> • Sets out the specific issues/questions the Panels requested the Council address in its Reply Evidence/submissions and the due date for the Reply, and • Notes information requests that were made of Hort NZ at the Hearing.
<u>Minute 19 - Revised Timetabling Directions for Hearing Stream 6 Indigenous Biodiversity (PDF 141 KB)</u>	5 December 2023	HS6	This Minute covers the revised timetabling directions for HS6 – Indigenous Biodiversity.
<u>Minute 20 – HS6 requests for extensions and Conflict of Interest Update (PDF 199 KB)</u>	2 February 2024	HS6 and Panel processes	This Minute covers: <ul style="list-style-type: none"> • HS6 – Extension request for hearing presentation • Filing extension request • Potential conflict of interest
<u>Minute 21 – Legal Advice Received on Structure of Panels' Recommendation Reports (PDF 458 KB)</u>	12 February 2024	Panel process	This Minute covers the legal advice received on the structure of the Panels' Recommendation Report.
<u>Attachment to Minute 21 - RPS Panel Advice Letter of advice to PC1 FPP and P1S1 Panels 070224 (PDF 312 KB)</u>	12 February 2024 (Advice dated 7 February 2024)	Panel process	Attachment to Minute 21 - Legal advice from Brookfields Lawyers: Procedural Advice on questions the Panels asked regarding the structure of the Recommendation Report including the most appropriate location for the discussion and recommendations on any re-categorisation of provisions between the FPI and P1S1 process.
<u>Minute 22 - Hearing Stream Six Council's Reply, Request for Information Sought from Wellington International Airport During the Hearing and Directions for Caucusing (PDF 252 KB)</u>	6 March 2024	HS6	This Minute: <ul style="list-style-type: none"> • Sets out the specific issues/questions the Panels requested the Council address in Reply Evidence/submissions • Notes information requests that were made of Wellington International Airport Limited at the hearing. • Directs caucusing on specific provisions in HS6 relating to regionally significant infrastructure, and • Sets out directions post-caucusing including for legal submissions for parties and Counsel's Reply.

Minute	Date Issued	Relevant Hearings	Points covered
<u>Minute 23 - HS6 Caucusing Update, HS7 Questions Related to Integration PC 1 Provisions and Amended Timetable and Legal Advice Nation Policy Statement (PDF 358 KB)</u>	18 March 2024	HS5	This Minute: <ul style="list-style-type: none"> • Sets out specific questions we would like the Council to address in its Reply for HS5 and the due date for the Reply, and • Notes information requests that were made of Horticulture NZ at the hearing.
<u>Attachment to Minute 23 - Letter of advice to PC1 FPP and P1S1 Panels on NPS Implementation (PDF 273 KB)</u>	8 February 2024	Panel Process	Attachment to Minute 23 - Legal advice from Brookfields Lawyers: Procedural Advice on questions the Panels asked about amending provisions in Proposed Change 1 to give effect to new national direction that is gazetted after the Change is notified, namely: <ul style="list-style-type: none"> • Recent amendments to the NPS-FM • The NPS-HPL • The NPS-IB.
<u>Minute 24 - Extension Request for Council to Provide Information (Paragraph 6(d), 6(f) and 9 of Minute 23) (PDF 117 KB)</u>	26 March 2024	HS5	This Minute addresses the extension request for Council to provide information (Paras 6(d), 6(f) and 9 of Minute 23)
<u>Minute 25 - Extension Requests for Presentation Time, Hearing Stream 7; Filing Extension Request; Consolidated Provisions and Revised Timetable to the End of Hearing Stream 7 (PDF 210 KB)</u>	3 April 2024	HS7	This Minute address HS7 – Extension requests for hearing presentation: <ul style="list-style-type: none"> • Filing extension request. • Consolidated version of provisions and word versions of submission recommendation tables – including setting directions for formatting. • Revised timetable to the end of HS7.
<u>Minute 26 - Change of Reporting Officer for Variation 1 Hearing Stream 7 080424 (PDF 282 KB)</u>	8 April 2024	HS7	This Minute address Change of Reporting Officer for Variation 1, HS7.

Minute	Date Issued	Relevant Hearings	Points covered
Minute 27 - HS7 Response to Submitter Correspondence, Councils reply for HS7 and updated Timetabling Directions (PDF 255 KB)	17 April 2024	HS3 and HS7	<p>This Minute:</p> <ul style="list-style-type: none"> Notes specific submitters' decisions to withdraw from presenting in the HS7 hearings, Responds to unsolicited comments received from submitter DAST (S116) regarding HS3 – Climate Change Transport Right of Reply from Ms Allwood, Sets out specific questions the Panels requested the Council address in its Reply Evidence/submissions Provides updated and consolidated timetabling directions.
Minute 28 - Questions for Reporting Officers and Appointment of Special Advisor 290524 (PDF 255 KB)	29 May 2024	HS3, HS5 and Panel processes	<p>This Minute addresses:</p> <ul style="list-style-type: none"> Questions for Reporting Officers Appointment of Special Advisor

2.11 Glossary of Abbreviations

58. A list of the abbreviated terms and submitter names used in this report is contained in Tables 3 and 4 below.

Table 3: Abbreviations of terms used throughout this report.

Abbreviation	Means
The Act/RMA	Resource Management Act 1991
AER	Anticipated Environmental Result
Change 1/ PC1	Proposed Change 1 to the Regional Policy Statement for the Wellington Region
CMA	Coastal Marine Area
Council or Regional Council	Wellington Regional Council
Officer	Council Officer / Reporting Officer / Section 42A Report Author
EEZ	Exclusive Economic Zone
FHP	Freshwater Hearing Panel
FPI	Freshwater Planning Instrument
FPP	Freshwater Planning Process
GHGe	Greenhouse gas emissions
IPI	Intensification Planning Instrument

LGA	Local Government Act 2002
NES-FM	Resource Management (National Environmental Standards for Freshwater) Regulations 2020
NoF	National Objectives Framework
NoR	Notice of Requirements
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-HPL	National Policy Statement for Highly Productive Land 2022
NPS-UD	National Policy Statement on Urban Development 2020
NRP	Natural Resources Plan
PC1	Proposed Change 1
P1S1	Part 1, Schedule 1 process
PDP	Proposed District Plan
RMA	Resource Management Act 1991
RMI	Resource Management Issue
RPS	Operative Regional Policy Statement for the Wellington Region 2013
RSI	Regionally significant infrastructure
s 32 Report	Section 32 Evaluation Report for Proposed Change 1 to the Regional Policy Statement for the Wellington Region
s 42A Report	Hearing Report prepared by Council Officer under s 42A of the RMA
TA	Territorial Authority

Table 4: Abbreviations of submitters' names used in this report.

Abbreviation	Means
Ātiawa	Ātiawa ki Whakarongotai Charitable Trust
BLNZ	Beef and Lamb NZ
DAST	Doctors for Active, Safe Transport
DGC or the Director-General	Director General of Conservation
CDC	Carterton District Council
Forest and Bird	Royal Forest and Bird Protection Society of New Zealand Inc
Fuel Companies	BP Oil NZ Ltd, Mobil Oil NZ Ltd and Z Energy
HCC	Hutt City Council
HortNZ	Horticulture New Zealand

Kāinga Ora	Kāinga Ora – Homes and Communities
KCDC	Kāpiti Coast District Council
MDC	Masterton District Council
PCC	Porirua City Council
PPFL	Peka Peka Farm Limited
Meridian	Meridian Energy Limited
Ngāti Toa	Te Rūnanga o Toa Rangatira
Ngā Hapū	Ngā Hapū o Ōtaki
Muaūpoko	Muaūpoko Tribal Authority
Rangitāne	Rangitāne o Wairarapa Inc
Summerset	Summerset Group Holdings Limited
SWDC	South Wairarapa District Council
Telecommunications Companies or Telcos	Chorus New Zealand Limited, Spark New Zealand Trading Limited, One New Zealand Group Limited (previously Vodafone)
Te Tumu Paeroa	Te Tumu Paeroa, Office of the Māori Trustee
Transpower	Transpower NZ Limited
UHCC	Te Kaunihera o Te Awa Kairangi ki Uta Upper Hutt City Council
Waka Kotahi	New Zealand Transport Agency
WCC	Wellington City Council
WIAL	Wellington International Airport Ltd
Winstone Aggregates	Winstone Aggregates Limited
WFF	Wairarapa Federated Farmers
WWL	Wellington Water Limited

2.12 Structure of our Report

59. Proposed Change 1 is one of the first change proposals to use the dual planning process.¹⁴ We sought advice from Mr Matthew Allan at Brookfields on the most appropriate structure for our recommendation report, that is, whether we could write one joint report, whether we needed to write two separate reports from each panel, or whether a hybrid approach was valid.

¹⁴ Independent Hearings Commissioners delivered their recommendations on the Proposed Otago Regional Policy Statement 2021, another dual planning process, in March 2024.

60. Brookfields advised that there was nothing in the RMA which mandates a particular approach to the preparation of the recommendation reports in the present circumstances.¹⁵ However, it was important to ensure that:
- a. We followed the process and requirements in the RMA when making our recommendations (for example as set out in clauses 10, 49 and 50 of Schedule 1);
 - b. There was sufficient distinction / delineation between the reasons and recommendations that apply to the provisions within each planning process because:
 - i. With the FPI:
 - 1. we are not limited to making recommendations within the scope of submissions (clause 49(2)(a) of the RMA);
 - 2. we may make recommendations on any other matters related to the FPI that are identified by the FHP or any other person during the hearing (clause 49(2)(b);
 - 3. where the Council accepts our recommendations on provisions, submitters' appeal rights are limited to an appeal to the High Court on a question of law (clause 55, Schedule 1); and
 - ii. With the P1S1 provisions:
 - 1. our recommendations must be within the scope of submissions (clause 10 of Schedule 1);
 - 2. merit appeals are available on Council's decisions on our recommendations (clause 14 of Schedule 1, and s 299 of the RMA); and
 - c. When structuring our report, we have regard to what we considered to be fair and appropriate in the circumstances ((s39(1) and clause 48(1) of Schedule 1)) and the procedural principles under s18A (including taking all practicable steps to use timely, efficient, consistent and cost-effective processes that are proportionate to the functions or powers being performed or exercised).

¹⁵ Procedural Advice – Plan Change 1 to the Regional Policy Statement for the Wellington Region, 7 February 2023, advice provided to the Chair of the P1S1/FPP Panels and prepared by Matthew Allan and Lisa Wansbrough, Brookfields Lawyers.


61. We have followed Brookfields' guidance to structure our Report in the following way:
- a. Part A Report – Overview (general background, explanation regarding the process, categorisation of provisions and the structure of the Report, and an Appendix summarising the Panels' recommendations on categorisation;
 - b. Part B Report – P1S1 provisions and our reasons and recommendations relating to those provisions;
 - c. Part C Report - Freshwater provisions and our reasons and recommendations relating to those provisions;
 - d. Appendix 1 with a track changed version of Proposed Change 1 showing our recommended amendments; and
 - e. Appendix 2 - 'Accept/Reject submission tables'.

2.13 Categorisation of provisions between the planning processes

62. The categorisation of provisions between dual planning processes is a complex and subjective issue. Legal submissions and planning evidence was presented to us in every Hearing Stream on the matter and Officers' recommendations on categorisation evolved throughout the process. This simply reflects that the judgement call is a finely balance matter. As the Reporting Officer said in his HS2 Reply Evidence, the categorisation of the provisions "can easily be argued either way".
63. This Part of the Report sets out our recommendations on categorisation, and we cross-refer to this discussion in Parts B and C. This is at times repetitive, but as advised by Brookfields, it is important that Council and submitters understand the basis of our recommendations, given the complexity of the issue and consequences in terms of appeal rights.
64. Section 80A(3) of the RMA¹⁶ anticipates an FPI being progressed as part of another change document. The subsection states:

A regional council must prepare a freshwater planning instrument in accordance with this subpart and Part 4 of Schedule 1. However, if the council is satisfied that only part of the instrument relates to freshwater, the council must—

¹⁶ The provision in effect at the time Proposed Change 1 was notified.

- (a) prepare that part in accordance with this subpart and Part 4 of Schedule 1; and
 - (b) prepare the parts that do not relate to freshwater in accordance with Part 1 of Schedule 1 or, if applicable, subpart 5 of this Part.
- 65. Proposed Change 1 was accordingly notified using two plan-making processes under Schedule 1, RMA:
 - a. The Freshwater Planning Process (FPP) under s 80A and Part 4, Schedule 1 for provisions that are part of the Freshwater Planning Instrument; and
 - b. The standard plan-making process in Part 1, Schedule 1 (P1S1).
- 66. The FHP must provide a recommendation on the FPI and the P1S1 panel must provide a recommendation on the non-FPI provisions.
- 67. Approximately 66% of the provisions in Change 1, were notified as part of the FPI and identified through the use of the FW symbol next to the relevant provision.
- 68. As we discuss below, Officers' recommendations on categorisation changed throughout the Hearings in response to submissions. We recommend that other than for HS5 – Freshwater and Te Mana o te Wai, either all, or the majority of provisions in the other Hearing Streams, should be categorised as part of the P1S1 process.
- 69. As Change 1 was notified on 19 August 2022, the version of the RMA that applies to the process is that which was in place at the date of notification. This means that amendments to the RMA that took effect in November 2022 do not apply, given the transitional provision incorporated into the RMA at the same time. Similarly, amendments to s80A which were inserted by s805(4) of the Natural and Built Environment Act 2023 and which allow for a broader discretion for a regional council as to when it may use the freshwater planning process for 'non-freshwater provisions' when it considers it necessary to do so to achieve integrated management, also do not apply to Proposed Change 1.¹⁷
- 70. Section 80A of the RMA sets out the planning process to be followed when preparing an FPI.

¹⁷ We note that the repeal of the Natural and Built Environment Act 2023 in December 2023 did not reverse the amendments to s 80A(3).

71. Section 80(2)A defines a FPI as follows:

A freshwater planning instrument means—

- (a) any part of a proposed regional plan or regional policy statement that relates to objectives that give effect to the national policy statement for freshwater management;
- (b) any provisions of a proposed regional plan or regional policy statement in relation to which the regional council has decided to use the freshwater planning process under subsection (6B)(b);
- (c) any regional policy statement (including any change or variation to the statement) in relation to which the council has decided to use the freshwater planning process under subsection (6B)(c);
- (d) any change or variation to a proposed regional plan or regional policy statement if the change or variation—
 - i. relates to objectives that give effect to the national policy statement for freshwater management; or
 - ii. relates to a provision described in paragraph (b).

72. Appendix E of the section 32 report sets out the reasons for the allocation of provisions to the FPI.

73. The Regional Council undertook a process to categorise the Change 1 provisions between the two planning processes when Change 1 was notified in August 2022.¹⁸

74. The process applied the High Court decision in *Otago Regional Council v Royal Forest & Bird Protection Society of NZ Inc.*¹⁹ Each provision was assessed and if the Council considered a provision to meet at least one of the following two tests, it was notified as part of the FPI:

- a. It gives effect to parts of the NPS-FM that regulate activities because of their effect on the quality or quantity of freshwater; or
- b. It relates directly to matters that will impact on the quality or quantity of freshwater.

75. The categorisation was undertaken at a provision level, and provisions were not split. Therefore, the Council notified an entire provision as part of the FPI even if only a part of the provision met one of the tests in s80A(2)(c)

¹⁸ The process is discussed in the various s 42A Reports and also in the Supplementary Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, Allocation of Provisions, 10 July 2023.

¹⁹ [2022] NZHC 1777.

and the rest related to ‘non-freshwater’ matters.²⁰ The relationship between provisions did not form the basis for whether a provision was included in the FPI or not.

76. Some submitters raised concerns with the categorisation of provisions. They said that certain provisions had been incorrectly identified as freshwater provisions and should in fact, be considered as part of the P1S1 process. No submitter suggested that a provision allocated to the P1S1 process should be re-allocated to the FPP.
77. Categorisation into the FPI restricts appeals rights to points of law to the High Court, makes cross-examination available (as a matter of discretion for the FHP) and does not limit the FHP’s recommendations to matters within the scope of submissions.
78. We:
- a. Heard planning evidence and legal submissions from various parties including the Council, Forest and Bird, Winstone Aggregates and WIAL;
 - b. Considered the tests in RMA s80A(2)(c);
 - c. Considered the High Court’s statements that;²¹
 - i. the “starting point” is that all provisions in a proposed RPS should be subject to the standard Schedule 1 process; and
 - ii. parts of a RPS cannot be included within a FPI simply because of a connection to freshwater through the concepts of *Te Mana o te Wai, ki uta ki tai* or the integrated management of natural and physical resources.
79. We understand the Council’s assessment was undertaken at a provision level without splitting provisions, therefore if part of a provision met the criteria for inclusion, the whole provision was included in the FPI even if it also related to other matters.
80. We were also mindful that Change 1 was drafted in an integrated way, and many provisions contribute to the purpose for which s80A was enacted, that is, to address the decline of freshwater quality, and to have only a few

²⁰ Supplementary Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Two – Integrated Management Allocation of Provisions, 10 July 2023, para 8.

²¹ *Otago Regional Council v Royal Forest & Bird Protection Society of NZ Inc* [2022] NZHC 1777 at [203] and [206].

provisions within a particular Topic or Subtopic be assessed in the FPI, may promote ‘disintegration’ rather than integrated management (to coin a term used by the Hearings Panel considering the Otago Regional Council RPS).²²

81. Having heard submitters and Council, it is our view that a provision can be included in the FPP process if it either:
 - a. gives effect to parts of the NPS-FM that regulate activities because of their effect on the quality or quantity of freshwater; or
 - b. relates directly to matters that will impact on the quality or quantity of freshwater (“the FPP criteria”).
82. The question then was if the Panels considered that a provision had been incorrectly allocated to the FPI because it did not in fact meet the FPP criteria, could it be recategorised as P1S1 provision?
83. We set out the following proposed approach to this issue in Minute 5, dated 4 July 2023:
 - a. The P1S1 and FHP panels would sit jointly on all hearing streams and make recommendations on the classification of provisions once all submissions had been heard;
 - b. Any ‘recategorisation’ recommendations would not be made before or at the end of a particular Hearing Stream because the panels do not have the jurisdiction to do so;²³
 - c. In its recommendation report, the FHP may recommend that particular provisions do not relate directly to freshwater or otherwise meet the *Otago Regional Council* High Court tests²⁴, so they should be removed from the FPI;
 - d. Any provisions ‘removed’ from the FPI would come within the scope of the P1S1 process with the P1S1 panel then able to consider submissions and make recommendations on the merits of these provisions; and

²² Proposed Otago Regional Policy Statement 2021 Hearing Panel Report by the Freshwater and Non-Freshwater Hearings Panels, para 50: [report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf \(orc.govt.nz\)](https://www.orc.govt.nz/assets/Uploads/Report-and-recommendations-of-the-non-freshwater-and-freshwater-hearings-panels-to-the-otago-regional-council.pdf).

²³ Clause 39(b), Part 4, Schedule 1, RMA.

²⁴ *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Inc* [2022] NZHC 1777.

- e. If the FHP had approved a request for cross-examination regarding a provision which was subsequently re-categorised as a P1S1 provision, the P1S1 panel would disregard the evidence heard during cross-examination.
84. Our approach was informed, among other things, by a legal opinion by barrister James Winchester, dated 8 March 2023 and provided to the Chair of the Independent Hearings Panel conducting hearings on the Wellington City Proposed District Plan and the Wellington City Intensification Planning Instrument.
85. Having set out a summary of our proposed approach in Minute 5 we gave parties the opportunity to comment and present submissions on the issue during HS2. We did not agree with submitters, including Ms McGruddy for WFF, who considered that the notified FPI should be sent back to Council to reconsider the allocation of provisions between the two processes.
86. We had the benefit of comprehensive submissions from parties. We agreed with the submissions of Ms Tancock, counsel for Winstone Aggregates that:²⁵
- a. Part of an RPS may relate to freshwater through giving effect to the NPS-FM, or by otherwise relating to freshwater;
 - b. Provisions that do not give effect to the NPS-FM may relate to freshwater in the required manner to qualify for inclusion in the FPI, by relating directly to matters that impact on the quality and quantity of freshwater, including groundwater, lakes, rivers and wetlands;
 - c. Parts of a RPS cannot be included within a FPI simply because of a connection to freshwater through the concepts of Te Mana o te Wai, ki uta ki tai or the integrated management of natural and physical resources; and
 - d. The starting point is that all provisions in a proposed RPS should be subject to the normal P1S1 process.
87. We are satisfied that the FHP and P1S1 panels have the jurisdiction to recommend to Council that a provision be re-allocated to the P1S1 process. We decided to hear submissions on the categorisation of

²⁵ Legal submissions on behalf of Winstone Aggregates, Overview and General Submissions, 13 June 2023, para 21, citing *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Inc* [2022] NZHC 1777 at [202], [203] and [206].

provisions throughout the individual Hearing Streams, and then make joint recommendations at the conclusion of the hearing of all submitters.

88. We note Officers took at times a different approach to categorisation between the different topics, with some recommending that a provision remain as part of the FPI if it referred in any way to freshwater or NPS-FM implementation, whereas others took an approach based on the degree or extent to which a provision related to matters that impact on freshwater quality and quantity, or the extent to which a provision gives effect to the NPS-FM.
89. We have broadly agreed with the approach of the Officer in HS2.²⁶ Where a provision addresses a wider range of resource management issues which are generally broader than freshwater quality and quantity, we preferred to categorise the provision as a P1S1 provision rather than as part of the FPI, also mindful of keeping ‘like’ provisions together as a package in the same statutory planning process so that related provisions do not take potentially different appeal routes which could lead to timing-related implementation issues and loss of integration. We agreed that a provision did need to ‘solely’ relate to freshwater quality/quantity issues or ‘only’ implement the NPS-FM; but the extent and degree of connection with freshwater did influence our approach. The Commissioners had some differing views initially on some provisions, again reflecting the subjective nature of the task.
90. We considered on balance that the approach by the Officers in the HS2, some subtopics in HS3 and HS6 Hearing Streams was appropriate. When applying the FPP criteria, we took a purposive approach and looked at the outcome sought in the provisions. Where this was much broader than addressing matters that impact on freshwater quality of quantity, we considered it more appropriate for the provision to be categorised as part of the Standard Schedule 1 process. The Reporting Officer in the HS6 s 42A Report described the application of this assessment to the Indigenous Biodiversity provisions in this way:

“While the Indigenous Ecosystem provisions clearly apply to freshwater, they equally apply to ecosystems, habitats and species in the coastal marine area and terrestrial environment and the outcome sought is much broader than addressing matters that impact on freshwater quality or quantity, being to maintain, restore or enhance indigenous biodiversity, and the ecosystems and

²⁶ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 28 July 2023, para 42

habitats that support it. While, in achieving this outcome, there will be a number of situations which require freshwater quality and quantity to be maintained, restored or enhanced and that will have direct or consequential benefits for freshwater ecosystems, I consider that the connection to freshwater quality and quantity is one step removed because the substance of these provisions is primarily about protecting, maintaining, and restoring indigenous biodiversity across all ecosystem types.”

91. We consider this approach appropriate, and we have sought to apply it across the Change 1 provisions. In the Appendix to Part A, we set out a table of our recommendations on the categorisation of provisions, showing the evolution of the provisions from notification through to the Officers’ final recommendations, and then the Panels’ recommendations.
92. The following discussion explains in more detail our reasoning for taking a different approach to the Reporting Officers on the categorisation of provisions.

2.13.1 Hearing Stream Two – Integrated Management

93. All the provisions coded to this topic were notified as part of the FPI. In response to evidence, the Reporting Officer said in a Supplementary Evidence Statement²⁷, that the following provisions should be re-categorised as P1S1 provisions because they did not have a direct enough association to matters that impact on freshwater quality or quantity:
- a. Overarching Resource Management Issue 2;
 - b. Overarching Resource Management Issue 3;
 - c. Policy IM.2; and
 - d. Method IM.2.
94. In his Reply Evidence, the Officer said that after further review of the provisions, and in light of parties’ legal submissions, he considered that it was more appropriate for all of the overarching resource management issues and the integrated management provisions to be considered as part of the P1S1 process. He said that by their nature, the HS2 provisions address a wide range of resource management issues that are much broader than freshwater quality and quantity. It was therefore inappropriate for them to be considered through a more streamlined statutory planning process intended for freshwater specific provisions,

²⁷ Supplementary Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Two – Integrated Management Allocation of Provisions, 10 July 2023, para 14.

and it would be helpful for all parties if the integrated management provisions were considered as a package under the same statutory planning process.²⁸ We agree.

2.13.2 Hearing Stream Three – Climate Change

95. In the notified version of Proposed Chage 1, Regionally Significant Issues 2, 3 and 5 and Objective CC.1 were allocated to the FPP and the remaining provisions to P1S1. The Reporting Officer, Mr Wyeth, reassessed this categorisation in his s42A Report and recommended that Issues 2, 3 and 5 provisions move from the FPP into the P1S1 process. In summary, his reasons were that the Issues were focused (respectively) on:
- a. Issue 2 - the pressures of climate change on biodiversity and the range of services associated with health ecosystems;
 - b. Issue 3 – the risks of natural hazards being exacerbated by climate change and traditional approaches to development; and
 - c. Issue 5 – the impacts of climate change on Māori well-being.

And did not therefore have a direct enough association to matters that impact on water quality or quantity to be included in the FPI.

96. Mr Wyeth also found that Objective CC.1 seeks to achieve a low-emission and climate resilient region and ensure that climate change mitigation and adaptation are central considerations in resource management, development and infrastructure decisions. Mr Wyeth recommended that Objective CC.1 move to the P1S1 process as it is broader in scope than freshwater management.
97. We agree with Mr Wyeth that the three Issues and Objective CC.1 should be assessed under the P1S1 process as they involve matters and considerations that are much broader than those relating to freshwater quality and quantity. The impact of this transfer is that we recommend that all the Climate Change – General subtopic provisions are assessed under the P1S1 process.
98. A few provisions in the Energy, Waste and Industry, and Agricultural Emissions subtopics were notified as part of the FPP including Policies CC.15 and 65. The Reporting Officer recommended that all provisions coded to these subtopics, be assessed under the P1S1 process as they

²⁸ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 28 July 2023, para 42.

are focused on rural resilience to climate change, reduction of emissions and climate change adaptation, and do not have a direct enough association to matters that impact on freshwater quality or quantity.²⁹ We agree with this assessment.

99. All provisions coded to the Transport subtopic were notified as P1S1 provisions and recommended to remain as such.³⁰ We agree with this assessment.
100. For the Climate-Resilience and Nature-Based Solutions subtopic, the Officer recommended quite a few provisions be assessed as part of the FPI (consistent with their status at notification).³¹
101. In summary, the Officer's reasons are that many nature-based solutions directly protect, enhance or restore freshwater ecosystems, improve freshwater quality, benefit water flows and levels, and respond to climate change consistent with the direction in the NPS-FM. The Officer gives water sensitive urban design (such as rain gardens and green roofs) as an example of measures used to manage stormwater flows to improve water quality and freshwater ecosystems, while also reducing flooding risk and providing resilience.
102. We had differing views on the nature-based solutions provisions. Climate-resilience is incorporated in the NPS-FM but is also a broader concept than freshwater. It relates to freshwater quality and quantity, but also to other issues such as the design of buildings and infrastructure, efficient energy use, and climate change mitigation and adaptation. Although finely balanced, the Panels consider that because the nature-based solutions provisions are strongly associated with freshwater management and implement Policy 4 and clauses 3.5(2) and 3.5(4) of the NPS-FM, they are appropriately categorised as part of the FPI. We also recommend that definitions particularly relevant to the *nature-based solutions* provisions, also progress as part of the FPP.
103. The Officers in HS3 have not recommended that all provisions that reference nature-based solutions are included in the FPI, for instance

²⁹ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Subtopics General, Agricultural Emissions, and Energy, Industry and Waste, 21 September 2023, para 5

³⁰ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Transport, 31 July 2023, para 2.

³¹ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Climate-Resilience and Nature-Based Solutions, 31 July 2023, para 62 and Table 4.

Policy CC.7 (as recommended to be amended by the Reporting Officer), Policy CC.15 and Method CC.8 are recommended to progress through the Standard Schedule 1 process. We consider that the matters addressed in these provisions, and also in Method CC.9 are more focused on matters that are broader than freshwater quantity and quality or NPS-FM implementation, even though they all reference *nature-based solutions*.

104. Contrary to the Officers' recommendations, we recommend the 'forest cover' provisions (Objective CC.5, Policy CC.6, Policy CC.18, Method CC.4, Method CC.9 and related definitions) are assessed together as part of the Standard Schedule 1 process given their broader aims of carbon sequestration, indigenous biodiversity benefits, land stability and social and economic wellbeing. This was also a finely balanced assessment because afforestation can of course reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. On balance, we consider the 'forest cover' provisions are more appropriately categorised as P1S1 provisions because while they have co-benefits for freshwater management, they also aim to achieve a broader range of benefits.
105. For the Natural Hazards subtopic, the Officers agreed with the notification assessment, and recommended that the following provisions be assessed as part of the FPP:³²
 - a. Issue 3;
 - b. Objective 20;
 - c. Policy 52; and
 - d. Definition of minimise.
106. This was another subtopic in which there were at first differing views by the Commissioners. Even though the heading and chapeau to Issue 3 refer to "natural hazard events", much of the content is focused on flood events and drought which places pressure on water resources. However, the Issue is also about sea level rise and coastal erosion and inundation. We agreed that Objective 20 was broader than freshwater issues even though it refers to Te Mana o te Wai (which in and of itself is not conclusive as to categorisation as we note above). Similarly, Policy 52, while relating to freshwater and flood management and resilience, also addresses a broader range of hazards. While again finely balanced, we preferred Policy

³² Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Natural Hazards, 31 July 2023, Tables 3 and 4 (paras 15 and 63).

52 to be considered in the same planning process as Policy 29 which is about managing areas at risk from natural hazards. It could lead to implementation and loss of integration to have the two provisions assessed and determined through potentially different appeal pathways.

107. The term “minimise” occurs in both the natural hazard provisions and also HS5 provisions. Again, although finely balanced, we recommend it proceed as part of the FPI together with the definition of “maximise” which was proposed to be included in Change 1 through the HS5 s 42A Report.
108. The conclusion we reach on the HS3 provisions (although not without considerable debate), is that only the nature-based solutions provisions and the definition of “minimise” and “maximise” should progress as part of the FPI. Therefore, as set out in Appendix A to Part A, we recommend that the following provisions in the HS3 Hearing Stream progress as part of the FPI:
 - a. Objective CC.4;
 - b. Policy CC.4 suite;
 - c. Policy CC.12;
 - d. Policy FW.8;
 - e. Method CC.6; and
 - f. The definitions of:
 - i. *nature-based solutions*;
 - ii. *climate resilience / climate resilient / resilience and resilient*;
 - iii. *water-sensitive urban design*;
 - iv. *climate change adaptation*;
 - v. *climate change mitigation*; and
 - vi. *minimise and maximise*.

2.13.3 Hearing Stream Four – Urban Development

109. Most of the provisions in this topic were notified as part of the FPI, with the key exceptions being Policies 30, 67 and UD.1. Policy UD.4 which was recommended for inclusion in the s 42A Report, was categorised as a P1S1 provision. The approach the Council took, and which the Reporting Officer largely supported, was that the HS4 provisions contribute to achieving the NPS-FM objective and policies, and even if only part of a provision gave effect to the NPS-FM or related directly to matters that

impact on the quality or quantity of freshwater, it could still be included in the FPI as provisions should not be split between planning processes.³³

110. We understand the NPS-FM recognises and provides direction on the integration of land use and urban development so as to manage impacts on freshwater quality and quantity. We also acknowledge that well-functioning urban environments and areas incorporate water sensitive urban design to manage stormwater flows to reduce flooding and retain natural stream-flows to protect communities and freshwater ecosystems. Further, we acknowledge, as the Reporting Officer states, that Proposed Change 1 has been drafted on the basis that urban development generates a large proportion of effects on water quality in the Region.
111. However, in our view, the provisions in HS4 address issues that are broader than freshwater quality and quantity and NPS-FM implementation. We do not consider that references in the provisions to well-functioning urban areas, climate resilience and Te Mana o te Wai, provide enough of a direct connection to freshwater management. Standing back and viewing the provisions objectively, we do not regard the urban development provisions as freshwater provisions that justify inclusion in the streamlined planning process. We do not consider that it would lead to loss of integration for the HS4 provisions to proceed through the Standard Schedule 1 process, while the HS5 provisions (or at least the majority if our recommendations are accepted) proceed through the streamlined process. We therefore recommend that all the HS4 provisions are categorised as P1S1 provisions.

2.13.4 Hearing Stream Five – Freshwater

112. We consider it appropriate and consistent with the FPP criteria identified in Part A, for the majority of provisions within the HS5 topic to be included in the FPI. This includes Method FW.2 which the Reporting Officer recommended be assessed in the P1S1 process¹⁸, and also the definitions used in freshwater provisions including *hydrological control*, *hydraulic neutrality*, *Te Mana o te Wai* and *nature-based solutions*.

³³ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, paras 69-71.

113. However, we recommend that:

- a. Method 31; and
- b. Objective 12 AER 6;

are assessed as ‘non-freshwater provisions’ as they relate to matters that are broader than freshwater.

114. We recognise that Policies 15 and 41 apply more broadly across the RPS and in addition to Objective 12, they also give effect to Objective 29 (which relates to soil erosion and is not within the scope of Proposed Change 1). The Officer recommended they progress through the P1S1 process.³⁴ However, the amendments proposed in Change 1 to these operative Policies:

- a. for Policy 15 - refer directly to controlling earthworks and vegetation clearing to achieve target attribute states for water bodies and freshwater ecosystems, which links directly to the NPS-FM; and
- b. for Policy 41 – include a set of considerations directly related to management of water quality and quantity including a reference in clause (d) to future NRP controls, so there is a close relationship to achieving what the NPS-FM seeks to achieve.

115. It was a finely balanced decision, but the FHP and P1S1 Panels considered that because Method FW.2 applies to consents relating to freshwater, it was appropriate that it be included in the FPI even though it relates to operational processes. Implementing the Method will, in our view, relate directly to matters that impact on the quality of freshwater.

2.13.5 Hearing Stream Six – Indigenous Ecosystems

116. We agree with the Reporting Officer’s recommendation that all provisions within HS6 are assessed as part of the P1S1 process, including associated definitions.³⁵

2.13.6 Hearing Stream Seven – Variation 1, Small Topics and Wrap 1

117. Variation 1 to Proposed Change 1 to the Regional Policy Statement proposes two additional objectives providing long term visions for two Wellington Region Whaitua (Te Awarua-o-Porirua Whaitua and Te

³⁴ Appendix 3 to the Section 42A Hearing Report, Hearing Stream 5, 20 October 2023

³⁵ Section 42A Hearing Report, Hearing Stream 6, Indigenous Ecosystems, 11 December 2023, paras 74 – 75.

Whanganui-a-Tara Whaitua). Variation 1 gives effect to the NPS-FM and is therefore appropriately an FPI.

118. The Reporting Officer recommended that Methods 1, 2, 4 and 5 within the 'Consequential amendments' subtopic in HS7, be assessed as part of the FPI as they implement policies that give effect to parts of the NPS-FM. We agree with this but note that the majority of the provisions address broader matters than those impacting on the quality or quantity of freshwater. Again, this was a finely balanced issue with differing views from Commissioners, but we recommend that the Methods all proceed through the P1S1 process given the broad range of matters they relate to.

3. Statutory Framework

119. Sections 59 to 62 of the RMA set out the legal framework for an RPS.
120. Change 1 was notified on 19 August 2022. Counsel for the Regional Council advised that the version of the RMA that applies to the Change 1 process is that which was in place at the date of notification. We accept this.
121. Section 59 of the RMA states:
- “The purpose of a regional policy statement is to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.”
122. Counsel for the Regional Council referred in opening legal submissions to the legal tests for plan preparation set out in *Long-Bay Okura Great Park Society v North Shore City Council*³⁶ and subsequent line of authorities. Counsel submitted that the principles in these cases apply to changes to an RPS with the appropriate modifications and no party disagreed. We accept this and summarise the approach below.
123. The RPS must:
- a. Give effect to any national policy statement, the New Zealand Coastal Policy Statement and national planning standards;
 - b. State the significant resource management issues for the region;
 - c. State the resource management issues of significance to iwi authorities in the region;
 - d. State the objectives sought to be achieved by the RPS;
 - e. State the policies for those issues and objectives and an explanation of those policies;
 - f. State the methods (excluding rules) used, or to be used, to implement the policies; and
 - g. Not be inconsistent with any water conservation order.

³⁶ A 78/08, EnvC, Auckland, 16 July 2008 at [34].

124. As stated by the High Court in *Royal Forest and Bird Protection Society of New Zealand Inc v Buller Coal Ltd*:³⁷

“...[the] pith and substance [of an RPS and regional plan] is directed to achieving sustainable management, via an overview of the significant resource management issues, policies and methods for the region. While regional policy statements provide normative guidance, regional plans assist regional councils to carry out their more specific functions.”

125. The RPS sits at the head of the hierarchy of local authority planning instruments and “drives the direction” of both regional and district plans.³⁸

126. Change 1:

- a. Should be designed in accordance with the Regional Council’s functions and Part 2 of the Act; and
- b. Must also be prepared in accordance with the obligation (if any) to prepare an evaluation report under section 32 of the Act, and in accordance with any national policy statements, New Zealand Coastal Policy Statement, national planning standard and any regulations.

127. The s32 Report states that the intent of Change 1 is to give effect to the national direction contained in the NPS-FM and NPS-UD.

128. Other national direction is also relevant, and has been implemented in part, and to the extent relevant to the regional council and the function of a RPS, and within the scope of submissions. Relevant national direction is discussed as part of specific Hearing Streams. In particular:

- a. HS2- discusses the relevance and implementation of the NPS-HPL;
- b. HS3 – discusses the Climate Change Response Act and national plans and management strategies made under it, and also the NPSET, NPS-REG and the NPS-IPH;
- c. HS4 – discusses the NPS-UD, and the NPS-FM as it is relevant to urban development;
- d. HS5 – discusses the NPS-FM and also NPS-UD;
- e. HS6 – discusses the NPS-IB, NPSET and NPSREG; and
- f. HS7 – discusses the NPS-FM and NPSET.

³⁷ [2012] NZHC 2156 at [24].

³⁸ *Albany North Landowners v Auckland Council* [2017] NZHC 138 (HC) at [152].

4. Legal principles relating to scope

129. We discuss issues of scope within particular Hearing Streams as relevant, but here make some overarching comments that apply to both planning processes.
130. For both planning processes, the relief sought by submissions must be on Proposed Change 1. Neither the P1S1 Panel nor the FHP, has jurisdiction to grant any relief outside the scope of the Change.³⁹
131. The P1S1 Panel only has jurisdiction to make a recommendation on a submission that is both within the scope of Proposed Change 1 and ‘on’ the Change.⁴⁰
132. The FHP can also only make recommendations on the FPI but is not limited to making recommendations within the scope of submissions.⁴¹ It may also make recommendations on any other matters related to the FPI that are identified by the FHP or any other person during the hearing.⁴²
133. The legal principles relating to whether a submission is ‘on’ a plan change, are well-settled.⁴³
134. As the High Court confirmed in *Palmerston North City Council v Motor Machinists Limited*, for a submission to be ‘on’ a change, a two-limbed test must be satisfied:
- a. The submission must address the proposed change itself, that is, the extent of the alteration to the status quo which the change entails; and
 - b. The Council must consider whether there is a real risk that any person who may be directly affected by the decision sought in the submission has been denied an effective opportunity to respond to what the submission seeks.
135. Questions relevant to the first limb include whether a submission raises matters that should be addressed in the s32 report, or whether the management regime in the plan for a particular resource is altered by the

³⁹ Clause 6(1), Schedule 1, RMA (P1S1 Panel), and Clause 49(1), Part 4, Schedule 1, RMA.

⁴⁰ Clause 10, Part 1, Schedule 1, RMA.

⁴¹ Clause 49(2)(a), Part 4, Schedule 1, RMA.

⁴² Clause 49(2)(b), Part 4, Schedule 1, RMA.

⁴³ The summary here is drawn from Counsel for the Council’s legal submissions: Legal submissions on behalf of Wellington Regional Council – legal framework and plan change tests, 8 June 2023.

change. Submissions seeking relief beyond that ambit are unlikely to be 'on' the change. However, incidental or consequential extensions are permissible if they require no substantial section 32 analysis.

136. In considering the second limb, the High Court in *Motor Machinists* said that the risk that the Council must guard against is that the reasonable interests of others might be overridden by a 'submissional side-wind.' The concern identified was that a change could be so morphed by additional requests in submissions that people who were not affected by the change, as notified, became affected through a submission, which had not been directly notified to them.

Part B: Section 2

Hearing Stream 1 – General submissions

1. There were two s 42A Reports in this Hearing Stream. The first was an Overview Report which provided background and context to Proposed Change 1. Much of the content in this Overview Report has been discussed in Part A of our Report.
2. The second s 42A Report was on General submissions, namely submissions which apply to the entire change proposal rather than being directed to a specific topic.¹ The Reporting Officer did not recommend any amendments to the provisions in response to general submissions. The s42A Report addressed:
 - (a) The allocation of provisions between the FPP and P1S1 process;
 - (b) Providing for mana whenua in the RPS;
 - (c) The scope of Change 1;
 - (d) Drafting issues;
 - (e) The appropriateness of general plan provisions;
 - (f) Implementation; and
 - (g) Whether engagement was sufficient.
3. Many of these matters have been addressed in specific topic chapters of this report including in Part A where we discuss our approach to the categorisation of provisions.
4. We otherwise agree with the recommendations of the Reporting Officer on the General submissions topic for the reasons provided in the s 42A Report, Rebuttal or Reply Evidence. We also agree with the Officer's assessment of submissions considered to be outside the scope of Change 1.² We comment on three matters that came up in Hearing Stream 1 and in other Hearing Streams.

¹ Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, para 22.

² Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, para 54.

1.1 Providing for mana whenua in the RPS

5. Numerous submissions sought amendments relating to mana whenua / tangata whenua and partnership values. These have been considered through the specific topic chapters.
6. The topic chapters also discuss relief sought by Muaūpoko Tribal Authority (**Muaūpoko**) to specific provisions in Proposed Change 1. Muaūpoko also requested specific acknowledgement of mana whenua status due to their connections to Te-Whanganui-a-Tara. Their submission detailed the history and whakapapa of the iwi and they raised concern about lack of consultation during the preparation of Proposed Change 1.
7. Muaūpoko requested that they be referenced wherever tangata whenua is referenced in Proposed Change 1. Legal submissions from Mr Bennion articulated the relief Muaūpoko was seeking, saying without these amendments, there is essentially no protection for Muaūpoko in relation to their taonga in Te-Whanganui-a-Tara and northwards to Ōtaki. Mr Bennion sought a ‘non-exclusionary approach’ in the RPS to the identification of iwi in the region³ and sought that Muaūpoko be referenced wherever tangata whenua is referenced in PC1. Mr Bennion commented specifically on ‘non-exclusionary’ wording relating to tangata whenua and as discussed in the legal submissions of Counsel for the Council (presented by Mr Allan). We note that some of this relief relates specifically to the Freshwater/Te Mana o te Wai hearing stream and we address that relief in that chapter of our report.
8. Mr Bennion stated that the relief sought by Muaūpoko was within scope, there was “overwhelming evidence” before Council to support the amendments proposed, the relief did not threaten other Māori groups, and it was not the role of the Council to determine the relative strength of Muaūpoko customary interests.⁴
9. Ātiawa sought that Muaūpoko’s entire submission be disallowed. The HS1 reporting Officer did not make any recommendations on the relief sought by Muaūpoko for recognition as mana whenua.
10. We have considered the submissions from Muaūpoko, Mr Bennion’s legal submissions and the legal submissions of Counsel on this complex and sensitive issue. We find that we have no ability to determine competing

³ Legal submissions of Mr Bennion, Counsel for Muaūpoko Tribal Authority, paras 26 – 28.

⁴ Legal submissions of Mr Bennion, Counsel for Muaūpoko Tribal Authority, paras 14 and 16.

viewpoints on mana whenua / tangata whenua status. We accept Mr Allan’s legal submissions (presented for the Council) where he said, citing the High Court case of *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whaia Maia Ltd*:⁵

“It is not the role of Wellington Regional Council to confer, declare or affirm tikanga-based rights, powers or authority. Determination of those rights or mana whenua status is a matter for mana whenua themselves in accordance with tikanga Māori.”

11. As Mr Allan explained, decision-makers must “meaningfully respond” to iwi claims that a particular outcome is required where that is necessary and relevant to meet the directions in sections 6(e), 7(a) and 8 in the RMA, or other obligations to Māori. We address Mr Bennion’s concerns regarding what he describes as ‘exclusionary’ provisions in PC1, in both the Freshwater/Te Mana o te Wai and Indigenous Biodiversity chapters, where the issue has specific impact and reach.

1.2 Scope

12. Various submitters sought that the scope of Proposed Change 1 be limited to amendments required to implement the NPS-UD (eg BLNZ [S78.001]. This relief was opposed including by Wellington Water [FS19.064] and Ātiawa [SFS20.003].
13. Part A and other chapters of our Report discuss the rationale for the scope of Proposed Change 1 including the Council’s intention to view inter-related national direction together rather than in isolation of each other. We agree with Council, for the reasons set out in the s32 Report, that the changes in Proposed Change 1 are required to implement national direction and support changes to the regional plan and Wellington region district plans. We agree with the HS 1 Reporting Officer’s reasoning for rejecting the relief sought by BLNZ and others to limit the scope of the Change proposal to only amendments required to implement the NPS-UD.⁶ Similar reasoning is provided by other Reporting Officers in subsequent hearing streams.
14. We also agree with the further submission from Ātiawa [FS20.208] that delaying responding to national direction is not an appropriate course of

⁵ [2020] NZHC 2768, referenced at para 5 of Mr Allan’s legal submissions, Hearing Stream 1, Providing for Tangata Whenua / Mana Whenua in Proposed Change 1, 8 June 2023.

⁶ Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, paras 130 – 137.

action. For the reasons we have further discussed in topic chapters, we similarly do not support relief sought by WFF [S163.079] and other submitters that specific chapters of Proposed Change 1, such as the climate change chapter, are deleted and deferred to a full review of the RPS in 2024.

1.3 Consideration policies

15. PCC [S30.0123] opposed all consideration policies and this relief was supported by PPFL [FS25.041]. PCC's counsel stated that one key concern with consideration policies is that where a TA had given effect to RPS provisions relating to the same matter as a consideration policy, it was then not clear whether the consideration policy continues to apply.⁷ Including a 'expiry date' or clear statement that the policy only had interim effect until the regulatory policy had been given effect to in the plan, would resolve some of these interpretation issues in PCC's submission.
16. This was a recurring issue in PCC's evidence throughout the hearings. For example, Mr McDonnell's planning evidence in Hearing Stream 3 expressed the concern in this way:⁸

"My understanding is that 'consideration' policies are applied in order to guide resource consenting processes in the absence of district and regional plan rules (as well as notices or requirement, plan changes etc as noted by the reporting officer in paragraph 291). Once plan provisions are in place following the 'regulatory' or plan making RPS policies, I see no reason that 'consideration' policies should continue to apply. This is because there is risk that a 'consideration' policy could duplicate or conflict with district and regional plans..."

17. Kāinga Ora [S158.001] was also concerned that the consideration policies read as assessment criteria for the consideration of consent applications and NoRs (and were therefore not within the jurisdiction of an RPS). Other submitters sought amendments to clarify the statutory weighting of consideration policies to planning and consenting (eg Forest and Bird [S165.060]).
18. Consideration policies are contained in section 4.2 of the Operative RPS. They contain a range of directions to decision-makers to have regard to, particular regard to, or recognise and provide for specific matters when

⁷ Legal submissions of Counsel for PCC, para 3.2.

⁸ Statement of evidence of Torrey James McDonnell on behalf of Porirua City Council, Planning, Natural hazards, 14 August 2023, para 37.

considering resource consents, NoRs, or the change/variation of planning documents. Proposed Change 1 proposes the inclusion of 14 new consideration policies, and other policies were recommended through Officers' s 42A Reports or in Rebuttal or Reply Evidence.

19. The issue of the scope and drafting of consideration policies came up in all hearing streams and we wish to make some general comments here. We accept the legal submissions of Ms Anderson for the Counsel setting out the rationale for consideration policies.⁹ They are not 'new' to the Change proposal and exist in the Operative RPS. The statutory weighting to be given to matters (for example, to 'have regard' to provisions in an RPS in a s 104 consent assessment) cannot be amended through the Change 1 provisions.
20. We agree with Reporting Officers that the consideration policies are an important 'backstop' particularly where there is a time lag in a council implementing the regulatory policies.¹⁰ Ms Foster for Meridian commented at the Climate Change hearing that consideration policies do not:¹¹

"...fall away or become irrelevant when plans have given effect to [them]... they still have to be considered. But the work has been done. So, the heft if you like in driving plan changes is in the lower numbered directing policies in my opinion."

21. Ms Foster was talking here about the consideration Policies 39 and 65 and the 'lower numbered policies' are Policies 7 and 11 which set the regulatory direction for plan-making.
22. Mr Brass for the DGC, also at the Climate Change hearing said that the consideration policies (here he was discussing Policy 51 specifically), create an "ongoing obligation" for future plan changes.¹² Later in Hearing Stream 7, Mr Brass explained the point further in his written evidence in this way:¹³

"In my opinion, it would be overly simplistic to assume that once a new or reviewed plan is in place that an end-point has

⁹ Legal submissions on behalf of Wellington Regional Council – key terminology used and consideration policies in Hearing Stream 1, 23 June 2023.

¹⁰ Hearing Transcript, HS1, pages 82 – 83, lines 4199 – 4212.

¹¹ Hearing Transcript, HS3, Day 2, page 8, lines 357 – 363.

¹² Hearing Transcript, HS3, Day 4, page 75, lines 3805 and 3820.

¹³ Evidence of Murray John Brass on behalf of the Director-General of Conservation, Hearing Stream 7 – Small topics, wrap up and Variation 1, 27 March 2024, paras 17 – 20.

been reached. Rather, my experience is that circumstances and issues can change and develop over time, and that plan provisions do not always play out exactly as originally intended. It can therefore be useful to retain the ability to refer to higher order provisions. This provides improved certainty of outcomes, and improved clarity for plan users. I do not see any cost in doing so – if a higher order provision adds nothing to subsequent provisions, then that requires negligible time or effort to address for applicants or s42A report authors and would not alter the outcome. I therefore support the s42A Report and consider that higher order provisions should remain in effect unless specific assessment has shown that this is no longer required.”

23. We agree that the consideration policies have an important function in providing direction to lower order planning and consenting processes, particularly where there is a large time lag until regional and district plans give effect to the relevant RPS provisions. We do not think they need to all include a ‘sunset clause’ (i.e. all have blanket interim effect) but that this may be justified in the particular circumstances depending on the nature and context of the policy itself. For instance, a sunset clause may be appropriate to state that the policy no longer applies once a regional plan is updated to give effect to mandatory direction in clauses 3.22 and 3.24 of NPS-FM (see Policies 40A and 40B of the Hearing Stream 5 provisions).¹⁴ But in other contexts, it is appropriate for the consideration policies to continue to apply to assist with implementation of policy direction where it is not clear that the regulatory policy has been given full effect in the lower order instrument. We agree with Ms Pascall’s rationale provided as part of the Hearing Stream 7 Reply.¹⁵ Importantly, consideration policies have legal effect earlier, and so must be considered as part of any consenting or plan change proposal, regardless of whether the regulatory policies in Chapter 4.1 have been given effect to.
24. A question came up during Hearing Stream 7 regarding the consistency in the drafting of the consideration policies. Ms Pascall said that Officers did not support consistent drafting at this stage as submitters would not have the opportunity to comment, but that this could be addressed in the next full review of the RPS.¹⁶

¹⁴ Response to questions in Minutes 23 and 27, 30 May 2024, para 16.

¹⁵ Response to questions in Minutes 23 and 27, 30 May 2024, para 17.

¹⁶ Response to questions in Minutes 23 and 27, 30 May 2024, para 13.

Part B: Section 2

Hearing Stream 2 - Integrated Management

1. Executive Summary

1. The new Integrated Management (IM) provisions introduced through Proposed Change 1 provide direction on what is required to achieve the integrated management of natural and physical resources in the Wellington Region.¹
2. The recommendations on the merits of submissions on the IM provisions, were made by the P1S1 Panel and are to be read with the attached submission analysis table.
3. Having heard submitters and considered evidence, legal submissions and hearing presentations, the P1S1 Panel recommends Council adopt the IM provisions in the RPS, specifically:
 - a. Four new overarching Resource Management Issues
 - b. A new IM Chapter in the RPS containing the Issues and the new Objective
 - c. An IM Policy and two Methods, and
 - d. IM Anticipated environmental results (AER).
4. We recommend that Policy IM.2 is deleted.
5. The Officer's recommendations on the IM provisions were modified in the course of the submissions and hearing process. The P1S1 Panel agrees with the majority of the Officer's recommendations on the merits of submissions. Our views differ from the Reporting Officer on the following provisions:

¹ Section 32 Report, Proposed Change 1 to the Regional Policy Statement for the Wellington Region, page 115.

Provision	Panel's views
Resource Management Issue 1	We recommend an amendment to recognise the impacts of inappropriate use and development on highly productive land.
Resource Management Issue 3	We recommend amendments to reflect evidence presented by mana whenua / tangata whenua that they have not always been involved in decision-making and this has meant that Te Ao Māori, mātauranga Māori and the relationship of mana whenua / tangata whenua with te Taiao has not been adequately provided for in resource management.
Resource Management Issue 4	We recommend an amendment to recognise: <ul style="list-style-type: none"> • the role of the resource management and planning system in mitigating climate change • the need for informed and engaged communities
Objective A	We recommend Objective A is: <ul style="list-style-type: none"> • renamed 'Integrated Management Objective' given submitters' concerns about whether 'A' signals prioritisation • located in a new IM chapter in the RPS, consistent with the structure in the National Planning Standards • amended to reflect the Council's vision of Wellington being a low emission, as well as climate resilient, region • amended to recognise the role of the resource management and planning system in reducing gross greenhouse gas emissions.

2. Overview

6. The notified version of the IM topic consists of the following provisions:

- a. Overarching Resource Management Issue 1 (RMI 1): Adverse impacts on natural environments and communities
- b. Overarching Resource Management Issue 2 (RMI 2): Increasing pressure on housing and infrastructure capacity
- c. Overarching Resource Management Issue 3 (RMI 3): Lack of mana whenua / tangata whenua involvement in decision making
- d. Objective A: The overarching resource management objective for the Wellington region
- e. Policy IM.1: Integrated Management - ki uta ki tai - consideration
- f. Policy IM.2 Equity and inclusiveness in resource management decision making
- g. Method IM.1: Integrated Management - ki uta ki tai
- h. Method IM.2: Protection and interpretation of Mātauranga Māori and Māori data
- i. Integrated Management Anticipated Environmental Results.

7. The Reporting Officer said in his Reply Evidence that he recommended all the provisions in this Topic be categorised as P1S1 provisions. As we record in Part A of our Report, we agree with this recommendation as the IM provisions are broader than issues relating to freshwater quality and quantity and NPS-FM implementation.

8. The s 32 Report states that the current non-regulatory approach to integrated management has not been effective.² The new IM provisions provide clear direction to the Regional Council and territorial authorities on the need to recognise the interconnectedness of the whole environment and interactions between different domains and receiving environments, as well as the importance of collaboration and coordinated and sequenced management. The provisions do this by, among other things:

- a. Providing greater clarity and direction on what integrated management is

² Section 32 Report, Proposed Change 1 to the Regional Policy Statement for the Wellington Region, page 115.

- b. Ensuring that the Regional Council and territorial authorities are partnering with mana whenua / tangata whenua, as well as providing support to mana whenua / tangata whenua to be adequately and appropriately involved in resource management and decision making
 - c. Giving Te Ao Māori and mātauranga Māori the appropriate and respectful place in resource management and decision making
 - d. Protecting mātauranga Māori from inappropriate use and treatment
 - e. Enabling a more efficient, connected and holistic approach to resource management that looks beyond organisational or administrative boundaries
 - f. Providing greater and more efficient cooperation between organisations with shared or overlapping jurisdiction or responsibility for management of resource or issues.
9. The s 32 Report recognises that there is not a specific policy package that will achieve the new IM Objective, but instead, the integration and how the provisions across the RPS work together will collectively contribute to achieving the Objective.³

2.1 Key Issues Raised

10. Key issues and common themes raised by the submitters on the IM provisions include the following:
- a. Procedural issues regarding the RMA planning process for the proposed provisions (which we discuss in Part A and is not considered further here).
 - b. Whether the RPS should contain an integrated management chapter.
 - c. The overarching resource management issues are negatively worded and not supported by a sufficient evidence base.
 - d. Objective A establishes Te Ao Māori as the pre-eminent concept for delivering integrated management (rather than being part of it) and

³ Section 32 Report, Proposed Change 1 to the Regional Policy Statement for the Wellington Region, page 115.

the objective does not articulate the full range of important resource management issues

- e. Policy IM.2 addresses matters that are outside the scope of the RMA, is not related to achieving the purpose of the RMA, uses unclear and debatable terms, and the s 32 Report does not demonstrate the appropriateness of the Policy in achieving the RPS objectives.
- f. There is a lack of clarity regarding the direction and terms used in some of the proposed provisions.
- g. There is a lack of guidance regarding how proposed provisions are intended to be implemented, particularly how Policies IM.1 and IM.2 are to be implemented through resource consent and notice of requirement processes.

11. Many aspects of these issues were addressed in the s 42A Report, through the Hearing and in the Reporting Officer's Rebuttal Evidence. Other concerns identified in evidence and Hearing presentations include:

- a. An implied hierarchy elevating the relevance / importance of the IM Issues and Objective A ahead of the issues in subsequent RPS topic chapters.
- b. Concern that as a list of overarching issues the Objective A list of considerations is incomplete and overlooks or doesn't give sufficient emphasis to some key issues such as engagement with communities, the role of regionally significant infrastructure(RSI), the value of highly productive land, recognising and providing for the relationship of Māori with te taiao in accordance with section 6(e) of the RMA, sustaining resilience of communities to climate change and reference to *Te Mana o te Wai*.
- c. Objective A should be rationalised and replaced with three separate IM objectives.
- d. The provisions should be shifted to a separate IM chapter as recommended in the National Planning Standards.
- e. Inclusion of provisions in relation to equity and inclusiveness are inconsistent with the purpose of the RMA, Councils already have similar obligations under the Local Government Act, and

interpretation and implementation issues with proposed Policy IM.2.

12. Before turning to analyse specific provisions, we make some brief comments on the relevant statutory framework and submitter relief requesting the inclusion in the RPS of a separated Integrated Management chapter.

2.2 Statutory Framework

13. As noted in Part A, the purpose of the RPS is: (as set out in s 59 of the RMA)

to achieve the purpose of the Act by providing an overview of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

14. The Regional Council has a broad discretion to identify the issues relevant to Proposed Change 1. Sections 62(1)(a) and (b) of the RMA require a RPS to state:

- a. the significant resource management issues for the region, and
- b. the resource management issues of significance to iwi authorities in the region.

15. Section 62(1)(c) of the RMA requires a RPS to state “the objectives sought to be achieved by the [regional policy] statement”.

16. Integrated management is an important concept in national direction. The NPS-FM, NPS-IB (clause 3.4) and NZCPS (Policy 4) for instance all articulate what IM means in the particular context of those instruments. The NPS-UD recognises that an integrated approach to urban development, housing, climate change and freshwater is an important part of creating well-functioning urban environments.

17. Other national direction and management plans and strategies are also relevant to the IM provisions, including the NPS-HPL, the NES-REG, NPS-ET, the Emissions Reduction Plan (ERP) and National Adaptation Plan (NAP). These recognise the need for resilient and effective infrastructure that helps respond to climate change, the importance of protecting highly productive land from incompatible activities, and the role of the resource management and planning system in helping New Zealand reduce gross greenhouse gas emissions and adapt and be resilient to climate change.

2.3 A separate Integrated Management chapter

18. Section 2.4 of the Operative RPS addresses integrated management, providing a detailed overview of the importance of integrated management in the Region. It was not notified as part of Proposed Change 1, so was not subject to any submissions.
19. The Proposed Change 1 IM provisions are proposed to be located in different parts of the RPS:
 - a. **IM Issues:** Proposed amendments to the Chapter introduction, Chapter 3: Resource management issues, objectives and summary of policies and methods to achieve the objectives
 - b. **Objective A:** Proposed amendments to the Chapter introduction, Chapter 3
 - c. **Policy IM.1 and IM.2:** Proposed Amendments to Chapter 4.2, Regulatory policies – matters to be considered
 - d. **Method IM.1 and IM.2:** Proposed amendments to Chapter 4.5.3, Non-regulatory methods – integrating management
 - e. **Objective A – Anticipated Environmental Results:** Proposed amendments to chapter 5, Monitoring the Regional Policy Statement and progress towards anticipated environmental results.
20. There was some discussion in submissions and at the Hearing, about bringing these provisions together into a separate new Chapter in the RPS. Related to this issue, section 2 of the National Planning Standards (Regional Policy Statement Structure Standard), specifies the following structure for an RPS:

PART 2 – RESOURCE MANAGEMENT OVERVIEW	
Chapters:	Significant resource management issues for the region
	Resource management issues of significance to iwi authorities in the region
	Integrated management

21. Directions 2 and 3 of the RPS Structure Standard state that:⁴

⁴ Ministry for the Environment, November 2019, *National Planning Standards*, Regional Policy Statement Structure Standard, pages 8 – 10.

chapters and sections that are black in Table 2 must be included, in the order shown. Unless otherwise specified, chapters and sections that are grey in Table 2 must be included if relevant to the regional policy statement, in the order shown.

22. We understand that the Regional Council has not implemented all aspects of the National Planning Standards. We make no comment on compliance with implementation timeframes as this is a matter for the Council. However, we consider there is scope within the provisions before us to recommend that the RPS include a separate IM chapter. Mr Wyeth commented on this in his Reply Evidence and noted that it was appropriate in his view for the IM provisions to be included in a new IM chapter consistent with the National Planning Standards.⁵ We consider this appropriate although we note the structural challenges, integration with section 2.4 of the Operative RPS, and other difficulties with a standalone chapter that Mr Wyeth identifies in his Reply Evidence.⁶
23. We have considered the two options Mr Wyeth has presented on the standalone chapter issue.⁷ Our preference is to include the Issues and Objective A (renamed as “Integrated Management Objective”) into the standalone chapter, cross-referencing Policy IM.2 and the 2 Methods in a table, similar to other objectives in the RPS. The Policy and Methods would then be located in their respective parts of the RPS (chapters 4.2 and 4.5.3). The AER would be included in Table 14 of the RPS, alongside other AERs.
24. We consider this structure addresses submitters’ concerns that Objective A could be interpreted as more important than other RPS Objectives but we acknowledge this does create some issues regarding the current structure of the Operative RPS which would have section 2.4 “Integrating management of natural and physical resources” sitting separately from the IM chapter.
25. Nevertheless, we consider the structure we recommend aligns with the RPS Structure Standard in the Planning Standards (at least in part). Council may wish in a subsequent RPS change to include introductory text for the new Chapter and integrate the content in section 2.4 into the new

⁵ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, paras 6 and 8.

⁶ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, para 7.

⁷ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, para 8.

IM chapter. We do not consider there is scope to do this within Proposed Change 1.

26. We also note that the RPS Structure Standard includes a chapter titled “Resource management issues of significance to iwi authorities in the region”. No separate chapter has been included in the RPS or notified as part of Proposed Change 1 so would be required in a future change. However, the Issues coded to this topic and which we discuss below, do concern issues that mana whenua / tangata whenua said in their submissions and at the Hearing, were of significant importance to them.
27. We comment again on structure in our analysis of Objective A below.





3. Provision by Provision Analysis

3.1 Resource Management Issues

28. The notified version of Proposed Change 1 specified three “overarching resource management issues for the Wellington Region”:

- a. Adverse impacts on natural environments and communities
- b. Increasing pressure on housing and infrastructure capacity
- c. Lack of mana whenua / tangata whenua involvement in decision making.

29. The notified Issues read:

Chapter introduction	
This chapter provides an overview of the issues addressed by the Regional Policy Statement.	
<u>The overarching resource management issues for the Wellington Region are:</u>	
1. <u>Adverse impacts on natural environments and communities</u>	
<u>Inappropriate and poorly managed use and development of the environment, including both urban and rural activities, have damaged and continue to impact the natural environment, increase greenhouse gas emissions, destroying ecosystems, degrading water, adversely impacting the relationship between mana whenua and the taiao, and leaving communities and nature increasingly exposed to the impacts of climate change.</u>	
2. <u>Increasing pressure on housing and infrastructure capacity</u>	
<u>Population growth is putting pressure on housing and infrastructure capacity. To meet the needs of current and future populations, development will place additional pressure on the natural and built environments.</u>	
3. <u>Lack of mana whenua / tangata whenua involvement in decision making</u>	
<u>Mana whenua / tangata whenua values, Te Ao Māori and mātauranga Māori have not been given sufficient weight in decision-making, including from governance level through to the implementation. As a result, mana whenua / tangata whenua values have not been adequately provided for in resource management, causing disconnection between mana whenua / tangata whenua and the environment.</u>	

30. There were some 26 original submission points on the Issues and some 31 further submission points.

31. In identifying the scope of issues to include in Proposed Change 1, the Regional Council identified the requirements from national policy statements and other national direction relevant to the RPS and defined the resource management issues relating to this scope. The evidence and data gathered on these issues is summarised in the s 32 Report.⁸
32. As we explain in Part A of our Report, the Council has sought through Proposed Change 1, to integrate the issues and responses for fresh water, climate change, and indigenous biodiversity as a frame, to identify these three constraints in responding to national policy and in directing urban development capacity and intensification.⁹ Change 1 attempts to consider the connections between these issues, recognising that they are not independent of each other. The s 32 Report provides evidence and discussion of how:¹⁰

“Inappropriate use of natural resources, including both urban and rural activities, have damaged and continue to impact the natural environment, destroying ecosystems, degrading water, and leaving communities and nature increasingly exposed to the impacts of climate change. Projected population growth and economic development will place additional pressure on the natural environment. There are also significant pressures on the built environment in terms of lack of urban development capacity and affordable housing. Te Ao Māori and Mātauranga Māori have not been given sufficient weight in decision-making, from governance through to implementation.”

33. These issues are largely reflected in the notified Overarching Resource Management Issues with the exception of climate resilience as discussed below.

3.1.1 Submissions, Evidence and Analysis

34. HCC [S115.003] opposed the inclusion of the issues as they did not reflect all relevant issues. It said that the purpose of including overarching issues is to provide a more integrated approach across the range of regional resource management issues in the RPS and subordinate planning documents. We agree with this statement. However, as Mr Wyeth stated at the Hearing, the Overarching Issues in Hearing Stream 2 are not intended to cover all relevant resource management issues, nor are they intended to assign more importance to some issues over others. Instead,

⁸ Section 32 Report for Proposed Change 1, see pages 15 – 24 in particular.

⁹ Section 32 Report for Proposed Change, para 53.

¹⁰ Section 32 Report for Proposed Change, para 52.

the intent of the overarching issues is to highlight key strategic issues for the Region.¹¹

35. Some submitters were broadly comfortable with the three overarching issues and sought they be retained. Some wanted more emphasis on the connections between people and place. WFF [S163.004] opposed RM1 and sought it be deleted. It sought alternative issue statements relating to empowering collective action by catchment communities.
36. PCC [S30.001] sought that RMI1 be amended to identify adverse effects on communities and the benefits of urban development. It also sought the relocation of climate change effects into a separate issue.
37. Other territorial authority submitters wanted RMI2 to refer to the need for well-functioning urban environments, and WCC [S140.004] wanted the Issue to acknowledge more strongly the need to increase housing supply and infrastructure capacity. UHCC [S34.001] wanted RMI1 to reference a more relevant and up to date evidence base and data.
38. Some infrastructure providers including Meridian [S100.001] and Wellington Water [S113.001] sought a new Issue that acknowledged the vulnerability of infrastructure, in particular RSI, to the effects of climate change.
39. HortNZ [S34.001] asked for RMI1 to acknowledge that inappropriate and poorly managed use and development of the environment results in loss, fragmentation or reverse sensitivity effects on highly productive land.
40. Some submitters including PCC [S30.001] and UHCC [S34.001 and S34.002] thought the issues were overly negative and should be reframed as general environmental issues, acknowledge population growth (which was not an inherently negative outcome) and the benefits of well-functioning urban environments. At the least, they said that more neutral language should be used rather than critiquing current practices. Robert Anker [S31.003] wanted the Issues to acknowledge the lack of consultation across all sectors of the community and not only focus on consulting Māori.
41. Iwi authorities identified the adverse impacts on te taiao from inappropriate use and development, and the impacts this had on the relationship of mana whenua / tangata whenua with te taiao as being

¹¹ Hearing Transcript, HS2 Integrated Management, Day 1, page 4, lines 82 – 85.

issues of significance in the region (eg Ātiawa [S131.011] and Taranaki Whānui [S167.004/005]).

42. The submission by Ātiawa supports an integrated approach to resource management which aligns with te tirohanga Māori/Māori worldview of understanding te ao Tūroa, the natural world as an interconnected, interdependent whole. These provisions enable mana whenua values and provide for our mātauranga to be applied to resource management. Ātiawa [S131.01 0] also supported RMI1 and wanted pressures on te taiao to also be reflected in RMI2.¹² The Officer recommends this change is made and we agree with that recommendation.
43. Taranaki Whānui [S167.00 5] wanted the Issues to be strengthened with reference to ss 6, 7 and 8 of the RMA and Policy 9 of the NPS-UD. Ātiawa [S131.01 2] and Rangitāne [FS2.50] also sought that RMI3 include explicit reference to s 6(e) of the RMA.
44. Ngāti Toa [S170.00 2] wanted stronger recognition in RMI3 of the lack of Mana Whenua/Tangata Whenua involvement, and Te Ao Māori and mātauranga Māori in resource management decision-making, and the impacts this has caused including on the relationship of mana whenua / tangata whenua with te taiao.
45. The Reporting Officer Mr Wyeth, recommended through his Rebuttal and Reply Evidence that much of this relief be granted. He recommended that a statement be included at the end of the Overarching Issues to clarify that they do not address all relevant resource management issues in the region but should be read with topic-specific resource management issues in the RPS as relevant.
46. The Officer also accepted the concerns of submitters that because of the framing of these three issues as “Overarching Issues” there are some gaps relating to climate change and infrastructure given the intent of Proposed Change 1 to address climate change and the role of RSI to both support reductions in greenhouse gas emissions (GHGe) and improve community resilience to climate change.¹³ He recommended an additional IM Issue 4 regarding “The effects of climate change on communities and the natural

¹² Also see Hearing Transcript, HS2 Integrated Management, Day 1, page 33, lines 1608 – 1622 per Ms Gibb.

¹³ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 7 July 2023, paras 14 – 15.

and built environment” and including in this the need for “resilient and well-functioning infrastructure networks”.

47. He recommended the reference to the impacts of climate change in RMI1 be deleted as a consequence, given the more comprehensive statement in new RMI4,¹⁴ and also that “communities” be deleted from RMI1 and the focus instead be on impacts on natural environments.¹⁵
48. At the Hearing, Ms Foster, providing expert planning evidence for Meridian, confirmed that RMI4 captured the essence of Meridian’s relief.¹⁶
49. Mr Wyeth recommended the language “destroying ecosystems” in RMI1 be tempered in light of submitters’ concerns and his review of the evidence base in the s 32 Report,¹⁷ but he considered the phrase “ongoing ecosystem loss” was justified from the evidence.¹⁸ The degradation of freshwater is also discussed and acknowledged in the s 32 Report.¹⁹
50. We agree with the amendments Mr Wyeth recommends. We support the stronger references to impacts and pressures on te taiao and note the submissions on this point by mana whenua / tangata whenua. We also support the term “natural and physical resources” replace the phrase “natural and built environments” as the former term is more aligned with the language in the RMA, but “natural and built environment” is appropriate in the heading to RMI4 for the reasons the Officer provided at the hearing.²⁰ The Officer also commented that built environment would include assets and infrastructure.²¹ Mr Rowe presenting evidence for Powerco and the Fuel Companies had no particular concerns with the term.²²
51. We also accept the need for specific recognition of the effects of climate change on communities in the new Issue statement and the importance of resilient and well-functioning infrastructure. Ms Hunter for WIAL said at the Hearing that she would prefer the last sentence in RMI4 to read

¹⁴ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 7 July 2023, para 17.

¹⁵ Hearing Transcript, HS2 Integrated Management, Day 1, page 6, lines 198 – 199.

¹⁶ Hearing Transcript, HS2 Integrated Management, Day 2, page 43, lines 151 – 152.

¹⁷ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, paras 57 – 58.

¹⁸ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, paras 57 – 58.

¹⁹ Section 32 Report for Proposed Change, paras 66 – 68 (and elsewhere in the Report).

²⁰ Hearing Transcript, HS2 Integrated Management, Day 1, page 7, lines 226 – 230.

²¹ Hearing Transcript, HS2 Integrated Management, Day 1, page 25, lines 1211 – 1212.

²² Hearing Transcript, HS2 Integrated Management, Day 1, page 25, lines 1184 – 1197.

“Critical to this is the protection of and provision for well-functioning and resilient infrastructure, including RSI”.²³ We do not support this wording for the Issue statement, and consider that specific provisions to provide for, enable and protect RSI, should be in topic-specific chapters.

52. We recommend four further additions.

3.1.1.1 Highly productive land

53. We agree with the submission of Hort NZ [S128.001] in part, and recommend that RMI1 is amended to recognise the impacts of inappropriate use and development on highly productive land. The wording we recommend is:

“It has also contributed to ongoing ecosystem loss, ~~and~~ degraded water quality, and loss of highly productive land”.

54. This amendment recognises that highly productive land is a finite resource (consistent with Policy 1, NPS-HPL) and that direct and indirect effects can impact on this land and contribute to its loss. The amendment does not grant all of HortNZ’s relief on RM1 but we consider the wording appropriate, it reflects the intent of the relief, and is in balance with the other matters expressed in the Issue. While Proposed Change 1 does not specifically include provisions implementing the NPS-HPL, and is not required to give effect to it in this process²⁴ particularly because it was notified before the NPS-HPL came into effect, it can still do so where there is scope.²⁵ We appreciate the NPS-HPL has an interim regime that applies to highly productive land²⁶ but we consider there is justification, and scope for including the amendment proposed in RMI1, and it is practicable to do so.²⁷

²³ Hearing Transcript, HS2 Integrated Management, Day 2, page 86, lines 2358 – 2360.

²⁴ Counsel for Council explained at the hearing that other than the mapping of highly productive land, there are no specific timeframes for regional councils to implement the NPS-HPL (other than as soon as practicable); Hearing Transcript, HS2 Integrated Management, Day 1, page 14, lines 612 – 617.

²⁵ As explained in Legal submissions in reply on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 7 July 2023, paras 9 -18.

²⁶ Legal submissions in reply on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 7 July 2023, para 12.

²⁷ As suggested by Counsel for Council (although in relation to a discussion on Objective A, Hearing Transcript, HS2 Integrated Management, Day 1, page 21, lines 973 – 977).

55. At the Hearing, the Officer agreed that highly productive land is a nationally and regionally significant issue²⁸ but said that including the relief HortNZ sought in RMI1 is:²⁹

not going to be effective without supporting objectives, policies and methods, and that is best addressed [through] a comprehensive change to [the RPS] which ... the Council will do in ... accordance with the NPS-HPL.

56. Through the other hearings, Hort NZ asked for amendments to other provisions in Proposed Change 1 recognising food security and the value of, and need to protect, highly productive land. The Officers have recommended some of this relief be included in Proposed Change 1, and we have also agreed with some of these recommendations (for instance Objective 22 (HS4), and Policy CC.15 (food security (HS3))). We therefore consider it appropriate to recognise the loss of highly productive land as an Overarching Resource Management Issue for the reasons above and as supported by the information in HortNZ's submission and Ms Levenson's evidence.³⁰

3.1.1.2 Mana whenua / tangata whenua involvement and participation

57. The second amendment we recommend accepts relief sought by Ngāti Toa [S170.00 2] regarding mana whenua / tangata whenua lack of involvement in resource management processes and decisions. This was also a concern raised by Ms Craig for Rangitāne³¹ and also arose in other Hearing Streams including in the Climate Change topic. We recommend Ngāti Toa's relief is accepted in part with amendments to RMI3 to acknowledge that mana whenua / tangata whenua have not always been involved in decision-making, and as a result, mana whenua / tangata whenua values, Te Ao Māori, mātauranga Māori and the relationship of mana whenua whenua / tangata whenua with te taiao have not been adequately provided for in resource management.

58. We recommend the amendment is not expressed in a definitive or absolute way in light of the Officer's comments in the s 42A Report.³² We

²⁸ Hearing Transcript, HS2 Integrated Management, Day 1, page 10, lines 436 – 437.

²⁹ Hearing Transcript, HS2 Integrated Management, Day 1, page 10, lines 412 – 414.

³⁰ Industry Statement to be Tabled by Emily Levenson for Horticulture New Zealand, 30 June 2023; see also Hearing Transcript, HS2 Integrated Management, Day 2, pages 85 – 86.

³¹ Hearing Transcript, HS2 Integrated Management, Day 2, page 60, lines 1045 – 1046.

³² Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, para 94.

therefore recommend the inclusion of the words “not always” with respect to mana whenua / tangata whenua involvement.

3.1.1.3 Community engagement

59. Mr Anker [S31.002] commented on the importance of consulting with all communities in the Region. We agree and consider that this is particularly important to achieve the national and regional climate change objectives. We recommend that new RMI4 is amended to acknowledge the need for communities to be informed and involved in order to respond effectively to the effects of climate change.

60. The amendment we recommend to RMI4 is:

“This will also require informed and engaged communities, and resilient and well-functioning infrastructure networks, including regionally significant infrastructure”.

61. This also connects well to Objective A(e), added by the Reporting Officer in his Rebuttal Evidence³³ referring to integrated management being informed by the input of communities, and to various Methods in other topics of Proposed Change 1, including Method CC.1 (Climate Change education and behaviour change programme).

3.1.1.4 Climate change mitigation

62. The urgent need to reduce gross GHGe is a recurring issue throughout many Proposed Change 1 Hearing Streams. We consider there to be adequate scope from PCC’s submission [S30.001] which sought the relocation of the effects of climate change into a separate issue statement. Mr Wyeth said at the Hearing that the new RMI4 he recommended “is intended to recognise ... climate change [as a] significant and strategically important issue for the Region...”.³⁴ We agree with this but consider that the Issue should also address the reduction of emissions and the role of the resource management and planning system in addressing the crisis. This was discussed at length in the Climate Change Topic (HS3) and we consider it appropriate to include as part of the Issue statement as it aligns with various objectives and policies in Proposed Change 1.

63. The wording we recommend is below:

³³ Statement of Rebuttal Evidence, Hearing Stream 2, 7 July 2023, para 36.2

³⁴ Hearing Transcript, HS2 Integrated Management, Day 1, page 4, lines 95 – 96.

“Gross greenhouse gas emissions must be reduced significantly, immediately and rapidly. The resource management and planning system has an important role in addressing the climate change crisis. The region’s communities...”

- 64. We also recommend adding “also” into the sentence that follows for readability.
- 65. Responding to the climate change crisis requires engagement, education, collaboration. We recommend RMI4 is amended to recognise the role of education and engagement in mitigating and adapting to climate change.

3.1.2 Finding and s 32AA Evaluation

- 66. We largely agree with the Reporting Officer’s recommendations on the IM Issues for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. In addition, we recommend the additions below for the reasons we have provided above (including some minor typographical corrections).
- 67. These amendments are appropriate and recognise and articulate important resource management issues that were discussed in various Hearing Streams and feature in numerous provisions in Proposed Change 1. The amendments will help to achieve the integrated management of natural and physical resources and the sustainable management purpose of the RMA. Using the defined term for “regionally significant infrastructure” will improve the interpretation and application of RMI4.
- 68. Recognising in RMI1 that inappropriate use and development can impact highly productive land recognises a matter of national importance by acknowledging that inappropriate use and development of land can impact adversely on highly productive land. This is appropriate and supports amendments recommended to the IM Objective.
- 69. The amendments also acknowledge that mana whenua / tangata whenua have not always been involved in RMA processes and decision-making and this has impacted on the partnership relationship, recognition of Te Ao Māori and mātauranga Māori, and the relationship of mana whenua / tangata whenua with te taiao which is a matter of national importance in s 6 of the RMA. Acknowledging this in RMI3 supports the provisions in Proposed Change 1 that seek to better provide for and support mana whenua / tangata whenua values, Te Ao Māori and mātauranga Māori.

70. Numerous methods in Proposed Change and also some policies recognise the importance of engagement and information sharing. It is appropriate for this to also be recognised in RMI4. Providing stronger recognition of climate mitigation and the role of the resource management and planning system appropriately recognises strategies and action plans in the ERP and NAP.
71. Also as discussed above, we recommend that the Issues are incorporated into a new IM chapter together with Objective A (renamed ‘Integrated Management objective’ and we recommend they are renamed ‘Integrated Management Resource Management Issues’.

3.1.3 Recommendation

3. Resource management issues, objectives and summary of policies and methods to achieve the objectives in the Regional Policy Statement

This chapter provides an overview of the issues addressed by the Regional Policy Statement, the objectives sought to be achieved and ~~provides~~ a summary of the policies and methods to achieve the objectives. These are presented under the following topic headings:

- Integrated management
 - Air quality
 - Coastal environment, including public access
 - Energy, infrastructure and waste
 - Fresh water, including public access
 - Historic heritage
 - Indigenous ecosystems
 - Landscape
 - Natural hazards
 - Regional form, design and function
 - Resource management with tangata whenua
 - Soils and minerals

Each section in this chapter addresses a topic then introduces the issues. All the issues are issues of regional significance or have been identified as issues of significance to the Wellington region’s iwi authorities. Each section includes a summary table showing all the objectives that relate to that topic and the titles of the policies and methods that will achieve those objectives. The table also includes a reference to other policies that need to be considered alongside to gain a complete view of the issue across the full scope of the Regional Policy Statement.

New IM chapter before 3.1 Air quality

The overarching integrated management resource management issues for the Wellington Region are:

Overarching Integrated Management Resource Management Issue 1

Adverse impacts on natural environments and communities

Inappropriate and poorly managed use and development of the environment, including both urban and rural use and development activities, have damaged and continue to impact the natural environment, and contribute to an increase in greenhouse gas emissions. It has also contributed to ongoing ecosystem loss, and degraded ecosystems and degrading water quality and loss of highly productive land. This has adversely impacted the relationship between mana whenua/tangata whenua and the taiao, and is leaving communities and nature increasingly exposed to the impacts of climate change.

Overarching Integrated Management Resource Management Issue 2

Increasing pressure on housing, and infrastructure capacity and te taiao

Population growth is putting pressure on housing supply and choice, and infrastructure capacity and te taiao. To meet the needs of current and future populations, there is a need to increase housing supply and choice across the region in a manner which contributes to a well-functioning urban areas and rural areas, while managing adverse effects on Development will place additional pressure on the natural and built environments.

Overarching Integrated Management Resource Management Issue 3

Lack of mana whenua / tangata whenua involvement in decision making

Mana whenua / tangata whenua values, Te Ao Māori and mātauranga Māori have not always been involved given sufficient weight in decision-making, including from governance level through to the implementation. As a result, mana whenua / tangata whenua values, Te Ao Māori, mātauranga Māori and the relationship of mana whenua whenua / tangata whenua with te taiao have not been adequately provided for in resource management, causing disconnection between mana whenua / tangata whenua and the environment.

Overarching Integrated Management Resource Management Issue 4

The effects of climate change on communities and the natural and built environment

Gross greenhouse gas emissions must be reduced significantly, immediately and rapidly to avert the climate crisis. The resource management and planning system has an important role in this challenge. The region's communities and natural and built environments are also vulnerable to the current and future effects of climate change. There is a need to ensure that natural and physical resources built environments are resilient to and can effectively adapt to the effects of climate change to strengthen the resilience of our communities to these impacts. This will also require informed and engaged communities, and resilient and well-functioning infrastructure networks, including regionally significant infrastructure.

[These overarching resource management issues should be read with topic-specific resource management issues in the following chapters where relevant.](#)

3.2 Objective A

72. As notified the Objective read:

Objective A

Integrated management of the region's natural and built environments is guided by Te Ao Māori and:

- (a) incorporates Mātauranga Māori; and
- (b) recognises ki uta ki tai – the holistic nature and interconnectedness of all parts of the natural environment; and
- (c) protects and enhances mana whenua / tangata whenua values, in particular mahinga kai, and the life-supporting capacity of ecosystems; and
- (d) recognises the dependence of humans on a healthy natural environment
- (e) recognises the role of both natural and physical resources in providing for the

- (f) characteristics and qualities of well-functioning urban environments; and responds effectively to the current and future pressures of climate change, population growth and development.

73. The s 32 Report outlines that the intent of Objective A is to provide greater clarity and direction to Council and territorial authorities in the region about what is meant by integrated management of natural and built environments, and to recognise the importance of Te Ao Māori in natural resource management and decision-making.³⁵ The Report assesses the appropriateness of the Objective and says, among other things, that it:

- a. “provides a clear description of what the success of achieving integrated management of natural and physical resources looks like”,
- b. will “enable more efficient implementation”,
- c. gives “more certainty to both regional and district/city councils about the desired outcome of successful integrated management and what this should look like”, and

³⁵ Section 32 Report, page 60.

- d. will lead to “better outcomes for the environment and people” through early identification of issues and “more connected and joined up management and decision making”.

3.2.1 Submissions, Evidence and Analysis

- 74. There were 34 original submission points and 47 further submission points received on Objective A.

3.2.1.1 Overarching Objective, and location in a new Chapter

- 75. In the notified version of Proposed Change 1, Objective A was expressed as being “the overarching resource management objective for the Wellington Region”.
- 76. Quite a few submitters raised concerns with this and how it would be interpreted alongside other objectives in the RPS and its relationship with policies. Was it intended to operate as an objective that had priority over, or was accorded a different interpretation to, other objectives? We support Mr Wyeth’s recommendation to delete the word “overarching”. Objective A is intended to be the “integrated management” Objective in the RMA and it does not hold any additional weighting or importance than other objectives. We received advice from Counsel for the Council at the hearing on this point. Ms Anderson said that for a provision such as Objective A to take priority over other objectives in the RPS, there would have to be:³⁶

some direction in the policy statement that says that; otherwise, aside from things like the difference in directive wording versus non-directive wording, each objective sort of stands and falls [as] is relevant to whatever you’re assessing.

As I understood it, the explanatory text is reasonably clear that all relevant objectives and policies will apply. There is nothing that suggests there is as hierarchy between them. I think the deletion of overarching is helpful in terms of dispelling that.

- 77. Ms Foster presenting planning evidence for Meridian did raise a concern that the location of Objective A at the beginning of the RPS, could still create a hierarchy, or at least someone could argue that it was more important.³⁷ Mr Rachlin for PCC also thought the Objective elevated some

³⁶ Hearing Transcript, HS2 Integrated Management, Day 1, page 18, lines 830 – 838.

³⁷ Hearing Transcript, HS2 Integrated Management, Day 2, page 46, lines 283 – 296.

topics above others,³⁸ but Ms Horrocks for Wellington Water, was less concerned about this, particularly with the word “overarching” deleted.³⁹

78. HCC [S115.005] and Wellington Water [S140.005] sought that Objective A should not be located within a chapter Introduction but should stand alone. Mr Rachlin and Mr Smeaton, planners for PCC also supported this.⁴⁰
79. As discussed above, for the reasons set out in Mr Wyeth’s Reply Evidence, we consider it appropriate for Objective A to be included in a new Integrated Management Chapter in the RPS. This will align with the National Planning Standards and assist with a future RPS change (which as Mr Wyeth notes, may not need a Schedule 1 process).⁴¹ It responds to submitters’ concerns about how the Objective relates to other objectives and policies in the RPS. The amendment should address concerns that the Objective “assigns more importance to certain matters over others”.⁴²
80. We also recommend that a similar statement be included below the Objective, consistent with Mr Wyeth’s recommended statement below the Issues to clarify the relationship of the Objective with other provisions. We recommend the statement is along the following lines: “This integrated management Objective is to be read with the topic-specific objectives in the RPS where relevant and is to be achieved through a range of policies and methods in the RPS in addition to the specific integrated management policies and methods: Policy IM.1, Method IM.1, Method IM.2”.
81. Similar to other objectives in the RPS, the new IM Objective should sit in a table with a cross-reference to Policy IM.1, Method IM.1 and Method IM.2. Incorporating of the text in section 2.4 could then perhaps occur as part of a future change proposal.

3.2.1.2 Other relief on Objective A

82. Submitters sought a range of relief on Objective A. Several sought that “guided by Te Ao Māori” be removed from the chapeau (eg Meridian [S100.002] or be included in its own subclause so that its application and effect was clearer (Wellington Water [S113.002]). Others such as Powerco [S134.00 1] and the Director-General of Conservation [S32.002]

³⁸ Hearing Transcript, HS2 Integrated Management, Day 2, page 76, lines 1833 – 1837; 1879 – 1886.

³⁹ Hearing Transcript, HS2 Integrated Management, Day 2, page 55, lines 772 – 778.

⁴⁰ Hearing Transcript, HS2 Integrated Management, Day 2, page 76, lines 1860 – 1863.

⁴¹ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, paras 8 – 9.

⁴² As summarised by the Officer at the hearing, Hearing Transcript, HS2 Integrated Management, Day 1, page 4, lines 100 – 101.

sought that “the life supporting capacity of ecosystems” should not be included in the same subclause as the s 6(e) matters in subclause (c), as it should be safeguarded in its own right in accordance with s 5(2)(b) rather than be stated as a subset of mana whenua values. Te Tumu Paeroa/Office of the Māori Trustee [S102.00 1] sought inclusion of Te Mana o te Wai in Objective A and also an amendment to recognise “and provide for” ki uta ki tai [S102.00 2].

83. Ātiawa [S131.01 3] sought a new subclause be inserted to “support the connection between mana whenua and te taiao”. Taranaki Whānui [S167.00 8] sought an amendment to the Objective to refer to working in partnership with mana whenua / tangata whenua, and Ngāti Toa [S170.00 6] sought greater recognition of the kaitiakitanga role of Māori and that how Te Ao Māori and Mātauranga is used should be ‘co-designed’ with mana whenua and iwi.
84. Various infrastructure providers including Wellington Water [S113.00 2] asked that Objective A be amended to recognise the role of RSI in improving the resilience of communities and supporting well-functioning urban environments (eg Fuel Companies [S157.001/003/005]. Meridian [S100.00 2] sought reference to “enables use and development of natural and physical resources to support the infrastructure (including RSI) necessary to strengthen the resilience of communities to meet the future challenges associated with climate change”.
85. In his Rebuttal and Evidence in Reply, Mr Wyeth recommends various changes to Objective A in response to submissions and submitter evidence and legal submissions at the Hearing. Much of the relief sought is recommended to be included such as recognising “and providing for” ki uta ki tai - the holistic nature and interconnectedness of all parts of the natural environment, and “recognising and providing for the relationship of mana whenua / tangata whenua with te taiao” which we consider gives appropriate effect to the relief sought by Ātiawa. Mr Wyeth also recommended that “protects and enhances the life-supporting capacity of ecosystems” be included in a separate clause in the Objective, as sought by the Director-General and others. Mr Brass, the planner for the Director-General, said he was comfortable with the wording proposed in new clause (f).⁴³

⁴³ Hearing Transcript, HS2 Integrated Management, Day 2, page 92, lines 2690 – 2694.

86. In his Rebuttal Evidence, Mr Wyeth supports clause (h) being amended to refer to RSI, identifying this as a gap.⁴⁴ At the hearing, Ms Foster for Meridian said clause (h) addressed Meridian’s relief in part, but she still supported a reference to “enabling regionally significant infrastructure”.⁴⁵
87. Mr Wyeth did not support Meridian’s relief regarding “enabling RSI” as that could give the impression that this physical resource was more important in improving resilience whereas clause (h) as the Officer recommended it be amended, appropriately recognised the role of both natural and physical resources as being equally important in providing for well-functioning urban and rural areas and improving resilience to climate change.⁴⁶ He also said that Chapter 3.3 of the RPS is the more appropriate location for specific policy direction on enabling RSI.
88. In legal submissions, Counsel for Fish and Game requested an amendment to the Objective to refer to “input from stakeholders of the community”. Mr Wyeth supports this amendment in part by including a new clause referring to “informed by the input of communities” and said at the Hearing that in his view, community incorporates stakeholders.⁴⁷ Counsel for Fish and Game, Mr Malone, said that other provisions in the RPS refer to both community and stakeholders, and Fish and Game’s preference is for “stakeholders” to also be included in clause (e).⁴⁸ Mr Slyfield, counsel for Wellington Water, responding to a question during the Hearing on this point, said that he did not think much turned on it from a legal perspective, and he was comfortable that Wellington Water would be able to share its input based on “communities”, and a specific reference to “stakeholder” was not needed.⁴⁹
89. HortNZ had requested amendments to the Issues relating to recognition of highly productive land and had sought general relief in their submission “to address the substance of the concerns [they had] raised”.⁵⁰ Although Hort NZ wanted Objective A retained as notified, Mr Wyeth has accommodated their relief in part into clause (h). He considered there was scope to do this within their submission and that highly productive land is

⁴⁴ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 7 July 2023, para 35.

⁴⁵ Hearing Transcript, HS2 Integrated Management, Day 2, page 44, lines 190 – 195.

⁴⁶ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, para 37.

⁴⁷ Hearing Transcript, HS2 Integrated Management, Day 1, page 7, lines 258 – 261.

⁴⁸ Hearing Transcript, HS2 Integrated Management, Day 1, page 29, lines 1400 – 1422 per Mr Malone.

⁴⁹ Hearing Transcript, HS2 Integrated Management, Day 2, page 52, lines 626 – 629.

⁵⁰ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, paras 23-24.

an important consideration in terms of integrated management,⁵¹ although Mr Wyeth did comment that there was risk in giving effect to the NPS-HPL in a piecemeal way and that the Council intends to give full effect to the NPS in a future RPS change.⁵²

90. Mr Wyeth considered that *Te Mana o te Wai* is given effect through a range of specific and directive provisions elsewhere in Proposed Change 1, and that additional reference in Objective A would add little value.⁵³
91. At the Hearing, Mr Wyeth said that “responds effectively” in clause (j) requires a proactive response to climate change, and he did not think you could respond effectively by “basically doing nothing”.⁵⁴
92. Mr Wyeth does not agree with the proposal from PCC to replace Objective A and its list of considerations with PCC’s proposed Objectives A, B and C. Alongside other concerns he notes he has reservations about recommending a new set of IM objectives through Reply Evidence, as submitters will not have the opportunity to provide evidence on such substantive amendments. PCC’s amendments also remove some key considerations and matters from the Objective which are relevant to integrated management such as the role of natural and physical resources in achieving well-functioning urban areas and rural areas and improving resilience to climate change.⁵⁵ We agree with these concerns and do not recommend that PCC’s relief is accepted by Council.
93. We recommend an amendment to the Objective relating to climate mitigation, and the role of the resource management and planning system in contributing to reducing gross greenhouse gas emissions. We consider this aligns with the amendment we recommend to RMI4, and conveys the the importance of managing land use and development activities as part of climate change response and mitigation. We consider there is scope to recommend this amendment as it aligns with the amendment we recommend to RMI4, for which there is scope from PCC’s submission [S30.001].

⁵¹ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, para 24.

⁵² Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, para 26.

⁵³ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, paragraph 21.

⁵⁴ Hearing Transcript, HS2 Integrated Management, Day 1, page 8, lines 367 – 376.

⁵⁵ Reply Evidence of Mr Wyeth, Hearing Stream 2, 28 July 2023, paragraph 33.

3.2.2 Finding and s 32AA Evaluation

94. We agree with the Reporting Officer’s recommendations on Objective A for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. In addition, we recommend that:
- a. Objective A is renamed “Integrated Management Objective” (or similar)
 - b. The Objective is included as a single objective in a new Integrated Management chapter of the RPS with a corresponding table included cross-referencing Policy IM.1 and the two IM Methods,
 - c. The Objective is amended to recognise the role of the resource management and planning system in contributing to reducing gross greenhouse gas emissions
 - d. “Significant mineral resources” in clause (i) is italicised as it is a defined term in the Operative RPS⁵⁶ and that this change occur as a clause 16, Schedule 1 minor correction, and
 - e. A statement is included below the Objective saying that it is to be read with the topic-specific objectives in the RPS, and is to be achieved through a range of policies and methods in the RPS in addition to the specific integrated management policies and methods: Policy IM.1, Method IM.1, Method IM.2.
95. We consider the amendments we have recommended are the most appropriate way to achieve the sustainable management purpose of the RMA and climate change management plans and strategies (the ERP and NAP) which describe a clear role for the planning and resource management system in addressing the climate crisis. The amendments do not change the underlying intent of the Objective and provide appropriate direction to consider the integrated nature of the climate change mitigation and response, as also provided for in other policies and methods in Proposed Change 1.
96. Our recommendations to rename the Objective and include it in a separate IM chapter will aid interpretation and application of the Objective in the RPS and also align with the Structure Standards in the National Planning Standards and support future RPS changes that seek to give full effect to the Standards. Using an existing defined term for “significant

⁵⁶ Meaning “Deposits of minerals, the extraction of which is of potential importance in order to meet the current or future mineral needs of the region or nation”.

mineral resources” will help achieve integration across the RPS and assist interpretation of the Objective.

3.2.3 Recommendation

[Locate to IM chapter and include the Objective in a table after the Issues as set out broadly below]

Objective A Integrated Management Objective

The ~~overarching resource integrated management~~ objective for the Wellington Region is:

Objective A Integrated Management Objective: Integrated management of the region’s natural and ~~physical resources built environments: guided by Te Ao Māori and:~~

- (a) ~~is guided by Te Ao Māori; and~~
- (b) incorporates mātauranga Māori ~~in partnership with mana whenua/tangata whenua;~~
and
- (c) ~~recognises and provides for~~ ki uta ki tai – the holistic nature and interconnectedness of all parts of the natural environment; and
- (d) ~~recognises and provides for the relationship of mana whenua/tangata whenua with te taiao and~~ protects and enhances mana whenua / tangata whenua values, in particular mahinga kai ~~and the life-supporting capacity of ecosystems; and~~
- (e) ~~is informed by the input of communities; and~~
- (f) ~~protects and enhances the life-supporting capacity of ecosystems; and~~
- (g) recognises the dependence of humans on a healthy natural environment; and
- (gg) ~~recognises the role of the resource management and planning system in reducing gross greenhouse gas emissions~~
- (h) recognises the role of both natural and physical resources, ~~including highly productive land and regionally significant infrastructure,~~ in providing for ~~the characteristics and qualities of~~ well-functioning urban and rural areas ~~environments~~ and improving the resilience of communities to climate change; and
- (i) recognises the benefits of protecting and utilising the region's significant mineral resources; and
- (j) responds effectively to the current and future ~~effects pressures~~ of climate change, ~~and~~ population growth, and development ~~pressures and opportunities.~~

The table will cross refer to Policy IM.1 and the IM Methods and also note text along these lines:

~~The integrated management Objective is to be read with the topic-specific objectives in the RPS and is to be achieved through a range of policies and methods in the RPS in addition to the specific integrated management policies and methods: Policy IM.1, Method IM.1, Method IM.2.~~


3.3 Introductory wording to Chapter 4.2: Regulatory policies – matters to be considered

Policy IM.1: Integrated management – ki uta ki tai - consideration

97. The introductory wording to Chapter 4.2 stated:

This section contains the policies that need to be given particular regard, where relevant, when assessing and deciding on resource consents, notices of requirement, or when changing, or varying district or regional plans. Within this section, policies are presented in numeric order, although the summary table below lists the policy titles by topic headings.

98. The notified Policy IM.1 stated:

<u>Policy IM.1: Integrated management - ki uta ki tai – consideration</u>	
<p><u>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan particular regard shall be given to:</u></p> <ul style="list-style-type: none"> (a) <u>partnering with mana whenua / tangata whenua to provide for mana whenua / tangata whenua involvement in resource management and decision making; and</u> (b) <u>recognising the interconnectedness between air, freshwater, land, coastal marine areas, ecosystems and all living things – ki uta ki tai; and</u> (c) <u>recognising the interrelationship between natural resources and the built environments; and</u> (d) <u>making decisions based on the best available information, improvements in technology and science, and mātauranga Māori; and</u> (e) <u>upholding Māori data sovereignty; and</u> (f) <u>requiring Māori data and mātauranga Māori to be interpreted within Te Ao Māori; and</u> (g) <u>recognising that the impacts of activities may extend beyond immediate and directly adjacent area, and beyond organisational or administrative boundaries</u> <p><u>Explanation</u></p> <p><u>This policy requires that a holistic, integrated view is taken when making resource management decisions. It also requires both regional and district councils to provide for mana whenua / tangata whenua are actively involved in in resource management and decision making, including the protection of mātauranga Māori and Māori data.</u></p>	

99. This Policy directs councils on what is required to achieve integrated management of resources in the Region when considering consent applications, NoRS or changes, variations or reviews of plans.
100. There were 17 original submission points and 22 further submission points received on Policy IM.1.

3.3.1 Submissions, Evidence and Analysis

101. Various submitters supported the Policy but requested some amendments. Some submitters had concerns with the consideration policies in general in Change 1 (as discussed in Part B, Section 1 (General Submissions)). PCC thought they were over-reaching and opposed them in their entirety [S30.0123] but also sought specific amendments to Policy IM.1 so it provides clear direction [S30.056].
102. Mr Wyeth has proposed some wording changes to Policy IM.1, in particular to clarify it is directed at local authorities not consent applicants, and that the matters in (a) to (g) are not an exclusive list (which incorporates relief proposed by Fish and Game). Ms Burns providing planning evidence for Rangitāne sought that clause (a) only refer to partnering and not “partnering or engaging” given it is a direction to local authorities and a partnership approach is appropriate. We agree with these recommendations.
103. In Minute 8, we asked Mr Wyeth to consider the introductory wording to Chapter 4.2 which we found potentially confusing and possibly inconsistent with the statutory direction in the RMA. We support the amendments Mr Wyeth has recommended in his Evidence in Reply, including to clarify that RPS policies need to be “had particular regard to” when territorial authorities make recommendations on NoRs. We consider Mr Wyeth’s amendments clarify the policy and legislative requirements, and remove inconsistent weighting.
104. The meaning of the key terms in the Chapter 4.2 introductory text (i.e. “give effect to”, “have regard to” and “have particular regard”,) is set out in legal submissions filed by Counsel for the Council on 23 June 2023. The submissions also talk about the relevant statutory directions for local authorities to give effect to a RPS, and for resource consent decision-making and NoR recommendations.
105. Ms Anderson explained that the statutory direction will apply and there is no issue with a council being required to have particular regard to certain

matters when making decisions on plans.⁵⁷ In any event, we note the Officer supports language in the Chapter 4.2 introductory section that aligns with the relevant statutory direction, and in Policy IM.1, the Officer recommends deleting “particular regard” and replacing it with a mandatory direction to adopt an integrated approach when considering a consent application, NoR or change, variation or review of a plan. We agree with the recommended amendments.

3.3.2 Finding

106. We agree with the Reporting Officer’s recommendations on the introductory wording to Chapter 4.2 and Policy IM.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.3.3 Recommendation

Chapter 4.2: Regulatory policies – matters to be considered

This section contains the policies that need to be ~~given effect to, where relevant, when reviewing, changing, or varying district or regional plans, and that particular~~ regard ~~must be had to~~, where relevant, when assessing and deciding on resource consents, and ~~particular regard must be had to when making recommendations on~~ notices of requirement, ~~or when changing, or varying district or regional plans. This applies regardless of whether this is stated at the start of each policy in this section.~~ Within this section, policies are presented in numeric order, although the summary table below lists the policy titles by topic headings.

Policy IM.1: Integrated management – ki uta ki tai - consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, ~~particular regard shall be given to, local authorities shall adopt an integrated approach to the management of the region’s natural and physical resources built environments, including by:~~

- (a) ~~partnering or engaging~~ with mana whenua / tangata whenua to provide for mana whenua / tangata whenua involvement in resource management and decision making; and
- (b) recognising the interconnectedness between air, freshwater, land, coastal marine areas, ecosystems and all living things – ki uta ki tai; and
- (c) ~~recognising that the effects of activities may extend beyond immediate and directly adjacent area, and beyond organisational or administrative boundaries; and~~
- (d) recognising the interrelationship between natural and physical resources and the built environments; and
- (e) making decisions based on the best available information, improvements in technology, and science, and mātauranga Māori; and


⁵⁷ Legal submissions on behalf of Wellington Regional Council – key terminology used and consideration policies in Hearing Stream 2, 23 June 2023, paras 7 – 9.

- (f) ~~upholding Māori data sovereignty; and~~
- (g) requiring Māori data and mātauranga Māori to be interpreted within Te Ao Māori ~~while upholding Māori data sovereignty.; and~~
- (h) ~~recognising that the impacts of activities may extend beyond immediate and directly adjacent area, and beyond organisational or administrative boundaries.~~

Explanation: This policy requires that a holistic, integrated view is taken when making resource management decisions. It also requires both regional and district councils to provide for mana whenua/tangata whenua ~~are to be~~ actively involved ~~in~~ in resource management and decision making, including the protection of mātauranga Māori and Māori data.

3.4 Policy IM.2: Equity and inclusiveness - consideration

107. The notified Policy stated:

<u>Policy IM.2: Equity and inclusiveness – consideration</u>	
<p><u>When considering an application for a notified resource consent, notice of requirement, or a change, variation or review of a regional and district plan particular regard shall be given to achieving the objectives and policy outcomes of this RPS in an equitable and inclusive way, by:</u></p> <ul style="list-style-type: none">(a) <u>avoiding compounding historic grievances with iwi/Māori; and</u>(b) <u>not exacerbating existing inequities, in particular but not limited to, access to public transport, amenities and housing; and</u>(c) <u>not exacerbating environmental issues; and</u>(d) <u>not increasing the burden on future generations.</u> <p><u>Explanation</u> <u>This policy requires that equity and inclusiveness are at the forefront of resource management and decision making to prevent any increase in existing inequities, to ensure intergenerational equity, and to improve the overall wellbeing of people and communities.</u></p>	

108. There were 19 original submission points and 30 further submission points on Policy IM.2.

109. The Policy aims to ensure equity and inclusiveness in resource management and decision-making as stated in the s 32 Report.⁵⁸

3.4.1 Submissions, Evidence and Analysis

110. Some submitters supported the Policy (eg Taranaki Whānui [S167.097]) and said that it will ensure that resource management decision-making creates fair and equitable outcomes and avoids exacerbating existing inequalities.

111. Some submitters requested clarification and supported the Policy in part (eg Waka Kotahi [S129.005]). However, the majority of submitters requested deletion of Policy IM.2 (eg KCDC [S16.030] and CDC [S25.035]). Mr Wyeth agrees with these submitters that there are numerous issues with Policy IM.2 as notified, including that it has potential to undermine the effectiveness and efficiency of the RPS and would be problematic to

⁵⁸ Section 32 Report for Proposed Change 1 to the RPS for the Wellington Region, page 115.

implement especially in consenting processes.⁵⁹ He also agrees with submitter evidence that retaining Policy IM.2 will not be effective or efficient to achieve the RPS objectives⁶⁰ or the purpose of the RMA, and he identifies a lack of sufficient support in the s 32 Report including how the benefits of a more equitable and inclusive approach will be achieved.

112. In their planning evidence, Ms Burns for Rangitāne supported retaining the Policy, but Ms Foster for Meridian, Mr Rowe for the Fuel Companies and PowerCo, and Mr Smeaton for PCC, did not think that the amendments the Officer proposed in the s 42A Report overcome the ambiguity in interpretation and could cause unnecessary debate and uncertainty.⁶¹ At the hearing, Ms Burns said that even though equity was not something commonly dealt with in an RPS, she thought it was consistent with s 5 which provides for enabling communities to provide for their social, cultural, economic wellbeing, and this could include the need to address equity.⁶²
113. Mr Wyeth's view remained as per his Rebuttal Evidence, that is, that Policy IM.2 should be deleted.
114. Equitable transition is an important principle and was discussed in Hearing Stream 3 – Climate Change. The Reporting Officer made some recommendations regarding Objective CC.2 and Method CC.1 in the HS3 provisions. We are satisfied that other provisions in Proposed Change 1 appropriately provide for equitable considerations in resource management decision-making and planning.

3.4.2 Finding

115. We agree with the Reporting Officer's recommendation to delete Policy IM.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.4.3 Recommendation

[Policy IM.2: Equity and Inclusiveness in resource management decision-making](#)
[When considering an application for a notified resource consent, notice of requirement, or a change, variation or review of a regional or and district plan, Wellington Regional](#)

⁵⁹ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, para 170; Hearing Transcript, HS2 Integrated Management, Day 1, page 5, lines 160 – 161.

⁶⁰ Hearing Transcript, HS2 Integrated Management, Day 1, page 5, lines 162 – 163.

⁶¹ This is further discussed by Mr Rowe during the hearing, Hearing Transcript, HS2 Integrated Management, Day 1, page 14, lines 1139 – 1145.

⁶² Hearing Transcript, HS2 Integrated Management, Day 2, page 59, lines 980 - 984.


~~Council, city and district councils shall seek to particular regard shall be given to achieveing the RPS objectives and policies y outcomes of this RPS in an equitable and inclusive way, particularly whenby:~~

- ~~(a) addressing barriers and providing opportunities for mana whenua/tangata whenua to undertake use and development to support the economic and cultural well-being of their communities avoiding compounding historic grievances with iwi/Māori; and~~
- ~~(b) providing for the development of urban and rural areas to improve the not exacerbating existing inequities, in particular but not limited to, access of communities to active and public transport, amenities and affordable housing and choice; and~~
- ~~(c) enabling and supporting the transition of communities to a low-emissions and climate resilient region, including recognising the need to act now to avoid more costly mitigation and adaption responses for future generations. not exacerbating environmental issues; and~~
- ~~(d) not increasing the burden on future generations.~~

Explanation: ~~This policy requires that equity and inclusiveness are is at the forefront of resource management and decision making, particularly when making decisions that affect the economic and cultural well-being of mana whenua/tangata whenua, the development of rural and urban areas, and the transition to a low-emissions and climate resilient region. to prevent any increase in existing inequities, to ensure intergenerational equity, and to improve the overall wellbeing of people and communities.~~

3.5 Method IM.1: Integrated Management - ki uta ki tai

116. The notified Method stated:

Method IM.1: Integrated management - ki uta ki tai	
<p><u>To achieve integrated management of natural resources, the Wellington Regional Council, district and city councils shall:</u></p> <ul style="list-style-type: none">(a) <u>partner with and provide support to mana whenua / tangata whenua to provide for their involvement in resource management and decision making; and</u>(b) <u>partner with and provide support to mana whenua / tangata whenua to provide for mātauranga Māori in natural resource management and decision making; and</u>(c) <u>work together with other agencies to ensure consistent implementation of the objectives, policies and methods of this RPS; and</u>(d) <u>enable connected and holistic approach to resource management that looks beyond organisational or administrative boundaries; and</u>(e) <u>recognise that the impacts of activities extend beyond immediate and directly adjacent area; and</u>(f) <u>require Māori data, including mātauranga Māori, sites of significance, wāhi tapu, wāhi tūpuna are only shared in accordance with agreed tikanga and kawa Māori; and</u>(g) <u>share data and information (other than in (f) above) across all relevant agencies; and</u>(h) <u>incentivise opportunities and programmes that achieve multiple objectives and benefits.</u> <p><i><u>Implementation: Wellington Regional Council* and city and district councils</u></i></p>	

117. The Method sets out the actions local authorities in the Region will take to achieve integrated management of resources.

118. There were 23 original submission points and 15 further submission points on Method IM.1.

3.5.1 Submissions, Evidence and Analysis

119. In general, Method IM.1 was supported by submitters with Taranaki Whanui, Rangitane, Fish and Game and Forest and Bird requesting the retention of clauses (c), (e), (g) and (h) as notified.

120. The submission from Te Ātiawa to delete the word “natural” from clause (b) was accepted by the Council Officer to make clause (b) consistent with clause (a) and Policy IM.1.

121. Submissions by Te Tumu Paeroa [S102.089/090], to extend responsibility for implementation of this Method to mana whenua / tangata whenua and

to move the position of the Method, were not accepted, for reasons outlined in the s 42A.⁶³ PCC and HCC submissions requesting the language of Method IM.1 be consistent with National Planning Standards 2019, references to city and district councils be replaced with “territorial authorities,” and for the Method not to apply to city and district councils were also rejected.⁶⁴

122. The Officer said that although Policy IM.1 and Method IM.1 both refer to partnerships with mana whenua / tangata whenua, in his view, it is appropriate that the primary responsibility for implementing Method IM.1 be limited to Council and territorial authorities in the Region. He said that assigning implementation responsibility of RPS non-regulatory methods to mana whenua / tangata whenua could exacerbate capacity and capability pressures.⁶⁵
123. We recommend one minor amendment to the Method to correct what we consider is a typographical or minor drafting amendment.

3.5.2 Finding and s 32AA Evaluation

124. We agree with the Reporting Officer’s recommendation on Method IM.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence with the minor correction below to improve readability and alignment with the defined term “natural and physical resources” in the RMA. This is minor amendment and does not change the intent, but referring to a defined and well-known term will assist with the interpretation and application of the Method.

3.5.3 Recommendation

Method IM.1 – Integrated Management – ki uta ki tai

To achieve integrated management of natural ~~resources~~ and physical resources built environments, the Wellington Regional Council, district and city councils shall:

- (a) partner with and provide support to mana whenua / tangata whenua to provide for their involvement in resource management and decision making; and
- (b) partner with and provide support to mana whenua / tangata whenua to provide for mātauranga Māori in ~~natural~~ resource management and decision making; and

⁶³ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, para 190.

⁶⁴ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, para 188 and 192.


⁶⁵ Section 42A Hearing Report, Hearing Stream 2- Overarching Issues and Objective, Integrated Management, 16 June 2023, para 190.

- (c) work with communities to achieve effective integrated management outcomes;
- (d) work together with other agencies to ensure consistent implementation of the objectives, policies and methods of this RPS; and
- (e) enable connected and holistic approach to resource management that **looks extends** beyond organisational or administrative boundaries; and
- (f) recognise that the impacts of activities extend beyond the immediate and directly adjacent area; and
- (g) require Māori data, including mātauranga Māori, **areas and** sites of significance, wāhi tapu, **and** wāhi tūpuna are only shared in accordance with agreed tikanga and kawa Māori; and
- (h) share data and information (other than in (f) above) across all relevant agencies; and
- (i) incentivise opportunities and programmes that achieve multiple objectives and benefits.

Implementation: Wellington Regional Council* and city and district councils.

3.6 Method IM.2: Protection and interpretation of Mātauranga Māori and Māori data

125. The notified Method stated:

<u>Method IM.2 Protection and interpretation of Mātauranga Māori and Māori data</u>	
<p><u>By 2025, the Wellington Regional Council in partnership with each mana whenua / tangata whenua will develop and uphold tikanga and kawa for Māori data sovereignty, including but not limited to:</u></p> <p>(a) <u>how Māori data and information is collected, stored, protected, shared and managed; and</u></p> <p>(b) <u>how mātauranga Māori and other forms of Māori data is analysed and interpreted.</u></p> <p><i>Implementation: Wellington Regional Council</i></p>	

126. There were 7 original submission points and 5 further submission points on Method IM.2.

3.6.1 Submissions, Evidence and Analysis

127. Method IM.2 was broadly supported by submitters with Fish and Game, WCC and Taranaki Whanau requesting the Method be retained as notified. A number of iwi submitters sought amendments to strengthen and clarify the Method. Te Tumu Paeroa's submission raised concerns about adequate protection of mātauranga Māori and Māori data sovereignty. Their submission requested responsibility for implementing the Method go to mana whenua / tangata whenua and for the Method to be regulatory. These submissions were partly accepted for the reasons outlined in the s 42A report.

128. Mr Wyeth identified Method IM.2, along with Method IM.1, as non-regulatory actions that are to be achieved by Council working in partnership with mana whenua / tangata whenua and are appropriately located in the non-regulatory section of the RPS. Further to this, Mr Wyeth also noted there were other methods in the RPS which lists iwi authorities as being responsible for implementation with the Council. Notwithstanding those other methods, implementation of Method IM.2 would not be possible without mana whenua / tangata whenua partnership. Accordingly, the Officer recommended that implementation of this Method is extended to include mana whenua / tangata whenua. We agree with this recommendation.

129. Mana whenua / tangata whenua and Te Tumu Paeroa also raised concerns surrounding the use and management of Māori data sovereignty with Rangitāne submitting Method IM.2 be explicit in defining how and when their data will be collected, stored, protected, shared and managed, and how or when it might be modified or deleted. Although these submissions did not result in the provision being amended, the timeline of 2025 in Method IM.2 would appear to go some way to allow for the development of tikanga and kawa surrounding Māori data sovereignty.
130. In Minute 8, we requested some specific information from the Council about Māori data sovereignty so that we could better understand the intent of the Proposed Change 1 provisions. We acknowledge Council's helpful response (set out in Mr Wyeth's Evidence in Reply, although provided by others working within Council).⁶⁶
131. Council stated:⁶⁷

GWRC has an organisation-wide data strategy under development, which recognises Māori data sovereignty and Māori data as taonga. GWRC will embed the relevant values and practices appropriate to the creation, care, use and protection of Māori data as an outcome of that strategy. These practices are inherently linked to a required increase in the maturity of information and data management at GWRC so that Māori data can be identified and treated appropriately.

Training and development are required for GWRC staff to better understand how data is taonga and what their accountability, responsibility, stewardship and relationships need to be around the data they and their teams interact with. Tools required to handle this level of maturity around data will be made available.

This will involve establishing clear roles, responsibilities, and processes for overseeing data throughout its lifecycle (from collection and management to usage and disposal). The primary goal of the data stewardship model will be to promote data quality, integrity, privacy, and security and maximizing the value and usefulness of GWRC data in line with the principles of Māori data sovereignty.

⁶⁶ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Two – Integrated Management, 28 July 2023, paras 27 – 30.

⁶⁷ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Two – Integrated Management, 28 July 2023, para 30.

132. We found this information helpful and it provided us with assurances and some confidence that Māori data will be treated with respect and care. Ātiawa said it was pleased that mātauranga Māori is being given its due recognition by Regional Council, and stressed at the hearing that mātauranga Māori and other forms of Māori data must be provided the appropriate protections. This includes Māori data sovereignty, including but not limited to the way Māori data is stored, protected, accessed, shared, used and analysed. Ātiawa support provisions that seek to develop tikanga and kawa to govern Māori data sovereignty and said they looked forward to developing tikanga and kawa for data sovereignty for mātauranga-a-Ātiawa ki Whakarongotai.
133. The submission from Atiawa requested including a reference to funding and resourcing iwi which was not accepted. The s 42A Report identified specific funding arrangements are subject to processes under the Local Government Act and other Council processes. We note that in Hearing Stream 3 – Climate Change, the Reporting Officer makes reference to recently established Kaupapa funding agreements with mana whenua / tangata whenua.

3.6.2 Finding

134. We agree with the Reporting Officer’s recommendation on Method IM.2 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.6.3 Recommendation

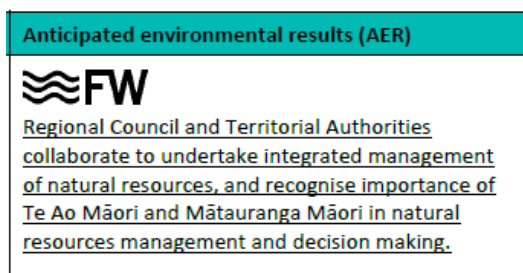
Method IM.2 Protection and interpretation of Mātauranga Māori and Māori data
By 2025, the Wellington Regional Council in partnership with each mana whenua / tangata whenua will develop and uphold tikanga and kawa for Māori data sovereignty, including but not limited to:

- (a) how Māori data and information is collected, stored, protected, shared and managed; and
- (b) how mātauranga Māori and other forms of Māori data is analysed and interpreted.

*Implementation: Wellington Regional Council **and mana whenua/tangata whenua.***

3.7 Objective A - Anticipated Environmental Results

135. The AER reads:



136. There were 4 original submission points and 5 further submission points on the integrated management AER.

3.7.1 Submissions, Evidence and Analysis

146. Rangitāne [S168.0195] supported the AER but considered it should be strengthened by referring to recognise “and provide for” Te Ao Māori and mātauranga Māori. Fish and Game [S147.0104] sought reference to community and stakeholder input. Ātiawa sought a more specific, measurable and time-bound AER developed with involvement from mana whenua / tangata whenua.

147. The Officer supported the amendment sought by Rangitāne and Fish and Game in part, by including reference in the AER to consideration of the “views of communities”.

3.7.2 Finding

148. We agree with the Reporting Officer’s recommendation on the AER for the Objective for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.7.3 Recommendation

Objective A - Anticipated Environmental Results

Wellington Regional Council, city and district councils and Territorial Authorities collaborate to undertake integrated management of natural and physical resources and built environments, and recognise and provide for the importance of Te Ao Māori and mātauranga Māori, and consider the views of communities in natural resources management and decision-making.

Part B: Section 3

Hearing Stream 3 - Climate Change

1. Executive Summary

1. Proposed Change 1 proposes bold and collective action to address the climate crisis, recognising local government has a critical role as the level of government closest to individual communities.¹
2. The statutory framework, including national management plans and strategies, as well as technical evidence and research documented in the s 32 Report, present the foundational basis and recognise that managing land use and resources is increasingly important and necessary to help address the climate crisis.
3. Strong direction in the RPS will help to ensure the Wellington Region plays its part in reducing emissions and supporting New Zealand achieve its target of net-zero carbon by 2050.
4. The HS3 provisions were considered primarily by the P1S1 Panel, as only the 'nature-based solutions' provisions and the definition of 'minimise' were categorised as part of the FPI.
5. The P1S1 Panel's recommendations are to be read with the corresponding submission analysis tables attached and Part A (Overview).
6. Having heard submitters and considered evidence, legal submissions and hearing presentations, we recommend Council adopt the recommendations in our Report on the submissions and provisions coded to Hearing Stream 3 in Proposed Change 1. In doing so, the RPS will:
 - a. Implement higher order direction requiring local authorities take action to support reductions in greenhouse gas emissions
 - b. Prioritise where possible the reduction of gross greenhouse gas emissions (GHGe) on an all sectors, all gases basis, to support the 2050 net zero target

¹ He Pou a Rangi the Climate Change Commission. Ināia tonu nei: a low emissions future for Aotearoa (2021), page 231.

- c. Strengthen the existing partnership approach with mana whenua / tangata whenua
- d. Enable renewable energy generation and its transmission to support electrification and decarbonisation
- e. Recognise the benefits of regionally significant infrastructure that supports climate change mitigation, adaptation and resilience
- f. Include a framework for agricultural emissions which also recognises the important role of the primary production sector in the economy and supports farmers with on-farm sequestration and other activities that are reducing emissions and increasing resilience
- g. Recognise the role of offsetting, including using a ‘right tree, right place’ approach giving preference to indigenous forest
- h. Recognise that urban form and transport infrastructure planning can contribute significantly to climate change adaptation and resilience and reduce GHG emissions, including by encouraging a shift to active and public transport modes which have co-benefits, including improved health outcomes
- i. Provide for travel choice assessments and whole of life carbon assessments, as both have important roles in reducing GHG emissions; and recognising that these have a different function from high trip generating transport assessments, and
- j. Better support adaptation and resilience to climate change and management of natural hazards in the coastal environment.

7. Officers’ recommendations on the Climate Change provisions were modified in the course of the submissions and hearing process. We agree with the majority of the Officers’ recommendations on the merits of submissions. Our views differ from the Reporting Officers on the following provisions:

Provision	Panel’s views
General subtopic	
Objective CC.1	We recommend the defined term for <i>climate resilience</i> is used in the Objective, and clause (c) is amended to include <i>regionally significant infrastructure</i>
Objective CC.8	We recommend the defined term for <i>climate resilience</i> is used in the Objective

Policy CC.8	We recommend a minor amendment to the Explanation to state that the Policy “helps deliver” national policy and “strategies”
Energy, Waste and Industry subtopic	
Policy 7	We recommend amendments to better recognise the benefits of RSI that support reductions in GHGe, give effect to <i>Te Mana o te Wai</i> , mitigate natural hazards, and enable people and communities to be resilient to climate change. We also recommend an amendment in clause (b) to refer to an “efficient, effective and resilient” electricity transmission network
Policy 39	We recommend an amendment to clause (b) recognising the benefits of RSI that provide for <i>climate change mitigation, climate change adaptation and climate-resilience</i>
Transport subtopic	
Policy CC.1	<p>We consider that the ‘avoid, shift, improve’ outcomes the Council’s transport expert described, can be better achieved by not including the concept of optimising transport demand within the Policy as a defined term, and instead including the concepts directly within the Policy itself, recognising that spatial planning is addressed in the HS4 provisions (especially Policies 30, 31, UD.4 and 57 and 58).</p> <p>We therefore recommend amendments to Policy CC.1 to require provisions be included in plans requiring new and altered land transport infrastructure be designed, constructed and operated to contribute to an “efficient transport network, maximise mode shift and reduce GHGe” through the matters listed in the Policy. We recommend these matters are not set out as a hierarchy, but instead have equal importance and consideration.</p>

	We recommend an amendment to the explanation to the Policy noting the health benefits of active transport modes.
Policies CC.2 and CC.2A	We recommend a drafting amendment in clause (c) to better convey the Policy intent. We also recommend an amendment to say that the results of <i>travel choice assessments</i> may form the basis for conditions of consent
Policy CC.3	We recommend an amendment to recognise mode shift to zero and low-carbon active transport will have improved health outcomes
Policy CC.9	<p>We recommend an amendment to align the Policy with our recommendations on Policy CC.1, but deleting the reference to a “hierarchical approach” and strengthening the direction in the Policy by deleting the words “the move towards” and instead referring to “supporting low and zero-carbon modes”.</p> <p>We recommend an amendment in the Explanation for this Policy and others so that the exemption for aircraft applies only to aircraft and not more generally to “activities undertaken at Wellington Airport which support aircraft activities” as we consider the meaning and potential application of this broader exclusion to be unclear and unsupported by the regulatory framework.</p> <p>We also recommend an amendment to the explanation noting the health benefits of active transport modes.</p>
Policy CC.11	We recommend the Policy is amended to apply to NoRs and that the reference to “regional” targets is deleted in line with amendments recommended to Objective CC.3.

Method CC.10	We recommend a drafting amendment to refer to “public transport and active modes” in the title and “public and active transport” in the Method for consistency with the wording in Policies CC.1, CC.2 and CC.9.
Natural Hazards subtopic	
Policy 29	We recommend that a new policy is included for hazard management in the coastal environment to give effect to Policy 25 of the NZCPS. We recommend that “hazards or risks” are referred to consistently in the Policy and the words “in areas” is added into clause (d) to improve readability. We also recommend a specific and limited exemption for telecommunications infrastructure and minor amendments to the Explanation including to refer to updated guidance material
Policy 51	We recommend amendments to require particular regard be given to Te Ao Māori and a partnership approach with mana whenua / tangata whenua. We also recommend a cross reference in the Policy to new Policy 29(e) (coastal hazards)
Policy 52	We recommend various amendments to give effect to the NZCPS including an amendment in clause (b) to refer to natural defences and an amendment in clause (i) regarding avoiding or minimising risks from the use of hard engineering methods in the coastal environment. We also recommend some drafting amendments in clauses (d) and (g) to improve readability
Method 14	We recommend amendments that support a partnership approach with mana whenua / tangata whenua
AER1	We recommend minor amendments to reflect amendments we recommend in Policies 29 and 52.

2. Overview

8. Hearing Stream 3 is divided into 6 subtopics. We set out an introduction and provision-by-provision analysis below for each subtopic (other than the definition of *minimise* and those *nature-based solutions* provisions that are assessed as part of the FPI in the Part C report).

2.1 General Submissions

9. There were many general submissions on the Climate Change provisions. The majority of these submissions supported the Climate Change provisions in full or in part.² The Reporting Officer summarises the key reasons for submitters' support as including:³
 - a. Climate change is the most significant issue of our time and climate change mitigation through the RPS is important to respond to this issue.
 - b. It is appropriate to recognise and address climate change in the RPS, including the impacts of climate change on ecosystem health and biodiversity, and the challenge climate change presents to the safety and well-being of communities and natural and physical resources
 - c. Land use management and planning has an important role in mitigating and responding to climate change
 - d. It is in the best interests of current and future generations to act now to limit global warming.
10. The Climate Change provisions seek to work in partnership with mana whenua / tangata whenua to address climate change issues.
11. Various submitters sought amendments to the provisions and others opposed them in full or in part, including on the basis they may conflict with, or unnecessarily duplicate, national policy.⁴ Wairarapa Federated Farmers with support from Beef and Lamb NZ, asked for the provisions to

² Section 42A Hearing Report, Climate Change – General, para 61.

³ Section 42A Hearing Report, Climate Change – General, para 62.

⁴ Section 42A Hearing Report, Climate Change – General, para 64.

be deleted and considered as part of the full review of the RPS scheduled for 2024.

12. DairyNZ and other submitters opposed many of the climate change provisions on the basis that the analysis in the s 32 Report to support the policy position was inadequate to determine the appropriateness of the policy settings, costs or benefits of the approach. BLNZ said that the scope of Proposed Change 1 should be restricted to those changes necessary to give effect to the NPS-UD and it was premature and would lead to inefficient implementation and confusion to include matters relating to climate change before key national legislation is implemented.
13. For the reasons the Reporting Officer provides in paragraph 66 of his s 42A Report, we agree that climate change is an important resource management issue that is having significant adverse effects on the environment, people and communities in the region. We accept Mr Roos' technical evidence provided in justification of why greenhouse gas emissions (GHGe) need to be cut strongly and quickly.⁵
14. As set out in Part A, it is the role of the RPS to address resource management issues of significance to the region. In our view there is clear rationale for Proposed Change 1 to address climate change and it is appropriate that it do so.
15. Submitters had a range of views on 'how far' the Proposed Change 1 provisions should go. In assessing submitters' and experts' views, we kept front of mind the RMA's sustainable management purpose which encompasses inter-generational considerations, while also recognising that there are many and complex competing values in play. Mr Roos' evidence is that the climate change provisions in Change 1 will help avoid steeper and more costly GHGe reductions in the future. In response to some submitter concerns that provisions in Proposed Change 1 to reduce emissions will have no impact on the global climate, Mr Roos said that:⁶

... the more actors that take a lax attitude to limiting emissions, the stronger the impetus for others to follow suit, either because they are emboldened, or in response to the unfairness

⁵ Hearing Transcript, HS3 – Climate Change, Day 1, pages 9 – 12, and Statement of Evidence of Gijbertus Jacobus (Jake) Roos on behalf of Wellington Regional Council, Technical Evidence, HS3 – Climate Change, 7 August 2023.

⁶ Statement of Evidence of Gijbertus Jacobus (Jake) Roos on behalf of Wellington Regional Council, Technical Evidence, HS3 – Climate Change, 7 August 2023, paras 24 – 25.

of the situation. The endpoint of adopting this rationale is that no-one cuts or regulates their emissions, not even those in a comparatively good position to do so, and climate change continues to worsen as a result.

There is no solution to this ‘collective action problem’ other than for emitters and regulators of emissions to act responsibly and limit the emissions sources they have influence over. The more actors that do this, the more the ‘vicious circle’ of lax or negligent behaviour becomes reversed to become a ‘virtuous circle’ of mutually reinforcing good behaviours that reduce the causes of climate change. Governments are both role models for wider society and have the widest powers of any actors in any given geographic area to act in the public and intergenerational interest. It is critical that they show leadership on this issue.

16. We accept Mr Roos’ evidence and agree there is a role for local government, the planning system and the RMA to reduce emissions to deliver climate change national policy direction and strategies. Reducing GHGe is relatively undeveloped and unprecedented in an RMA context as the Reporting Officer states⁷, however we agree that the management of land use and resources is increasingly important and necessary to help address the climate change emergency. While some territorial authorities were concerned about ‘overreach’ and the provisions in HS3 going beyond the RMA’s jurisdiction (eg KCDC [S16.0103], PCC [S30.0117] and UHCC [S34.0115], we consider this concern to be generally overstated. TAs are required to control land use to achieve the integrated management of the effects of land use and development (s 31(1), RMA) which can in turn influence outcomes leading to reductions in GHGe, such as influencing travel choice and enabling transport mode shift.
17. The statutory framework discussed below also requires city and district councils to take action to support reductions in GHGe through “planning decisions” that give effect to Objective 8 and Policy 1 of the NPS-UD. TAs are also required to consider the effects of climate change (s 7(i), RMA) and have regard under s 74(2) to any Emissions Reduction Plan or National Adaptation Plan made under the Climate Change Response Act 2022 when making or changing a district plan.

⁷ Section 42A Hearing Report, Climate Change – General, paragraph 265.

18. HCC [S115.085] submitted that Policy 65 and other non-regulatory policies and methods should not apply to territorial authorities. Non-regulatory policies are set out in Chapter 4.4 of the RPS and outline non-regulatory actions required to help achieve the RPS' objectives. Legal submissions for Counsel said there was no legal basis to exclude the non-regulatory policies from applying to territorial authorities. We agree with this analysis.
19. We accept Mr Roos' evidence that the provisions in Proposed Change 1 will be beneficial to global efforts to reduce emissions.⁸ We therefore reject all the general submissions seeking that the climate change provisions are deleted. On the basis of the role of the RPS in setting high level regional direction to mitigate and respond to climate change, we agree with Mr Wyeth that there is sufficient cost-benefit analysis in the s 32 Report and sufficient evidentiary support in the Council's technical evidence.
20. We therefore agree with the Reporting Officer's recommendation to retain the general intent of the provisions in this subtopic, as climate change is a regionally significant resource management issue that requires urgent action.⁹

2.2 Statutory Framework

21. The statutory framework for our recommendations is discussed at a high level in Part A, including the Regional Council's functions in s 30 and the requirements for RPS'. The paragraphs below discuss particular aspects of the regulatory framework that apply to the Climate Change provisions in HS3.

2.2.1 The RMA

22. All local authorities have functions under the RMA relating to the management of natural hazards. The RMA defines natural hazards as "Any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which

⁸ Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, paragraph 38.

⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 8, lines 347 – 349.

adversely affects or may adversely affect human life, property, or other aspects of the environment”.

23. Section 6(h) states that persons exercising powers and functions under the RMA are to manage significant risks from natural hazards as a matter of national importance.
24. Regional councils are tasked with allocating responsibilities for natural hazards in their RPS. Section 62(1)(i) of the RMA requires a RPS to specify objectives, policies and methods relating to the avoidance and mitigation of natural hazards. Territorial authority functions include controlling “any actual or potential effects of the use, development, or protection of land, including for the purpose of the avoidance or mitigation of natural hazards”.
25. Section 7(i) of the RMA states that functionaries under the RMA must have particular regard to the effects of climate change. As stated in Part A, the RMA requires an RPS, regional plan and district plan to give effect to an NPS, and s 61 requires a regional council to have regard to management plans and strategies prepared under other Acts when preparing or changing a RPS. This is discussed further below. In addition, ss 74(2)(b)(i) and 74(2)(d) and (e) of the RMA require territorial authorities to have regard to any Emissions Reduction Plan or National Adaptation Plan made in accordance with the Climate Change Response Act 2002 when preparing or changing a district plan.
26. Amendments to the RMA also repealed ss 70A and 104E which prevented local authorities from having regard to the effects of greenhouse gas emissions on climate change when granting resource consents and making air discharge rules in regional plans.

2.2.2 National Policy Statements

27. There are various NPS’ that are relevant to the Climate Change topic. The NZCPS provides direction on the management of coastal hazards and contains specific direction in Policies 25 and 27 in particular that are implemented in the HS3 provisions.
28. The NPS-UD (in particular Objective 8 and Policies 1 and 6), the NPS-FM (Policy 4 and clause 3.14), the National Policy Statement for Greenhouse Gas Emissions from Industrial Process Heat 2023 and the Resource Management (National Environmental Standards for Greenhouse Gas

Emissions from Industrial Process Heat) Regulations 2023 all contain climate change direction.

29. The NPS-UD is relevant to the Climate Change Transport subtopic as it provides direction for well-functioning urban environments that, among other things, have good accessibility for people between housing, jobs, community services, and natural and open spaces including by way of public or active transport, and also support reductions in greenhouse gas emissions (GHGe). The provisions in the NPS-UD that are relevant to the subtopic include Objective 8 and Policies 1, 5, 6 and 11. Objective 8 requires that New Zealand's urban environments support reductions in GHGe. Policy 1 of the NPS-UD states that:

Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum: ...

(e) support reductions in greenhouse gas emissions
30. “Planning decisions” include decisions on district plans and proposed district plans.
31. The NPS-REG and NPS-ET are also relevant as they seek to enable the development, operation, maintenance and upgrading of renewable electricity generation and electricity transmission activities which support the decarbonisation of the energy sector and the economy and contribute to reducing GHGe.
32. We also note the NPS-IB contains direction to manage indigenous biodiversity for the purpose of climate resilience and mitigation. Policy 4 says that “Indigenous biodiversity is managed to promote resilience to the effects of climate change”, and clause 3.6 contains specific implementation direction for local authorities including “allowing and supporting the natural adjustment of habitats and ecosystems to the changing climate” (clause a), and recognising the role of indigenous biodiversity in mitigating the effects of climate change (clause 3.6(2)).
33. There is therefore considerable existing higher order direction within the RMA framework requiring local authorities to take positive action to support reducing GHGe in their regions and cities/districts.

2.2.3 Climate Change Response Act

34. The purpose of the Climate Change Response Act 2002 (CCRA) is to:

provide a framework by which New Zealand can develop and implement clear and stable climate change policies that—

- (i) contribute to the global effort under the Paris Agreement to limit the global average temperature increase to 1.5° Celsius above pre-industrial levels; and
- (ii) allow New Zealand to prepare for, and adapt to, the effects of climate change.

35. The CCRA was amended in 2019 by the Climate Change Response (Zero Carbon) Amendment Act 2019. The Reporting Officer summarises the four key changes to the CCRA in this way:¹⁰

- a. Legally binding domestic GHG emission reduction targets for New Zealand to:
 - i. Reduce net emissions of all GHG emissions (except biogenic methane) to zero by 2050
 - ii. Reduce emissions of biogenic methane to 24-47 % below 2017 levels by 2050
- b. A system of five-yearly emissions budgets to act as stepping-stones towards the long-term target
- c. A requirement for the Government to develop and implement policies for climate change mitigation and adaptation through an emissions reduction plan and a national adaptation plan; and
- d. Establishing an independent Climate Change Commission to provide expert advice and monitoring to help keep successive governments on track to meeting long-term goals.

36. Sections 61(2)(d) and (e) of the RMA require the Regional Council to have regard to an emissions reduction plan (ERP) and national adaptation plan (NAP) made in accordance with sections 5ZI and 5ZS respectively of the CCRA. These sections of the RMA came into force in November 2022, a few months after Proposed Change 1 was notified. This means that these RMA amendments do not apply, given the transitional provision incorporated into the RMA at the same time.¹¹

37. However, we agree with the advice of Counsel for the Regional Council that there is nothing in the RMA precluding us from considering the ERP and NAP as these are “management plans and strategies prepared under other Acts” which the Council is required to “have regard to” when

¹⁰ Section 42A Hearing Report, Climate Change General – paragraph 38.

¹¹ Schedule 12, clause 26 of the RMA.

preparing or changing an RPS (s 61(2)(a), RMA).¹² Also, at the time that district plans notify plan changes to give effect to the RPS, they will also be required to have regard to the ERP and NAP (s 74(2) of the RMA).

38. The recommendations in the ERP and NAP that relate to planning and resource management are summarised in the s 32 Report¹³, including reducing reliance on cars, supporting public and active transport, increasing renewable electricity, reducing industrial emissions, supporting afforestation, direction to support and prioritise nature-based solutions, direction to manage the impacts of climate hazards on communities and the environment, and providing information and raising awareness of climate change and natural hazards.
39. Section 5R of the CCRA provides that the Climate Change Commission must, no later than 31 December 2024, advise the Minister on whether the 2050 target should be amended to include emissions from international shipping and aviation.
40. The s 32 Report refers to the findings of He Pou a Rangi – the Climate Change Commission in 2021 that the NZ Emissions Trading Scheme (NZ ETS) alone is not likely to achieve the required levels of emissions reductions needed by 2050 or meet emission budgets.¹⁴

2.2.4 Emissions Reduction Plan

41. The ERP sets out national direction for how New Zealand will reduce GHGe, as well as a range of actions relating to behaviour changes in society, such as increasing uptake of public transport.
42. The s 42A report notes that Chapter 7 of the ERP recognises that decisions on land use, resources and infrastructure impact climate change mitigation and resilience, and that housing, urban development and the planning and infrastructure system can support emissions reduction, including through access to active and public transport, medium and high-density development and well-functioning urban environments.¹⁵

¹² Legal submissions in reply on behalf of Wellington Regional Council, Hearing Stream 2, 28 July 2023, paras 8 – 10.

¹³ Paragraphs 177 – 180.

¹⁴ He Pou a Rangi the Climate Change Commission (2021) Ināia tonu nei: a low emissions future for Aotearoa, cited at footnotes 54 and 55, page 37, section 32 Report. See also the more recent advice of the Commission to the Government cited at footnote 56 of page 37 of the s 32 Report.

¹⁵ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 54 - 55.

43. Chapter 10 of the ERP says that New Zealand’s planning system and investment in infrastructure can reduce emissions, build resilience and improve wellbeing. The Chapter identifies the need to integrate land-use planning and infrastructure to support emissions reductions by allowing more people to live in existing urban areas where social and economic opportunities are greatest. Chapter 10 also notes the need to reduce reliance on cars, support the use of walking, cycling and public transport, adopt low-emissions vehicles, and decarbonise freight and heavy transport.
44. The following paragraph in the ERP explains the responsibilities and role of local authorities in achieving climate change objectives:¹⁶

Local government is fundamental to meeting our 2050 targets, mitigating the impacts of climate change and helping communities to adapt to climate change ... Local government makes decisions in many sectors that will need to transition. Councils provide local infrastructure and public services ... They also have planning and decision-making powers in relation to land use and urban form.

45. Action 4.1 and Chapter 7 in the ERP are also relevant to HS 3. Action 4.1 says:

Prioritise nature-based solutions

To address the climate and biodiversity crises together, the Government will:

- prioritise the use of nature-based solutions within our planning and regulatory systems, where possible, for both carbon removals and climate change adaptation
- investigate how to best ensure that a biodiversity lens is applied to climate change policy development and planning in order to prioritise nature-based solutions.

The planning system and infrastructure investment can also support the use of nature-based solutions or blue/green infrastructure – such as water-sensitive urban design, rain

¹⁶ Aotearoa New Zealand’s First Emissions Reduction Plan, Ministry for the Environment, May 2022, page 34.

gardens and urban trees – which may support carbon removals and improve climate resilience.

....

46. The following text from Chapter 7 of the ERP is also relevant.

Chapter 7: Planning and infrastructure

How we plan and provide infrastructure can reduce emissions and increase resilience

How we provide infrastructure also affects our emissions. Higher-density, mixed use developments can have lower operational emissions per dwelling and allow infrastructure to be used more efficiently, avoiding or delaying the need for more infrastructure and associated emissions. Non-built solutions to our infrastructure needs – including nature-based solutions – can also reduce the need for built infrastructure made of materials that carry embodied emissions. They can also help to sequester carbon, improve indigenous biodiversity and create more liveable environments that encourage people to walk or cycle, reducing emissions from transport.

47. Chapter 3 of the ERP discusses the need for a just, fair and inclusive transition to a low-emissions economy, and sets out a range of actions including an equitable transition strategy that support regions and communities and help proactively identify and develop initiatives that address the challenges that different groups may face in the transition.

2.2.5 National Adaptation Plan

48. The NAP also includes a number of directives relevant to climate-resilience including:

Chapter 6, NE3: Support working with nature to build resilience. Indigenous ecosystems are restored and protected, sites that need buffers against climate risks are identified and communities are supported in understanding nature-based solutions as a choice for adaptation.

- a. Action 5.9: Prioritise nature-based solutions in our planning and regulatory systems to address the climate and biodiversity crises together.
- b. Action 5.16: Identify options to increase the integration of nature-based solutions into urban form, which will increase biodiversity and natural areas in urban spaces.

- c. Action 8.7: Embed nature-based solutions as part of the response to reducing transport emissions and improving climate adaptation and biodiversity outcomes.

- 49. The NAP also sets out actions to, among other things, drive climate-resilient development in the right locations, reduce the vulnerability of assets exposed to climate change, ensure all new infrastructure is fit for a changing climate, and support climate-resilient infrastructure which in turn supports greater community resilience (chapters 4 and 8).
- 50. The NAP recognises that an equitable transition is core to New Zealand’s adaptation plans and that no two communities will experience climate change in the same way. Inequity arises through multiple domains including income, housing, employment and accessibility and that climate change can increase existing inequities as some groups may be disproportionately affected by financial impacts or lack the resources to adapt. National adaptation plans must therefore support New Zealanders in ways that recognise their unique needs, values and circumstances.¹⁷

2.2.6 The Land Transport Management Act 2003 (LTMA)

- 51. The LTMA provides the legal framework for managing and funding land transport activities. It requires regional transport committees to prepare a regional land transport plan (RLTP) for the approval of the relevant regional council. The RLTP must set out the region’s land transport objectives, policies and measures for at least the following 10 years.
- 52. The RLTP for the Wellington Region sets direction for the Region’s transport network for 10 – 30 years and describes the Council’s long-term vision, regional priorities and transport investment projects.
- 53. In Minute 12 we asked the Reporting Officer for the Transport subtopic to explain how the RLTP interacts with the RPS. The Officer provided Figure 1, Attachment 1 to her Reply Evidence which explains the relationship and the funding framework. The Officer also explained that the RPS can provide direction to an RLTP which must be taken into account in its preparation.¹⁸

¹⁷ Ministry for the Environment. 2022. Aotearoa New Zealand’s first national adaptation plan. Wellington. Ministry for the Environment, pages 13 – 14.

¹⁸ Reporting Officer Right of Reply of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 19 October 2023, paras 14 -15.

3. Climate Change: Subtopic 1 - General

3.1 Overview

54. This subtopic comprises:
- a. Chapter introduction
 - b. Regionally significant issues 1 - 6
 - c. Objective CC.1
 - d. Objective CC.2
 - e. Objective CC.3
 - f. Objective CC.7
 - g. Objective CC.8
 - h. Policy CC.8
 - i. Method CC.1
 - j. Method CC.2, and
 - k. Definitions.
55. There were approximately 342 original submission points and 246 further submissions on this subtopic.¹⁹
56. The key issues for submitters included:
- a. Potential for Proposed Change provisions to duplicate and conflict with national climate change policy and initiatives
 - b. The GHGe reduction targets in Objective CC.3 and the extent to which they can be achieved under the RMA and within the functions of local authorities
 - c. The extent to which Policy CC.8 can be achieved by local authorities and concerns about the practicality of creating a regime for offsetting GHGe in regional and district plans
 - d. Ensuring the provisions are workable and achievable in practice.
57. As discussed in Part A, we agree with the Officer that all the provisions in this subtopic be considered under the P1S1 process.

¹⁹ The number of submissions and further submissions on each of the provisions coded to this subtopic are set out in paragraph 46 of the s42A Report.

Provision by Provision Analysis

3.2 Climate Change Introduction

58. The notified version of the Introductory text inserts a new Climate Change Introduction as follows:

Chapter introduction

3.1A Climate Change

Long term weather records show that seven of the past nine years have been amongst New Zealand’s warmest on record, with 2021 and 2016 being the two hottest recorded years. In the Wellington region, we have one of the highest rates of sea level rise in New Zealand due to the effects of global sea level rise, compounded by a regional trend of tectonic subsidence.

Predictions for climate change impacts in the Wellington Region¹ significant impacts by 2090 if global *emissions* are not significantly reduced. The annual regional temperatures, for instance, could increase by up to 3°C. The key highlights from the report include:

- Wellington and Wairarapa will experience a significant increase in hot days
- Frost occurrence, including in the high elevation areas, is projected to significantly decrease
- Spring rainfall will reduce by up to 15 percent in eastern areas
- Up to 15 percent more winter rainfall could be experienced along the west coast
- The risk of drought will increase in the Wairarapa
- More extreme rainfall events

Some changes are occurring faster than previously expected, such as sea level rise and ocean warming, leading to more frequent and energetic storms causing an increase in flooding, coastal erosion and slips in many parts of the region.

While historical *emissions* mean that we are already locked into continued global warming until at least mid-century, and longer for sea-level rise, there is still opportunity to avoid the worst impacts of climate change if we act urgently across all sectors to make signification reductions in global greenhouse gas *emissions*.

In 2021 He Pou a Rangi the Climate Change Commission issued a call to all New Zealanders “to take climate action today, not the day after tomorrow”, concluding that New Zealand needs to be proactive and courageous as it tackles the challenges the country will face in the years ahead. All levels of central and local government must come to the table with strong climate plans to get us on the right track, concluding that bold climate action is possible when we work together.²

¹ NIWA, 2017: Climate change and variability – Wellington Region

² New Zealand Climate Change Commission, 2021: Ināia tonu nei: a low emissions future for Aotearoa

While this will require bold and decisive action, there is a need to act carefully, recognising that the costs of change will not be felt equally across our communities and that provision needs to be made for an equitable transition.

In 2019, Greater Wellington Regional Council declared a climate emergency, pledging to become carbon neutral by 2030 and to take a leadership role to develop a Regional Climate Emergency Response Programme, working collaboratively with iwi, key institutions and agencies to reduce greenhouse gas emissions and prepare for the unavoidable effects of climate change, supporting international and central government targets for emissions reductions and adaptation planning.

The key areas of action required to address climate change are to:

1. Reduce gross greenhouse gas emissions. This includes transitioning as rapidly as possible from fossil fuels to renewable energy and recognising that methane reductions offer a significant opportunity for global cooling in the short-term.
2. Increase greenhouse gas sinks through carbon sequestration, while recognising that this is only a short-term solution, and that the focus must be on reducing gross GHG emissions.
3. Take adaptation action to increase the resilience of our communities, the natural and built environment to prepare for the changes that are already occurring and those that are coming down the line. Critical to this is the need to protect and restore natural ecosystems so they can continue to provide the important services that ensure clean water and air, support indigenous biodiversity and ultimately, people.

The causes of climate change need to be addressed by internationally coordinated action, but our success depends on responses at national, local and individual levels.

59. The introduction text provides important context for why climate change is a significant issue for the Region, and it also identifies the following three key areas of action needed to address climate change:

- Reduce gross greenhouse gas emissions
- Increase greenhouse gas sinks through carbon sequestration
- Take adaptation action to increase the resilience of communities and the environment.

3.2.1 Submissions, Evidence and Analysis

60. The majority of submission points support the Introduction text in full or in part, with minor amendments to address specific sector interests or to provide more clarity. Mr Rachlin for PCC felt that the Introduction was too long and unnecessarily repeated the s 32 Report. Both Mr Rachlin and Ms Hunter for WIAL requested references to the ERP and NAP, and Ms Hunter also sought clarification that the aviation sector was not subject to the climate change provisions in the RPS because emissions from

international aviation and shipping are not currently included in the CCRA's net-zero target.

61. The Reporting Officer recommends various amendments to the Introduction to improve readability and to clarify that the “long term weather records” referred to in paragraph 1 are current to 2022. The Officer, Mr Wyeth, recommends a paragraph in the Introduction is deleted and replaced with a paragraph referring to the level of global emissions reductions needed by 2030 and 2050 to provide an opportunity to limit warming to 1.5°C.²⁰ He also recommends other technical amendments which he discusses in the s 42A Report, including a consequential change to replace “iwi” with “mana whenua / tangata whenua for consistency with other Proposed Change 1 provisions.
62. In his Rebuttal Evidence, Mr Wyeth recommends the Introduction is amended to better reference the national legislative and policy context for climate change and the role of the RPS and planning system to reduce GHG emissions.²¹ Some of these changes are based on relief sought by PCC and WIAL. Mr Wyeth also recommends a new subheading: “The role of the resource management system in the climate change response” and two bullet points clarifying that Objective CC.3 (discussed below) is not a limit or intended as an allocation regime, and that the climate change provisions do not apply to emissions from aircraft.
63. We consider this contextual and clarifying information is helpful, appropriate and supported through the statutory framework we have summarised in Part A, as well as the information in the s 32 Report and Mr Roos’ technical evidence.²² We agree with these amendments, in particular because they clarify the role of the RPS within a broader national climate change context.
64. At the Hearing, Ms Hunter for WIAL explained that, in her view, the word “key” should be deleted as the RMA has “only recently been amended to enable regional councils to manage effects from discharges”.²³ Ms Hunter elaborates on this in her written evidence. She saw a risk with the

²⁰ Section 42A Hearing Report, Climate Change – General, paragraph 106.

²¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, paras 15 - 18.

²² Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, paragraphs 33 -35

²³ Hearing Transcript, HS3 – Climate Change, Day 2, page 27, lines 1368 – 1381.

RPS locking in provisions for 10 years which may then become out of step with other mechanisms which may respond more proactively to climate change.

65. In light of the statements in the NAP and ERP which we have summarised above regarding the role of the planning system and functionaries' responsibilities and powers to influence outcomes and make land use planning and other decisions that can reduce GHGe and increase resilience and adaptation, we are comfortable with retaining the word "key" in the Introductory statement. We agree with the Officer that the resource management system has an important role in climate change response and the description is appropriate for introductory text.
66. The second paragraph of the Introduction refers to regional climate modelling undertaken by NIWA predicting significant impacts if emissions are not significantly reduced.²⁴ We recommend that, in addition to the 2017 NIWA report cited, the more recent 2019 NIWA report which is referred to in the s 32 Report is also cited. This report is a 'companion' to the 2017 report.²⁵ The 2019 report projects temperature and rainfall in the Wellington Region and considers the implications of changes on different sectors.²⁶ We recommend that this amendment be made as the correction of a minor error under clause 16 of Schedule 1 of the RMA.

3.2.2.1 Table 1.A

67. Table 1.A is a new table included in the RPS through Change 1. It sets out the policies and methods that give effect to each of the Climate Change objectives. In the Reporting Officer's Reply provided with the Climate-Resilience and Nature-Based Solutions subtopic, the Officer provided an updated table which was reviewed by all the Officers for HS3.²⁷ The Table is discussed further in the HS6 - Indigenous Ecosystems chapter.

²⁴ Climate Change and Variability – Wellington Region, June 2017, <https://www.gw.govt.nz/assets/Documents/2017/06/Climate-Change-and-Variability-report-Wlghtn-Regn-High-Res-with-Appendix.pdf>.

²⁵ Climate Change and Variability – Wellington Region, June 2017, <https://www.gw.govt.nz/assets/Documents/2017/06/Climate-Change-and-Variability-report-Wlghtn-Regn-High-Res-with-Appendix.pdf>, page 9.

²⁶ NIWA, Wellington Region Climate Change Extremes and Implications, December 2019, <https://www.gw.govt.nz/assets/Uploads/gwrc-niwa-climate-extremes-final3.pdf>.

²⁷ Reporting Officer Right of Reply of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change – Climate-Resilience and Nature-Based Solutions, 13 November 2023, Appendix 3.

3.2.2 Finding

68. We agree with the Reporting Officer’s recommendations on the Climate Change Introduction and recommend it is approved as set out in Appendix 1 of the Officer’s Reply²⁸ for the reasons above, and as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend the minor amendment to the second paragraph to correct the reference in footnote 1 so it refers to the more recent 2019 NIWA report referred to in the s 32 Report.
69. We also note an error in the amendments proposed by the Officer in the s 42A report in relation to the text that refers to “The key areas of action required to address climate change”. Point 2 states that methane reductions offer a significant opportunity for limiting global cooling. This should refer instead to limiting global *warming* and we recommend an amendment to correct this error.
70. We also recommend that Table 1.A is approved as set out in Appendix 3 to the Reporting Officer’s Reply Evidence for the Climate-Resilience and Nature-Based Solutions subtopic, with any consequential amendments necessary further to the recommendations made in our Report. The Table was coded to the HS6 Topic and we also discuss the table in that chapter and make the same recommendation.

3.2.3 Recommendation

43.1A Climate Change

As of 2022, long term weather records show that seven of the past nine years have been amongst New Zealand’s warmest on record, with 2021 and 2016 being the two hottest recorded years. In the Wellington region we have one of the highest rates of sea level rise in New Zealand, due to the effects of global sea level rise, compounded by a regional trend of tectonic subsidence.

Predictions are for significant climate change impacts in the Wellington Region significant impacts by 2090 if global greenhouse gas emissions are not significantly reduced. The annual regional temperatures, for instance, could increase by up to 3°C. The key highlights from the report include:

- Wellington and Wairarapa will experience a significant increase in hot days
- Frost occurrence, including in the high elevation areas, is projected to significantly decrease
- Spring rainfall will reduce by up to 15 percent in eastern areas
- Up to 15 percent more winter rainfall could be experienced along the west coast
- The risk of drought will increase in the Wairarapa

²⁸ [HS3-Right-of-Reply-Climate-Change-Subtopics-General-Agricultural-Emissions-and-Energy-Industry-and-Waste-Jerome-Wyeth-210923.pdf \(gw.govt.nz\)](#).

- More extreme rainfall events

Some changes are occurring faster than previously expected, such as sea level rise and ocean warming, leading to more frequent and energetic storms causing an increase in flooding, coastal erosion and slips in many parts of the region.

While historical emissions mean that we are already locked into continued global warming until at least mid-century, and longer for sea-level rise, there is still opportunity to avoid the worst impacts of climate change if we act urgently across all sectors to make significant reductions in global greenhouse gas emissions.

There is still an opportunity to limit warming to 1.5 °C if global net anthropogenic CO₂ emissions are reduced by 48 percent from 2019 levels by 2030 and a 99 percent reduction in CO₂ emissions is achieved by 2050 (these are median values). When all greenhouse gases are considered, global net emissions expressed as CO₂e must reduce by between 73 and 98 percent by 2050 to give a 50% chance of limiting warming to 1.5 °C with low or no overshoot.

In 2021 He Pou a Rangi the Climate Change Commission issued a call to all New Zealanders “to take climate action today, not the day after tomorrow”, concluding that New Zealand needs to be proactive and courageous as it tackles the challenges the country will face in the years ahead. All levels of central and local government must come to the table with strong climate plans to get us on the right track, concluding that bold climate action is possible when we work together.²

While this will require bold and decisive action, there is a need to act carefully, recognising that the costs and benefits of change will not be felt equally across our communities and that provision needs to be made for an equitable transition.

In 2019, Greater Wellington Regional Council declared a climate emergency, pledging to become carbon neutral by 2030 and to take a leadership role to develop a Regional Climate Emergency Response Programme, working collaboratively with *mana whenua/tangata whenua iwi*, key institutions and agencies to reduce greenhouse gas emissions and prepare for the unavoidable effects of climate change, supporting international and central government targets for greenhouse gas emissions reductions and adaptation planning.

The key areas of action required to address climate change are to:

1. Reduce gross greenhouse gas emissions. This includes transitioning as rapidly as possible from fossil fuels to renewable energy and recognising that methane reductions offer a significant opportunity for limiting global cooling warming in the nearshort-term.
2. Increase greenhouse gas sinks through carbon sequestration, while recognising that, due to the limitations of this approach, this is only a short-term solution, and the focus must be on reducing gross greenhouse gas GHG emissions.
3. Take adaptation action to increase the resilience of our communities, and the natural and built environment to prepare for the changes that are already occurring and those that are coming down the line. Critical to this is the need to protect and restore natural ecosystems so they can continue to provide the important services that ensure clean water and air, support indigenous biodiversity and ultimately, people.

The role of the resource management system in the climate change response

The causes of climate change need to be addressed by internationally co-ordinated action, but our success depends on responses at national, local and individual levels.

The resource management system plays a key role in helping to reduce greenhouse gas emissions. This section of the Regional Policy Statement sets out issues, objectives, policies and methods to help achieve a significant reduction in greenhouse gas emissions and improve the resilience of the Wellington Region to the effects of climate change. It is intended to complement the Climate Change Response Act 2002 and the range of actions

and initiatives in Aotearoa New Zealand’s Emission Reductions Plan and National Adaptation Plan prepared under that Act. This recognises that the achievement of *greenhouse gas emission* reduction targets, including those in Objective CC.3 of this statement, requires a range of actions, initiatives and financing tools that sit both within and outside of the resource management system.

Note that for the avoidance of doubt:

- Objective CC.3 seeks to ensure that the management, use and protection of natural and physical resources in the Wellington Region contributes to the 2030 and 2050 regional *greenhouse gas emission* targets – it is not a limit nor intended as an allocation regime between different sectors.
- The climate change objectives, policies and methods in this Chapter do not apply to *greenhouse gas emissions* from aircraft.


¹ NIWA, Wellington Region Climate Change Extremes and Implications, December 2019, <https://www.gw.govt.nz/assets/Uploads/gwrc-niwa-climate-extremes-final3.pdf>.

3.3 Regionally significant climate change issues


71. Proposed Change 1 notified the following six regionally significant Climate Change issues:

The regionally significant issues, and the issues of significance to the Wellington region's iwi authorities for climate change are:

1. Greenhouse gas emissions must be reduced significantly, immediately and rapidly
Immediate, rapid, and large-scale reductions in greenhouse gas emissions are required to limit global warming to 1.5°C, the threshold to avoid significant impacts on the natural environment, the health and well-being of our communities, and our economy. Extreme weather events and sea level rise are already impacting our region, including on biodiversity, water quality and availability, and increasing the occurrence and severity of natural hazards. Historical emissions mean that we are already locked into continued warming until at least mid-century, but there is still an opportunity to avoid the worst impacts if global net anthropogenic CO₂ emissions are reduced by at least 50 percent from 2019 levels by 2030, and carbon neutrality is achieved by 2050. In the Wellington Region, the main sources of greenhouse gas emissions are transport (39 percent total load in 2018-19), agriculture (34 percent), and stationary energy (18 percent).

2. Climate change and the decline of ecosystem health and biodiversity 
are inseparably intertwined

Climate change is placing significant additional pressure on species, habitats, ecosystems, and ecosystem processes, especially those that are already threatened or degraded, further reducing their resilience, and threatening their ability to persist. This, in turn, reduces the health of natural ecosystems, affecting their ability to deliver the range of ecosystem services, such as carbon sequestration, natural hazard mitigation, erosion prevention, and the provision of food and amenity, that support our lives and livelihoods and enable mana whenua to exercise their way of being in the Te Ao Tūroa, the natural world.

3. The risks associated with natural hazards are exacerbated by climate 
change

The hazard exposure of our communities, land, infrastructure, food (including mahinga kai), and water security is increasing because of climate change impacts on a range of natural hazards. Traditional approaches to development that have not fully considered the impacts on natural systems, and our over-reliance on hard engineered protection works, which will inevitably become overwhelmed and uneconomic to sustain, will ultimately increase the risk to communities and the environment.

4. The impacts of climate change will exacerbate existing inequities

The impacts and costs of responding to climate change will not be felt equitably, especially for Māori. Some communities have no, or only limited, resources to enable mitigation and adaptation and will therefore bear a greater burden than others, with future generations bearing the full impact.

5. Climate change threatens tangible and spiritual components of Māori well-being



Climate change threatens both the tangible and spiritual components of Māori well-being, including Te Mana o Te Wai and Te Rito o Te Harakeke, mahinga kai, and taonga species, and the well-being of future generations. Significant sites for Māori, such as marae, wāhi tapu and urupā, are particularly vulnerable as they are frequently located alongside the coast and fresh waterbodies.

6. Social inertia and competing interests need to be overcome to successfully address climate change

Many people and businesses lack an understanding of the connection between their actions, greenhouse gas emissions and climate change and the ways that it will impact their lives. In turn, this detracts from our ability to conceive of the changes we can make to help the transition to a low-emissions and climate-resilient future. Social inertia and competing interests are the biggest issues to overcome to address climate change.

3.3.1 Submissions, Evidence and Analysis

72. Climate Change Issue 1 identifies that immediate, rapid and large-scale reductions in GHG emissions are required to limit global warming to 1.5°C. The evidential basis is set out in the s 32 Report²⁹ and also in Mr Roos' evidence.

73. Meridian sought an amendment to Issue 1 to acknowledge that renewable energy resources in the region will need to be developed to assist the transition from fossil fuel dependency and reduce emissions. Ms Foster's planning evidence for Meridian stated that Meridian's relief would better achieve the sustainable management purpose of the Act and will better give effect to the NPS-REG. In his Rebuttal Evidence, the Reporting Officer largely accepts Meridian's relief on the basis that the development of renewable energy generation can often face significant consenting barriers.³⁰ We agree that Proposed Change 1 should recognise that a significant increase in renewable energy generation is needed to meet

²⁹ Section 32 Report, paras 81 – 88 and the citations provided.

³⁰ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 14.

national and regional climate change targets. We recommend the Council adopt the wording of Issue 1 set out in Mr Wyeth's Rebuttal Evidence.

74. Ms Gibb for Ātiawa sought at the Hearing for the sentence above the Issues to be amended to refer to the "iwi authorities of the Wellington Region" rather than the current wording "the Wellington Region's iwi authorities" which reflects a "kāwanatanga Crown approach" or "possessive' approach.³¹ We consider Ms Gibb's phrasing is more appropriate but the phrasing is used in most, if not all Issue statements in the RPS. We consider we have no scope to make this amendment in the Climate Change chapter or throughout the RPS.
75. There were no significant concerns raised by submitters regarding proposed Issues 2, 4, 5 and 6. Most submitters supported the Issues and some requested amendments to improve readability and achieve consistency of wording. These changes were largely agreed to by Mr Wyeth. The Officer considered that some relief requested related more to 'how' the issues were to be achieved and was therefore more appropriately addressed through the relevant objectives, policies and methods or through the nature-based solutions topic.³² UHCC sought changes to Issue 6 to, among other things, recognise that funding and capacity are barriers to taking action on climate change issues. The Officer recommends accepting this relief in part by including "resources and funding" as additional barriers for people and businesses. We agree with these changes and note the statement in the s 32 Report that social inertia and competing interests are the biggest issues to overcome to address climate change.³³
76. Various submitters were concerned that Issue 3 was too focused on a perceived 'over-reliance' on hard engineering solutions and that hard engineering could respond effectively to the effects of climate change and the risks presented by natural hazards. The Officer recommended amendments drawing on the relief sought by KCDC and UHCC. Mr Clegg and Dr Kerkin wanted the reference to 'hard engineered protection surfaces' to be deleted from Issue 3 and they give examples in their submissions of places where these works have provided protection from

³¹ Hearing Transcript, HS3 – Climate Change, Day 3, pages 74 and 77, lines 3780 – 3788; 3934 – 3939.

³² Assess as part of the FPI, Part C.

³³ Section 32 Report, para 96.

natural hazards. The Reporting Officer recommends in the s 42A Report and further again in his Rebuttal Evidence that the wording regarding hard engineering solutions is amended rather than deleted entirely. In our view, the Officer's amendments to state that hard engineering protection works "are likely to become compromised and uneconomic to sustain" strike an appropriate balance and we agree with his recommendations.

77. Concerns were also raised that the reference to 'traditional approaches to development' in Issue 3 implies an association with Te Ao Māori which is not the intent. Mr Wyeth recommended in his reply evidence that the word 'traditional' is replaced with 'conventional'.³⁴ At the hearing, Ms Gibb presenting evidence for Ātiawa sought that the wording change to "western traditional approaches". Ms Gibb said:³⁵

... if we are talking about wāhi tapu and mahinga kai and then the next sentence talks about traditional approaches, the assumption would be mana whenua traditional approaches. But, I think here we are actually specifically talking about western traditional approaches to development.

78. We understand Ms Gibbs' concern but think there are issues with "western approaches" as this potentially raises questions around 'west vs east'. We prefer the Officer's recommended wording.
79. WIAL had sought that the Issue statements recognise changes and transition are needed over time. We consider this is appropriate in relation to hard engineered protection works in Issue 3.
80. Ms Rushmere for UHCC sought that Issue 3 be amended to say "may become compromised" rather than being stated as a definitive matter (ie. "will become compromised"). The Officer has supported this in part and recommended an amendment to "are likely to become compromised".
81. Mr Clegg and Dr Kerkin queried how the inequalities referred to in Issue 4 would be addressed. They were concerned that, with respect to areas of peatland in the community they lived in, the Council was expecting landowners to bear the costs of maintaining a carbon store for climate change purposes but without compensation. The Reporting Officer

³⁴ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 8.

³⁵ Hearing Transcript, HS3 – Climate Change, Day 3, page 74, lines 3760 – 3763.

considered that the points the submitters raised related to ‘how’ Issue 4 was to be implemented and were therefore more appropriately considered through the climate change objectives, policies and methods and through the nature-based solutions subtopic. We agree.

82. In Minute 12 (issued on 8 September 2023), we asked the Reporting Officer to advise whether “Te Rito o Te Harakeke” was appropriate in Issue 5 given submitters’ advice in the Natural Hazard subtopic that the NPS-IB (which came into force after Proposed Change 1 was notified) no longer includes any reference to this term. Mr Wyeth said that this would be best addressed in HS6 – Indigenous Ecosystems.
83. Ms Burns on behalf of Rangitāne said during HS7 that she recommended the term “Te Rito o Te Harakeke” be replaced throughout Change 1 with “the decision-making principles for indigenous biodiversity” (referencing the NPS-IB). We sought further advice on this issue from Officers in Minute 23. In response, Ms Guest recommended that Issue 5 be amended to replace the term with “the relationship of mana whenua / tangata whenua with indigenous biodiversity” as this was more appropriate in the context of the issue statement (rather than referencing decision-making principles), and as the issue is focussed on the threats that climate change poses to the tangible and spiritual components of Māori well-being.³⁶ We recommend the Officer’s advice is accepted.

3.3.2 Finding and section 32AA Evaluation

84. We agree with the Reporting Officer’s recommendations on the Climate Change Issues and recommend they are approved as set out below for the reasons we have discussed above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend a minor amendment to Issue 3 to refer to hard engineered protection works that may become compromised and uneconomic to sustain “over time”. We do not consider there to be increased costs arising from this amendment but we consider it clarifies the meaning of the Issue.
85. We also recommend an amendment in Issue 5 to refer to the relationship of mana whenua / tangata whenua with indigenous biodiversity given that “Te Rito o Te Harakeke” is not referred to in the NPS-IB. This amendment to Issue 5 was recommended by Officer Ms Guest in HS7 and we agree it is

³⁶ Response to Request for Information in Minute 23, Paragraph 6(b) (Use of Te Rito o te Harakeke), Iain Dawe and Pamela Guest, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1, para 14.

appropriate for the reasons Ms Guest provides.³⁷ We have shown this change in purple track changed and shaded text because it is not shown in the track changed 'Reply version' of the HS3 provisions.

3.3.3 Recommendation on Climate Change Issues

The regionally significant issues, and the issues of significance to the Wellington Region's iwi authorities for climate change are:

1. **Greenhouse gas emissions must be reduced significantly, immediately and rapidly**

Immediate, rapid, and large-scale reductions in *greenhouse gas emissions* are required to limit global warming to 1.5°C, the threshold to avoid significant impacts on the natural environment, the health and well-being of our communities, and our economy. Extreme weather events and sea level rise are already impacting our region, including on biodiversity, water quality and availability, and increasing the occurrence and severity of *natural hazards*. Historical emissions mean that we are already locked into continued warming until at least mid-century, but there is still an opportunity to avoid the worst impacts if global net anthropogenic CO₂ emissions are reduced by at least 50 percent from 2019 levels by 2030, and carbon neutrality is achieved by 2050. In the Wellington Region, the main sources of *greenhouse gas emissions* are transport (39 percent total load in 2018-19), agriculture (34 percent), and stationary energy (18 percent). Development of the renewable energy resources in the Region will be necessary to assist the transition from fossil fuel dependency and achieve the significant reductions in *greenhouse gas emissions* needed from these sources.

2. **Climate change and the decline of ecosystem health and biodiversity are inseparably intertwined**

Climate change is placing significant additional pressure on species, *habitats*, ecosystems, and *ecosystem processes*, especially those that are already threatened or degraded, further reducing their *resilience*, and threatening their ability to persist. This, in turn, reduces the health of natural ecosystems, affecting their ability to deliver the range of *ecosystem services*, such as carbon sequestration, *natural hazard* mitigation, erosion prevention, and the provision of food and amenity, that support our lives and livelihoods and enable *mana whenua/tangata whenua* to exercise their way of being in ~~the~~ Te Ao Tūroa, the natural world.

3. **The risks associated with natural hazards are exacerbated by climate change**

The hazard exposure of our communities, land, *mana whenua/tangata whenua sites*, *wāhi tapu*, infrastructure, food *security* (including mahinga kai), and water security is increasing because of climate change impacts on a range of natural hazards. ~~Traditional~~ *Conventional* approaches to development ~~that tend not to have not~~ fully considered the impacts on natural systems, ~~and our over-reliance on~~ and ~~hard~~ *Hard* engineered protection works ~~that have not been designed to withstand the impacts of climate change, which will~~ are likely to ~~inevitably~~ become ~~compromised~~ *overwhelmed*

³⁷ Response to Request for Information in Minute 23, Paragraph 6(b), Use of Te Rito o te Harakeke, Iain Dawe and Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1, 8 April 2024, para 14.

and uneconomic to sustain over time, ~~with which can~~ ultimately increase the risk to communities and the environment.

4. The impacts of climate change will exacerbate existing inequities

The impacts and costs of responding to climate change will not be felt equitably, especially for mana whenua/tangata whenua Māori. Some communities have no, or only limited, resources to enable mitigation and adaptation and will therefore bear a greater burden than others, with future generations bearing the full impact.

5. Climate change threatens tangible and spiritual components of mana whenua/tangata whenua Māori well-being

Climate change threatens both the tangible and spiritual components of mana whenua/tangata whenua Māori well-being, including Te Mana o Te Wai and Te Rito o Te Harakeke—the relationship of mana whenua/tangata whenua with indigenous biodiversity, *mahinga kai*, and taonga species, and the well-being of future generations. Significant sites for mana whenua/tangata whenua Māori, such as marae, wāhi tapu and urupā, are particularly vulnerable as they are frequently located alongside the coast and fresh waterbodies.

6. Social inertia and competing interests need to be overcome to successfully address climate change

Many people and businesses lack the understanding, resources and funding, ability or support to make the changes needed to transition to a low-emissions and climate-resilient future. It can be challenging for people and businesses to make ~~the an understanding of~~ the connection between their actions, *greenhouse gas emissions* and climate change and the ways that climate change it will impact their lives. ~~In turn, this detracts from our ability to conceive of the changes we can make to help the transition to a low-emissions and climate-resilient future~~. Social inertia and competing interests are some of the biggest issues to overcome to address climate change.

3.4 Climate Change Objectives

3.4.1 Introduction

86. Proposed Change 1 proposes the inclusion of eight new objectives into the Climate Change chapter of the RPS. The s 32 Report says that the objectives establish:³⁸

a targeted and integrated objectives framework that will drive the integrated management of the region's natural and physical resources to support the mitigation of, and adaptation to, climate change.

87. This section of our Report considers the Climate Change Objectives coded to the "Climate Change: General" subtopic - CC.1 – CC.3, CC.7 and CC.8.

88. One recurring comment from a few submitters on these Objectives was that, while they supported their intent, there was limited ability to advance the objectives through the resource management system (HCC [S115.007]), the Objectives were not achievable within the scope of the RPS or the functions of local authorities under the RMA, nor were they measurable as an objective (PCC [S30.005]), and it was not clear what resource management purpose the Objectives were addressing or how they would be achieved in the planning context (PPFL [S118.001]).

89. Having heard submissions and evidence, and considered the information in the Officers' Reports, we support retaining the Objectives. As discussed below, in our view they serve a clear resource management purpose and set outcomes in response to the Issue statements.

³⁸ Section 32 Report, page 68.

3.5 Objective CC.1

90. The notified version of the Objective is:

Objective CC.1

By 2050, the Wellington Region is a low-emission and climate-resilient region, where climate change mitigation and adaptation are an integral part of:

- (a) sustainable air, land, freshwater, and coastal management.
- (b) well-functioning urban environments and rural areas, and
- (c) well-planned infrastructure.

91. The Reporting Officer explains that the intent of Objective CC.1 is:³⁹

to achieve a low-emissions and resilient region where climate change mitigation and adaptation considerations are central to resource management decision-making.

3.5.1 Submissions, Evidence and Analysis

92. Many submitters supported Objective CC.1 and sought that it be retained. Others sought amendments on the basis that the Objective was too ambitious and not achievable within the scope of the RPS or the RMA framework (PCC [S30.004]), and that further clarification was needed of the term “well-planned infrastructure” (Waka Kotahi [FS3.0010]; Kāinga Ora [S158.004]). Royal Forest and Bird Protection Society [S165.003] sought an amendment to “zero emission” (rather than low-emission) to align with the CCRA which requires all greenhouse gases, other than biogenic methane, to reach net zero by 2050.

93. In his s 42A Report, the Officer recommends various amendments to Objective CC.1. We agree with the changes the Officer has proposed, and in particular that:

³⁹ Section 42A Hearing Report, Climate Change – General, para 140.

- a. The reference to 2050 should be deleted as the outcome may be achieved sooner and the objective should not be hemmed in by a timeframe especially in the context of climate change action (ie mitigation and adaptation), Ātiawa [S131.021]
 - b. “Urban areas” replace the term “urban environments” (for consistency with the amendments in the Integrated Management provisions)
 - c. “the planning and delivery of infrastructure” replace the term “well-planned infrastructure”.
94. Ms Foster for Meridian supported the amendment to clause (c) as the planning and delivery of infrastructure will be essential to meet Wellington’s low-emission and climate resilience goals.⁴⁰ Ms Foster also said that in her view, “infrastructure” (as defined) excludes renewable electricity generation for supply to the national grid. She therefore sought the insertion of the words “including regionally significant infrastructure” in Objective CC.1(c). At the hearing, Ms Foster reiterated her view that if RSI was not included in Objective CC.1(c), there was a risk that Meridian’s infrastructure would not be covered because of an unintended narrow interpretation of the word “person” in clause (d) of the definition of “Infrastructure”.⁴¹ The definition of RSI on the other hand explicitly includes “feeding the national grid and other distribution entities”.⁴²
95. Mr Wyeth did not read the definition of “infrastructure” in the same way as it includes “lines used or intended to be used to convey electricity”. However, he was not opposed to Ms Foster’s amendment for added clarity.
96. We recommend including the words “including regionally significant infrastructure” in clause (c) for clarity, and as sought by Meridian. We consider the amendment increases the effectiveness of the Objective as it clarifies the outcome sought by removing any doubt that the Objective applies to RSI. The risk of not making this change is that the inadvertent interpretation Ms Foster discussed at the Hearing is applied in resource

⁴⁰ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 5.4.

⁴¹ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 5.4; Hearing Transcript, HS3 – Climate Change, Day 2, page 9, lines 396 – 411.

⁴² Hearing Transcript, HS3 – Climate Change, Day 2, page 9, lines 409 – 411.

management processes, and the Objective is interpreted as not applying to renewable energy generation. The risks of this (even if slight) and consequences mean that the amendment is justified in our view.

97. Ms Hunter for both WIAL and Dairy NZ was concerned that deleting “2050” implies the outcome must be achieved immediately, and this overlooks the need for a transition period.⁴³ The Officer rejected this relief as objectives generally express outcomes that will take time to achieve.⁴⁴ We agree with this analysis and support the wording proposed in the s 42A Report.
98. Mr Rachlin for PCC was concerned that there was a conflict between Objective CC.1 and Objective CC.3. He also said that it was more appropriate for the Objective to say that Wellington is a Region with increased resiliency from the effects of climate change, rather than Wellington is a climate-resilient Region.
99. Mr Wyeth thought that the Objectives CC.1 and CC.2 expressed two complementary, but distinct, outcomes. Objective CC.1 articulated the future state of the Region in relation to climate change, and Objective CC.3 set more specific GHGe reduction targets.
100. The Officer also noted that Objective CC.1 can be measured through the regional emissions inventory which provides a record of GHGe in the Region from different sectors.⁴⁵
101. We consider that using the defined term for “climate-resilient” (as considered in the FPI as part of the Nature-Based solutions provisions), addresses Mr Rachlin’s concerns in part, as does the inclusion of new AERs (discussed further below).

3.5.2 Finding and s 32AA Evaluation

102. We agree with the Reporting Officer’s recommendations on Objective CC.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. In addition, we recommend the words “including regionally significant infrastructure” are

⁴³ Statement of Evidence by Claire Hunter for WIAL, 14 August 2023, para 30; Statement of Evidence by Claire Hunter for Dairy NZ, 14 August 2023, para 10.

⁴⁴ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 26.

⁴⁵ Section 42A Hearing Report, Climate Change – General, paragraph 150.

added to clause (c). This change is minor, required for clarity of interpretation and there are no costs associated with it as it simply clarifies the policy intent.

3.5.3 Recommendation

Objective CC.1

~~By 2050, t~~The Wellington Region is a low-emission and *climate-resilient* region, where *climate change mitigation* and *climate change adaptation* are an integral part of:

- (a) sustainable air, *land, freshwater,* and coastal management,
- (b) well-functioning *urban areas environments* and *rural areas,* and
- (c) ~~the well-planning~~ ed and ~~delivery of infrastructure~~ *(including regionally significant infrastructure)*

3.6 Objective CC.2

103. The notified Objective said:

Objective CC.2
The costs and benefits of transitioning to a low-emission and climate-resilient region are shared fairly to achieve social, cultural, and economic well-being across our communities.

104. The s 32 Report says that this Objective responds to the issue that the impacts of climate change will not be felt equitably across communities because some communities have no, or only limited, resources to enable mitigation and adaptation and will therefore bear a greater burden than others, with future generations bearing the full impact.⁴⁶

3.6.1 Submissions, Evidence and Analysis

105. While some submitters supported this Objective, others such as UHCC [S34.018] said it was unclear what was meant by the Objective in practice and how it would be achieved. Some territorial authorities said they agreed that the burden of transitioning to a low-emissions region does not proportionately fall on rural communities (MDC [S14.018]). Taranaki Whānui [S167.019] supported the Objective noting that Māori/iwi/hapū traditionally contribute less to greenhouse gas emissions / climate change but bear a greater burden. Ātiawa [S131.022] wanted the Objective amended to say that “activities that contribute the largest amount to greenhouse gas emissions should carry the greatest cost, and activities that emit low or no greenhouse gas emissions should receive the greatest benefit”.

106. Counsel for PCC raised a jurisdictional issue with Objective CC.2 on the basis that the RMA does not direct, or include provision for, cost transfer or sharing as a general concept. Counsel said that the Objective is uncertain about the outcome to be achieved, not capable of being given effect to by PCC in its district plan, and potentially outside the RMA’s jurisdiction.⁴⁷ Mr Rachlin, Principal Planner for PCC, sought that the

⁴⁶ Section 32 Report, page 69.

⁴⁷ Legal Submissions on behalf of Porirua City Council, HS3, 14 August 2023, para 2.5(a).

Objective be deleted or amended so that the outcomes sought are achievable and within the RPS' scope.⁴⁸

107. We agree with the Reporting Officer that Objective CC.2 serves a resource management purpose, that is, ensuring that the transition to a low-emission and climate-resilient region is done in an equitable and fair manner and in a way that provides for the social, economic and cultural well-being of communities in the Region (including different sectors).⁴⁹ We also agree that this is an implicit consideration in s 32 evaluations when assessing benefits and costs of provisions on different communities.⁵⁰ Equitable transition is mentioned as a key factor in both the ERP and NAP.
108. The Officer recommends the term “equitable” in the Objective replace the words “shared fairly” to align with concepts in the ERP and NAP. The Officer also recommends an amendment to clarify that the costs and benefits of transitioning to a low-emission and climate-resilient region are equitable “between sectors” (eg energy, agriculture, transport) and “communities”. Finally, the Officer recommends that deleting the words “to achieve social, cultural, and economic well-being” will make the outcome more specific and measurable.
109. In his Reply Evidence, the Officer did not consider that the amendments he supported to Objective CC.2 regarding an equitable transition were inconsistent with the advice he provided in HS2 (Integrated Management) to delete Policy IM.2 (Equity and Inclusiveness).⁵¹
110. The Officer recommends that some of the relief requested by submitters is addressed elsewhere (eg in Policy CC.8) and in methods.

⁴⁸ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, paras 66 – 68.

⁴⁹ Section 42A Report, Climate Change – General, paragraphs 163 and 165.

⁵⁰ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 36.

⁵¹ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 11.

3.6.2 Finding and s 32AA Evaluation

111. We agree with the Reporting Officer's recommendations on Objective CC.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.6.3 Recommendation

Objective CC.2

The costs and benefits of transitioning to a low-emission and *climate-resilient* region are ~~shared fairly to achieve social, cultural, and economic well-being across our equitable between sectors and~~ communities.

3.7 Objective CC.3

112. The notified version of Objective CC.3 stated:

Objective CC.3

To support the global goal of limiting warming to 1.5 degrees Celsius, net greenhouse gas emissions from transport, agriculture, stationary energy, waste, and industry in the Wellington Region are reduced:

- (a) By 2030, to contribute to a 50 percent reduction in net greenhouse gas emissions from 2019 levels, including a:
 - (i) 35 percent reduction from 2018 levels in land transport-generated greenhouse gas emissions, and
 - (ii) 40 percent increase in active travel and public transport mode share from 2018 levels, and
 - (iii) 60 percent reduction in public transport emissions, from 2018 levels, and
- (b) By 2050, to achieve net-zero emissions.

113. The general intent of Objective CC.3 is to set clear, ambitious GHGe reduction targets for the Region.⁵² The Objective as notified includes a 2030 target to reduce absolute GHGe by 50% from 2019 levels, sector specific targets, and net zero emissions by 2050.

⁵² Section 42A Hearing Report, Climate Change – General, para 198.

114. The Officer says the resource management purpose of the Objective is to reduce GHGe in the Region “to contribute to national and global efforts to mitigate climate change and the adverse effects this is having on the environment, the economy, and the well-being of people and communities”.⁵³

3.7.1 Submissions, Evidence and Analysis

115. There were approximately 38 original and 20 further submission points on Objective CC.3.
116. The justification for the Objective is set out in the s 32 Report, accompanying technical memo, and Mr Roos’ technical evidence provided on behalf of the Council. The Reporting Officer Mr Wyeth, relying on Mr Roos’ evidence, says that the Council deliberately took an ambitious approach to setting GHGe reduction targets to have the most confidence that this target would help restrict warming to 1.5°C, to avoid catastrophic impacts on the environment, communities, and the economy.⁵⁴
117. The s 32 Report identifies that Objective CC.3 aligns with the goal of the Paris Agreement to limit global warming to well below 2°C, preferably 1.5°C, compared to pre-industrial levels. This is the threshold to avoid catastrophic impacts on the natural environment, the health and well-being of our communities, and our economy. To keep global warming to no more than 1.5°C, emissions need to be reduced to net zero by 2050.
118. The s 32 Report also notes that Objective CC.3 is framed in a way to make it clear that the RPS can only contribute to achieving these emission reduction targets, recognising that local government holds only some of the levers required to drive emissions reductions.⁵⁵
119. The s 32 Report further notes that:⁵⁶
- the proposed target requires a smaller emissions reduction than a fully “fair share” target (one that recognises the higher level of historic emissions and benefits that developed countries, such as New Zealand, have gained by using fossil fuels), but a higher and faster emissions reduction pathway

⁵³ Section 42A Hearing Report, Climate Change – General, para 198.

⁵⁴ Section 42A Hearing Report, Climate Change – General, para 196.

⁵⁵ Section 32 Report, para 143.

⁵⁶ Section 32 Report, page 71.

than the national emissions budget. It aligns at a global level with what is required to limit global warming to the bounds set by the Paris Agreement and sets a level of aspiration or a “call to action” relevant to the Wellington Region that the RPS, and consequential regional and district plans, can work towards achieving through to 2050.

120. A number of submitters supported Objective CC.3 and requested that it be retained as notified. Others raised concerns as to the extent to which the Objective is achievable within the scope of an RMA document, the reference to specific sectors and sector targets, the achievement of 2030 and 2050 GHGe targets, whether or not agricultural emissions should be included, whether a specific agriculture emissions target should be set, and how methane as a short lived GHG should be dealt with.
121. In his s 42A Report, the Reporting Officer, Mr Wyeth identifies three key issues:
- Achievability of Objective CC.3 emission reduction targets
 - Rationale for different targets to the Climate Change Response Act (CCRA)
 - Sector specific targets and renewable energy generation.

3.7.1.1 Achievability of the target and the role of the resource management system

122. In relation to the achievability of Objective CC.3 emission reduction targets, Mr Wyeth notes:⁵⁷

the terms in Objective CC.3 to “support” the global goal of limiting warming and reducing emissions to “contribute to” the regional GHG emission targets are deliberate and important... to make it clear that the Change 1 provisions can only contribute to the Objective CC.3 targets, as achieving the targets will require a range of national, regional and local interventions and initiatives..... I consider that Objective CC.3 is achievable, in the sense that the outcome sought is for RMA provisions, developed and implemented by local authorities in the region, to contribute to achieving the 2030 and 2050 GHG emission reduction targets.

123. Mr Wyeth accepts in his Report that the RPS can only “support” and “contribute” to GHGe reductions.

⁵⁷ Section 42A Report, Climate Change – General, paras 200 – 202.

124. WFF was critical of Objective CC.3. Mr Melville said WFF supports the commitment to reduce global emissions and achieve the Paris goals, but that, contrary to the notified version of Objective CC.3, the Paris Agreement does not require ‘net zero by 2050’, the IPCC does not set targets, and a ‘net zero target’ was not science based.⁵⁸ Mr Melville said that the RPS provisions cut across the work happening at the national level.⁵⁹
125. Ms Hunter for Dairy NZ raised various concerns with Objective CC.3, including that it was unclear how it could be achieved through regional and district plans, how an individual consenting activity will demonstrate compliance with the Objective through the consenting process, and whether the targets will be applied or assessed at a sector-scale or region-wide scale.⁶⁰ Ms Rushmere for UHCC was similarly concerned that the Objective is not clear on the roles and functions that local authorities have in achieving GHGe reduction targets within the boundaries of their statutory functions under the RMA.⁶¹ Mr Matich and Ms McGruddy on behalf of WFF raised significant concerns with Objective CC.3 and said they could not support the proposed approach for methane targets. In their view, the Objective should be deleted, or at a minimum, amended to remove agriculture.⁶²
126. The rationale for including targets and setting these at different levels to those in the CCRA is addressed in Mr Wyeth’s s 42A Report⁶³ and in Mr Roos’s Technical Evidence.⁶⁴ Mr Roos provides the technical rationale for the targets of a 50% reduction in GHGe by 2030 and net zero by 2050. Mr Wyeth is of the view that there is sufficient technical rationale for the targets in Objective CC.3 to differ from those in the CCRA, while noting that these were driven by a political decision by Council to take an ambitious approach to addressing climate change.

⁵⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 53, lines 2743 – 2744.

⁵⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 60, lines 3096 – 3100.

⁶⁰ Statement of Evidence by Claire Hunter for Dairy NZ, 14 August 2023, paras 14 – 16.

⁶¹ Statement of Evidence of Suzanne Rushmere on behalf of Upper Hutt City Council (Planning), 2 August 2023, para 48.

⁶² Hearing Statement of Elizabeth McGruddy on behalf of Wairarapa Federated Farmers, HS3, 14 August 2023, para 113.

⁶³ Section 42A Hearing Report, Climate Change – General, paragraph 203.

⁶⁴ Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, paragraphs 39 – 59.

127. We do not consider the relevant statutory framework prevents a ‘more ambitious target’ than that set at the national level.⁶⁵ The ERP and NAP recognise the importance of land use planning and initiatives at the local government / regional level to contribute to GHGe reduction. There is a broad discretion for the Regional Council to determine what it considers appropriate to support global and national goals. Mr Rachlin for PCC said during the Hearing, that the Objective is ambitious, and the main issue is “how resource management plans contribute to [achieving it].”⁶⁶

128. Mr Melville provided a concise summary of the RPS’ main role in supporting GHGe reductions:⁶⁷

....this means understanding how Council policy can support the National Emissions Reduction Plan through the policies [it] implements. In urban areas this means considering the Emissions Reduction Plan and how towns are shaped and infrastructure is provided. In rural environments this means ensuring the consenting regime supports activities that reduce emissions, provides land use flexibility and allows farms to adapt to climate change to support the national policy.

129. PCC supported the intent of the target but considered that it should be framed in the context of what can be delivered through the resource management system. The RPS was only one mechanism to achieve GHGe reductions and the Objective should recognise how the resource management system contributes to the target. The wording Mr Rachlin supported was:⁶⁸

Management of natural and physical resources contribute to a 50% reduction in net emissions from 2019 levels by 2030 and net-zero greenhouse gases emissions by 2050 in the Wellington region.

130. Mr Cooper from DairyNZ also said that while Mr Wyeth’s recommendations for Objective CC.3 were welcomed, the residual

⁶⁵ We note various submitters agreed with this view, including PCC (planning evidence presented by Mr Rachlin, Hearing Transcript, HS3 – Climate Change, Day 3, page 68, lines 3473 – 3475; 3491 – 3492).

⁶⁶ Hearing Transcript, HS3 – Climate Change, Day 3, page 69, lines 3483 – 3484.

⁶⁷ Hearing Transcript, HS3 – Climate Change, Day 2, page 47, lines 2400 - 2407.

⁶⁸ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, para 80.

question is the next stage of the planning process and what that is actually going to mean.⁶⁹

131. Mr Matich was concerned at how a regional target could then cascade into lower-level plan-making. He explained some of the difficulties that farmers may experience in this way:⁷⁰

In my view, I am not convinced that there would be any extra incremental environmental benefit from pursuing stricter targets in a regional plan over and above what a national target is, that can be demonstrated for the effort that the individual farm operators would have to go to, to try and reduce agricultural methane emissions by the increased amount in the regional target. Just to illustrate an example of the potential difficulties of that, there are farms that cross the boundary of Horizons Region and Greater Wellington Region, and they're individual farms trying to reconcile which part of their farm stock would have to comply with the Wellington Regional target versus the Horizons target – which at the moment they're not proposing any such emissions reduction.

132. We agree with the Officer that the corresponding policies and methods that cascade from the Objective set out how the resource management system will support and contribute to the GHGe reduction goals. In response to submissions and evidence, Mr Wyeth recommends in his Rebuttal Evidence, that the Introductory text to Chapter 3.1A include a statement saying that Objective CC.3 does not set limits, nor is it intended as an allocation regime. We also support the addition Mr Wyeth recommends to the Introduction text regarding the role of the resource management system.⁷¹

3.7.1.2 All sectors / all gases target

133. The Objective sets an 'all gases, all sectors' GHGe reduction target. Mr Wyeth said the target in Objective CC.3 is a stronger target than is set by

⁶⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 67, lines 3486 – 3491.

⁷⁰ Hearing Transcript, HS3 – Climate Change, Day 2, page 56, lines 2875 - 2886.

⁷¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, paras 57 – 58.

the government in law.⁷² Mr Roos however noted that our domestic targets are actually far short of our Nationally Determined Contribution target.⁷³

134. Mr Wyeth explained that there is no requirement to set regional targets, but the Regional Council had decided to do that to address what they perceived to be a significant issue and give them legislative weight through the RPS.⁷⁴
135. Mr Roos explains in his evidence why GWP₁₀₀ conversion factors (a “common unit of CO₂”⁷⁵) are used instead of separate targets for long-lived gases and biogenic methane. As Mr Roos says:⁷⁶

...the Paris Agreement goal is to contribute to preventing global temperatures from rising beyond a threshold, it is a threshold that the world is rapidly approaching, and human activities emit a combination of long-lived and short-lived GHGs. It is widely accepted that cutting emissions of both long-lived and short-lived GHGs is the wisest course of action to stay below the threshold.

136. At the Hearing, when discussing the split-gas issue, Mr Roos said:⁷⁷

Essentially, it doesn't provide any additional insight into what we should be doing. We know we need to cut emissions of short-lived and long-lived gases. The more we cut them the better off we will be. The use of split gas really does not change that picture to any meaningful degree.

137. Mr Lincoln for DairyNZ said at the Hearing that separating long and short-lived gases recognises their distinct differences. In his view, long-lived gases like CO₂ need to get to net zero, but “short lived gases like methane... also need to reduce but not to get to net zero. They are very different”.⁷⁸ Mr Lincoln urged that a split gas approach is necessary in light of sound science that greenhouse gases have different warming

⁷² Hearing Transcript, HS3 – Climate Change, Day 1, page 22, line 1071.

⁷³ Hearing Transcript, HS3 – Climate Change, Day 1, page 11, line 529; and Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, paras 35 and 41.

⁷⁴ Hearing Transcript, HS3 – Climate Change, Day 1, page 19, lines 949 - 956.

⁷⁵ Hearing Transcript, HS3 – Climate Change, Day 1, page 10, lines 450 – 451.

⁷⁶ Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, para 23.

⁷⁷ Hearing Transcript, HS3 – Climate Change, Day 1, page 12, lines 550 – 553.

⁷⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 64, lines 3320 – 3328, per Mr Lincoln.

characteristics, different impacts and require different approaches.⁷⁹ Split gases and the appropriate metrics go to the heart of equity considerations according to Mr Lincoln⁸⁰ and bundling all gases together overstates the warming impact of constant methane emissions by a factor of three to four over a 20 year period.

138. These views were also shared by Mr Harrison presenting for BLNZ.⁸¹ Mr Harrison said a different approach was needed for methane as it was a different gas and was involved with food production.⁸² As he said later in the Hearing, although “our global goals are to achieve no further warming, [we also need] to be able to feed our population”.⁸³
139. How methane as a short-lived GHG should be dealt with, alongside the concept of split targets is considered by Mr Roos in his Rebuttal Evidence.⁸⁴ Mr Roos considers that split gas targets are relevant at the global/UNFCCC level but the practical advantages of taking a ‘split gas’ approach at a regional level are minimal. Without inclusion of emissions targets in the climate change provisions, this consideration becomes somewhat academic at the RPS level. Mr Roos considers the evidence presented, including that of Mr Lincoln for DairyNZ, but states that the evidence provided is not sufficient to justify a split gas target.⁸⁵
140. Mr Roos explained that methane has a much higher global warming potential (ie how much warming it causes per tonne) than carbon dioxide.⁸⁶ Methane also leaves the atmosphere more quickly than CO₂ which accumulates. He explained that the argument for some is that we don’t have to reduce short-lived gases like methane as much, but instead we have to keep them steady or reduce them a little bit to neutralise additional warming.⁸⁷ Mr Roos explained that in his view, reducing short-

⁷⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 64, lines 3338 – 3345.

⁸⁰ Hearing Transcript, HS3 – Climate Change, Day 2, page 65, line 3370.

⁸¹ Hearing Transcript, HS3 – Climate Change, Day 2, page 71, lines 3663 – 3684.

⁸² Hearing Transcript, HS3 – Climate Change, Day 2, page 71, lines 3668 – 3703.

⁸³ Hearing Transcript, HS3 – Climate Change, Day 2, page 74, lines 3853 – 3854.

⁸⁴ Statement of Supplementary Technical Evidence of Gijsbertus Jacobus (Jake) Roos – Hearing Stream 3 – Climate Change, 22 August 2023, para 13 – 18.

⁸⁵ Statement of Supplementary Technical Evidence of Gijsbertus Jacobus (Jake) Roos – Hearing Stream 3 – Climate Change, 22 August 2023, para 18.

⁸⁶ Hearing Transcript, HS3 – Climate Change, Day 1, page 13, lines 618 – 631.

⁸⁷ Hearing Transcript, HS3 – Climate Change, Day 1, page 13, lines 633 – 641.

lived gases such as methane will cause cooling and help to meet the Paris Agreement goals.⁸⁸

141. We accept on the basis of the evidence presented that an ‘all gases, all sectors’ target is appropriate and justified, and as Mr Roos said, provides “a strong directive to all actors in the Region to cut their emissions deeply”.⁸⁹ We also note Mr Roos’ comment that the target in the Objective is not as ambitious as Wellington City Council’s proposed target of 57% reduction by 2030 compared to 2020 for the city but is consistent with Auckland City Council which adopted a region-wide target of a 50% reduction by 2030 in their climate plan. Both adopted net-zero all-gas targets for 2050.⁹⁰

3.7.1.3 Sector specific targets

142. Sector specific targets are addressed in Mr Wyeth’s s 42A Report⁹¹ and in his Rebuttal Evidence.⁹² WFF and DairyNZ did not support regional targets and said these should be set at the national level.⁹³ It was entirely inappropriate, in their view, for Objective CC.3 to require a 50 percent reduction in methane in just over 6 years’ time.⁹⁴ Mr Harrison for BLNZ also said that it was an unfair and difficult burden for the Regional Council to try to regionalise a national issue and the local impacts that would have in terms of jobs, tree planting and the viability of certain communities.⁹⁵
143. Mr Wyeth explained that transport targets in the notified Objective are from the 2021 Wellington Regional Land Transport Plan. He says in his Rebuttal Evidence that the transport targets will be regularly reviewed and updated under the Land Transport Management Act 2003.

⁸⁸ Hearing Transcript, HS3 – Climate Change, Day 1, page 14, lines 650 – 654.

⁸⁹ Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, para 59.

⁹⁰ Statement of Evidence of Gijsbertus Jacobus (Jake) Roos – Technical Evidence, Hearing Stream 3 – Climate Change, 7 August 2023, paragraph 58.

⁹¹ Section 42A Hearing Report, Climate Change – General, paras 205 – 211.

⁹² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, paras 52 – 59.

⁹³ Hearing Transcript, HS3 – Climate Change, Day 2, page 52, lines 2705 and 2769; 2774 – 2775; and Hearing Transcript, HS3 – Climate Change, Day 2, page 66, lines 3447 – 3448 per Mr Lincoln for Dairy NZ.

⁹⁴ Hearing Transcript, HS3 – Climate Change, Day 2, page 61, lines 3153 – 3154.

⁹⁵ Hearing Transcript, HS3 – Climate Change, Day 2, page 72, lines 3760 – 3766.

144. Mr Rachlin did not consider that sector-based emission targets were necessary or appropriate in a resource management document as their achievement relies on a range of tools outside the RMA.⁹⁶
145. Mr Rachlin's evidence was accepted in part with the Officer recommending in his Rebuttal Evidence that the Objective be simplified to focus on two outcomes, namely reducing emissions in the Region to contribute to:
- A 50% reduction in greenhouse gas emissions in the region by 2030; and
 - The achievement of a net-zero greenhouse gas emissions by 2050.
146. We agree with Mr Wyeth's analysis that Objective CC.3 is an appropriate provision in the RPS to support and contribute to achieving the GHGe targets set by the Regional Council.⁹⁷
147. In his Rebuttal Evidence Mr Wyeth recommends removing reference to the transport, agriculture, stationary energy, waste, and industry sector-specific targets. These amendments address many of the concerns raised about the expectations placed on specific sectors, including agriculture. However, WFF still opposed the inclusion of a region-wide target in Objective CC.3 because this was going "harder and faster than what is in the central government policy".⁹⁸ In essence, they said that because the national level target is a 24 to 47 percent reduction for methane, requiring net zero for all gases (including methane) was inconsistent with the national approach.⁹⁹
148. We consider the revised Objective CC.3 as supported by Mr Wyeth provides a clear statement of the expectations for the region as a whole, and provides better flexibility for local government and the various sectors to address the GHGe reductions identified by the Regional Council, within the context of the RMA. We consider that the implementation of the Objective, through other provisions including Policy CC.8 and Method CC.8, focus on actions that are relevant and appropriate in the context,

⁹⁶ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, para 78.

⁹⁷ As summarised in the Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 56.

⁹⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 56, lines 2913 – 2914, per Mr Melville.

⁹⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 56, lines 2907 – 2910.

and support working with communities, including catchment groups and water user groups (Method CC.8(f)).

3.7.1.4 Other issues

149. Mr Wyeth considers in the s 42A Report including a clause supporting the development of renewable energy.¹⁰⁰ However, although he recognised the importance of significantly increasing renewable energy generation capacity to meet regional and national GHGe targets, he considered that Objective CC.3 should retain its focus on GHGe reduction targets. He also notes there are recommendations to better recognise and provide for renewable energy generation in the Climate Change – Energy, Waste and Industry Section 42A Report.
150. Both DairyNZ and WFF were very supportive of catchment action plans and catchment scale solutions.¹⁰¹ We do not see the approach in Proposed Change 1 as being incompatible with that, and Method CC.8 tasks the Regional Council with working with stakeholders and mana whenua / tangata whenua and identifying on-farm nature-based solutions and identifying and assisting catchment groups and water user groups in the development of adaptation plans.

3.7.2 Finding

151. We agree with the Reporting Officer’s recommendations on Objective CC.3 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.7.3 Recommendation

Objective CC.3

To support the global goal of limiting warming to 1.5 degrees Celsius [and New Zealand’s greenhouse gas emissions reduction targets](#), net *greenhouse gas emissions from transport, agriculture, stationary energy, waste, and industry* in the Wellington Region are reduced:

- (a) ~~By 2030~~, to contribute to a 50 percent reduction in *net greenhouse gas emissions* from 2019 levels by 2030, ~~including a:~~

¹⁰⁰Section 42A Report, Climate Change – General, paragraph 212.

¹⁰¹ Hearing Transcript, HS3 – Climate Change, Day 2, page 67, lines 3451 – 3462; –

~~(i) 35 percent reduction from 2018 levels in land transport-generated *greenhouse gas emissions*;~~

~~(ii) 40 percent increase in active travel and public transport mode share from 2018 levels, and~~

~~(iii) 60 percent reduction in public transport emissions, from 2018 levels, and~~

~~(b) *By 2050, to contribute to achieving net-zero *greenhouse gas emissions* by 2050.*~~

3.8 Objective CC.7

152. The notified Objective stated:

Objective CC.7
People and businesses
understand what climate
change means for their future
and are actively involved in
planning and implementing
appropriate mitigation and
adaptation responses.

153. Objective CC.7 aims to recognise the importance of knowledge and information to support people and businesses to better understand and prepare for the effects of climate change, understand how they may be impacted, and the work needed to reduce the impact of their lifestyles on greenhouse gas emissions.¹⁰² Mr Wyeth described the purpose of the Objective in these terms during the hearing:¹⁰³

[The focus] is really around the issue that people don't really understand what climate change means and the significant actions that need to be taken to respond to it. That's really the focus of that objective. It's more around that community and business understand; and to build that understanding, to then get appropriate mitigation and adaptation responses.

3.8.1 Submissions, Evidence and Analysis

154. Various submitters raised concerns about implementation and how the Objective would be achieved in practice and how implementation would be funded (for example CDC [S25.008]). Meridian [S100.007] sought that the Objective be expanded so that people and businesses also understand “the changes that need to be made to respond to the challenges of climate change”. WIAL [148.023] sought a qualifier be included to limit the Objective being implemented “where it is practicable and appropriate to do so”.

155. PCC's view was that Objective CC.7 was not appropriate for inclusion in an RPS, did not fit within the RMA's framework, and could not be given

¹⁰² Section 32 Report, page 73.

¹⁰³ Hearing Transcript, HS3 – Climate Change, Day 1, page 22, lines 1094 – 1099.

effect to in lower order documents.¹⁰⁴ Mr Rachlin for PCC thought that actions or initiatives to provide people and businesses with knowledge on the effects of climate change, and how they can make changes as a response, are best addressed outside of RMA plans.¹⁰⁵

156. We agree with the Officer that Objective CC.7 serves a clear resource management purpose – supporting people and communities to understand the climate change issues they are facing and to support their active involvement in appropriate mitigation and adaption response.¹⁰⁶ The Objective acknowledges that addressing and responding to climate change is reliant on the behaviour change of people and communities and cannot be achieved by regulatory responses and emission pricing alone.¹⁰⁷
157. Ms Foster for Meridian preferred the wording in Meridian’s submission as it states that people need to understand what they individually need to do to respond to climate change, and that changes need to be made at a community and regional scale.¹⁰⁸ The Reporting Officer supported this wording in his Rebuttal Evidence.
158. The Officer’s view is that the non-regulatory policies and methods aimed at implementing the Objective (including Policy CC.15, Policy CC.16 and Method CC.1) are sufficient to achieve the Objective if they are implemented as intended.¹⁰⁹ We asked the Officer to provide information on how the Objective would be measured. In his Evidence in Reply, Mr Wyeth said that he understands that surveys of public awareness of climate change and environmental issues are not uncommon, and that the Council has undertaken research on public perceptions of climate change and can monitor community involvement in climate education and behaviour programmes, strategic adaptation plans and rural resilience climate change.¹¹⁰ The Council could also review uptake of other climate

¹⁰⁴ Legal Submissions on behalf of Porirua City Council, HS3, 14 August 2023, para 2.5(c);

¹⁰⁵ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, para 86.

¹⁰⁶ Section 42A Hearing Report, Climate Change – General, paragraph 223.

¹⁰⁷ Section 42A Hearing Report, Climate Change – General, paragraph 223.

¹⁰⁸ Summary of Key Points in the Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3 – Climate Change, 29 August 2023, para 4.1.

¹⁰⁹ Section 42A Hearing Report, Climate Change – General, paragraph 225.

¹¹⁰ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council – Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), paras 20 – 22.

change initiatives in the Region, such as the uptake of Wellington City Council’s climate and sustainability fund.¹¹¹

159. In our view the achievement of the Objective can be measured and we agree that the wording proposed by Ms Foster and agreed to by the Officer more clearly articulates the intent of the Objective, aligns with s 7(i) of the RMA and is less subjective than the notified wording.
160. We note that the objective should more correctly refer to climate change mitigation and climate change adaptation as these are defined terms and recommend minor amendments to correct this.

3.8.2 Finding

161. We agree with the Reporting Officer’s recommendations on Objective CC.7 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence Recommendation.

3.8.3 Recommendation

Objective CC.7

People and businesses understand ~~what the current and predicted future effects of climate change, and how these may impact them, means for their future~~ how to respond to the challenges of climate change, and are actively involved in ~~planning and implementing~~ appropriate climate change mitigation and climate change adaptation responses.

¹¹¹ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council – Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), para 22.

3.9 Objective CC.8

162. The notified Objective stated:

Objective CC.8

Iwi and hapū are empowered to make decisions to achieve climate-resilience in their communities.

163. This Objective responds to the particular vulnerability of Māori to the impacts of climate change and the importance of mana whenua / tangata whenua being empowered to make decisions that will help to develop climate-resilience in their communities.¹¹²

3.9.1 Submissions, Evidence and Analysis

164. Some submitters supported the Objective as notified (for example Taranaki Whānui [S167.025]), some wanted it strengthened to refer to increasing the resilience of taonga, wāhi tapu and significant cultural sites to climate change (Rangitāne [S168.0114] and KCDC [S16.013], and WCC [S140.014] asked that the word “hapū” is amended in the provision as that could complicate existing participation arrangements and agreements with iwi. Ngāti Toa said that the Objective is expressed as an outcome that iwi and hapū will do anyway (that is, make decisions to achieve climate resilience in their communities). Other changes were sought by various submitters to recognise the lack of resources, funding and capability, and to clarify how the Objective would be achieved in practice.

165. We agree with the Reporting Officer that the Objective has an RMA purpose – to empower mana whenua / tangata whenua to achieve climate-resilience in their communities. We support the amendments recommended by the Officer to replace “iwi and hapū” with “mana whenua / tangata whenua” for consistency with other Change 1 provisions and to not unintentionally conflict with existing arrangements and agreements with iwi authorities. We support Mr Wyeth’s assessment of submissions and the reasons he provides in the s42A Report for accepting and rejecting the relief sought. We agree that achieving climate-resilience

¹¹² Section 32 Report, page 73.

in Māori communities is broader than decision-making and we support the Officer's recommendation to delete these words from the Objective.

166. After the hearing, we asked Mr Wyeth to consider whether Objective CC.8 could be appropriately amended to incorporate the concept of partnering with mana whenua / tangata whenua.¹¹³ Mr Wyeth notes in his Reply Evidence that this is consistent with his recommendations to Method CC.1 but could create confusion between the outcomes sought through the Objective and the actions to achieve this which includes the Council working in partnership with mana whenua / tangata whenua to implement climate-resilience planning and adaptation measures.¹¹⁴ He thought that changing the Objective to emphasise a partnership approach may not always be preferred by mana whenua / tangata whenua, for instance when they want to make their own decisions about how best to achieve climate resilience in their communities. We acknowledge Mr Wyeth's response to our question and agree that the wording he supports is appropriate, best achieves the RMA's purpose and should be adopted by Council.

167. We recommend a minor amendment to italicise "climate-resilience" as it is a defined term in Proposed Change 1 considered as part of the FPI (nature-based solutions provisions). The meaning of the term is:

the capacity and ability of natural and physical resources, including people, communities, businesses, infrastructure, and ecosystems, to withstand the impacts and recover from the effects of climate change, including natural hazard events.

3.9.2 Finding and s 32AA Evaluation

168. We agree with the Reporting Officer's recommendations on Objective CC.8 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

Objective CC.8

~~twi and hapu Mana whenua/tangata whenua~~ are empowered to ~~make decisions to~~ achieve *climate-resilience* in their communities.

¹¹³ Minute 12, paragraph 6, question (i).

¹¹⁴ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council – Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), paragraphs 23 – 24.

3.10 Policy CC.8: Prioritising greenhouse gas emissions reduction over offsetting – district and regional plans

169. The notified Policy stated:

Policy CC.8: Prioritising greenhouse gas emissions reduction over offsetting – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods to prioritise reducing greenhouse gas *emissions* in the first instance rather than applying offsetting, and to identify the type and scale of the activities to which this policy should apply.

Explanation

This policy recognises the importance of reducing gross greenhouse gas *emissions* as the first priority, and only using carbon removals to offset *emissions* from hard-to-abate sectors. Relying heavily on offsetting will delay people taking actions that reduce gross *emissions*, lead to higher cumulative *emissions* and push the burden of addressing gross *emissions* onto future generations.

170. This is a regulatory policy directing district and regional plans to include provisions prioritising reducing gross emissions in the first instance, before considering measures to offset emissions. The rationale for this is set out in the s 32 Report and also Mr Roos' evidence.¹¹⁵

3.10.1 Submissions, Evidence and Analysis

171. Some submitters supported the notified policy (eg CDC [S25.020]), and others wanted it strengthened to apply to all activities regardless of type or scale (Forest and Bird [S165.041]). There was broad support for the intent of the policy from iwi submitters including Taranaki Whānui [S167.068], although Ātiawa [S131.054] thought it was unclear which activities would be included or exempt from the offsetting requirements. Ātiawa requested the deletion of the reference in the explanation to offsetting from hard to abate sectors, so these activities were not exempted from the requirement to prioritise emissions reduction over offsetting.

172. Some territorial authorities raised concerns about the application of the Policy to territorial authorities, as the control of the discharge of emissions is a regional council function (eg PCC [S30.032]). WFF opposed Policy

¹¹⁵ See the references in Section 42A Hearing Report, Climate Change – General, paragraphs 262 – 263.

CC.8 and said that many farmers sequester carbon and the policy fails to make appropriate acknowledgement that farms as biological systems are both sources and sinks.¹¹⁶

173. Ms Hunter for WIAL said it was unclear how the Policy will impact the aviation sector and she did not think it properly recognises the broader policy imperatives that apply to that sector.¹¹⁷ Ms Hunter sought that the Policy be deleted unless there was an exclusion for the aviation sector, noting that for the aviation industry carbon offsetting is expected to lead to a net reduction in emissions (and this was not supported or acknowledged by the Policy).
174. We agree with submitters who raised concerns about the complexity and difficulty in implementing Policy CC.8 as notified. We prefer the approach proposed by the Officer in the s 42A Report, to apply a hierarchy to emissions reductions. This provides some flexibility as to how the hierarchy is implemented and allows cost-considerations and other factors to be taken into account.
175. Some submitters raised concerns about the lack of a s 32 assessment for these changes. Mr Wyeth said that because of the grouping of the policies into topics, there was not a specific s 32 assessment for Policy CC.8 but that he did address the Policy in some detail in his 42A Report, including preparing a s 32AA evaluation and he was satisfied the Policy was appropriate.¹¹⁸
176. Ms Woodbridge for Kāinga Ora thought the Policy was unclear as to how district plans would implement outcomes sought through the Policy. In terms of clause (a) as recommended in the s 42A Report, Ms Woodbridge said:¹¹⁹

A district plan can control the establishment of significant emitters through a non-complying or prohibited activity status, however, managing existing emitters and requiring a reduction

¹¹⁶ Hearing Transcript, HS3 – Climate Change, Day 2, pages 57 - 58, lines 2971 – 2986, per Ms McGruddy.

¹¹⁷ Statement of Evidence by Claire Hunter, HS3, 14 August 2023, paras 45 – 50.

¹¹⁸ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, HS3 – Climate Change General, para 101, including references there to the s 42A Report; also Hearing Transcript, HS3 – Climate Change, Day 2, page 40, lines 2074 – 2080.

¹¹⁹ Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities, Hearing Stream 3, Climate Change (Planning), 14 August 2023, para 4.15.

in emissions is, in my opinion likely to be outside the legitimate control of the district plan.

177. Mr Lewandowski for PPFL said that Policy CC.8 could be read as an effective prohibition on greenfield development that caused an increase in gross GHGe. He thought the words “where practicable” in clauses (a) and (b) would set up:¹²⁰

a situation whereby the practicability of avoiding emissions will be fiercely debated on a case-by-case basis. Considering greenfield development again, it will always be argued that greenhouse gas emissions can be avoided by not providing for greenfield development in the first instance. Such a position is inconsistent with the requirements of the NPS-UD, other provisions of PC1 that do provide for urban expansion.

178. In Mr Lewandowski’s view, the Policy created uncertainty and oversteps the role of an RMA planning document.¹²¹ We consider that PPFL’s relief is satisfied in part at least because the Officer’s amendments (which we recommend are adopted by Council) state that the hierarchical approach to reducing GHGe in Policy CC.8 applies when giving effect to the climate change objectives and policies in the RPS. With these amendments, we do not think the Policy would operate to inhibit greenfield development and the competitive operation of land and development markets as Mr Lewandowski feared.

179. In response to Mr Rachlin’s comments on behalf of PCC, that the Policy should be restricted to transport related consents, the Officer said the Policy provides useful direction on the general approach to avoid or reduce emissions from all sectors as relevant.¹²² Mr Rachlin also expressed his concern that the implementation of the Policy relied on guidance (developed under Method CC.2) that had not yet been developed and it was unclear what the Policy was trying to achieve. Mr Rachlin said:¹²³

¹²⁰ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited, Hearing Stream 3 – Climate Change, 14 August 2023, para 5.41.

¹²¹ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited, Hearing Stream 3 – Climate Change, 14 August 2023, para 5.42.

¹²² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, HS3 – Climate Change General, para 101.

¹²³ Hearing Transcript, HS3 – Climate Change, Day 3, pages 59, lines 2965 – 2971.

Mr Wyeth places much emphasis on Method CC.2 to spell out how the policy is to be implemented. Relying on a future method to provide the clarity missing from a policy is not in my opinion sound policy making. That to me is one of the key issues with Policy CC.8 – is that we don't seem to know what it actually is trying to achieve, and while having to rely on something happening later to tell us.

180. In his Reply Evidence, and in response to hearing submitters, Mr Wyeth accepted that it remained unclear how and when Policy CC.8 should be implemented in plans and what was required over and above specific climate change provisions relating to transport, urban development and so on. Mr Wyeth's recommended amendments that regional and district plans give effect to the Policy where relevant and when implementing the other climate change provisions in the RPS address Mr Rachlin's concerns, as well as Ms Rushmere's on behalf of UHCC who was concerned that the Policy required a separate plan change.¹²⁴
181. We understand WFF's concerns that on-farm sequestration is effectively under-valued (that is our assessment of their evidence) by prioritising the avoidance or reduction of GHGe in clause (a) of the Policy. At the hearing, Ms McGruddy, in response to a question we asked, said that the issue was about how farmers can demonstrate what is reasonable, practical, feasible or achievable in the way of reducing gross emissions.¹²⁵
182. In our view, the amendments the Officer supports in his Reply Evidence, go some way to acknowledging these concerns by including the words "where relevant" in the Policy, linking the achievement of the Policy to the application of other climate change objectives and policies in the RPS, and noting in the Explanation, that the hierarchy applies "where relevant and appropriate".
183. Requiring offsetting to be as close to the source of emissions as possible responds to concerns that the notified wording could lead to a reliance on forestry to offset emissions, with disproportionate effects on rural communities where this forestry is likely to occur.
184. Ms Burns for Rangitāne sought that the words "where practicable" in the Policy are replaced with "to the greatest extent practicable". Mr Wyeth did

¹²⁴ Hearing Transcript, HS3 – Climate Change, Day 2, page 37, lines 1892 – 1898, and Ms Rushmere's evidence statement.

¹²⁵ Hearing Transcript, HS3 – Climate Change, Day 2, page 59, lines 3036 – 3040.

not support this as it would result in plan provisions that are overly onerous on some sectors and communities, and make the requirements in the hierarchy harder to meet when GHGe from many activities were unavoidable.¹²⁶ Ms Burns remained of the view that requiring a more ambitious outcome was justified in the context, and more aligned with the focus the Council has accepted is needed on the issue.¹²⁷

185. We also heard concerns from DairyNZ, WFF and BLNZ about trying to regionalise a national issue (as discussed above under Objective CC.3). We asked Mr Harrison (BLNZ's expert) about how initiatives to reduce emissions would apply at the local level if they were not directed through the RPS.¹²⁸

Mr Harrison said:¹²⁹

I agree it's got to start at your front door, in terms of the changes you make and the things that you do, but I think that direction needs to be from a higher [i.e. national] level.

186. We agree with the Officer that:¹³⁰

- activities in the region are contributing to climate change which is having adverse effects on the environment
- territorial authorities have clear functions under the RMA to manage the adverse effects of land-use activities and activities in the region, and
- as recognised in the ERP and NAP, district plans play an important and complementary role to regional plan provisions to manage the discharges of GHGe into air by managing the GHG emissions from land-use activities.

187. Some Territorial authorities stated that district plans have a limited role in reducing emissions from existing activities. At the Hearing, we asked Mr Wyeth if Policy CC.8 provides adequate direction as to what people can do in existing spaces and developments. Mr Wyeth clarified that the intent is to recognise the limited opportunity for activities with existing use rights,

¹²⁶ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 103.

¹²⁷ Hearing Transcript, HS3 – Climate Change, Day 4, page 35, lines 1741 – 1748.

¹²⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 73, lines 3772 – 3774.

¹²⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 73, lines 3778 - 3793.

¹³⁰ Section 42A Hearing Report, Climate Change – General, parass 267 – 268.

but that he thought that “at the time of redevelopment in existing urban areas... there is a significant opportunity to move towards an urban form that supports [reductions in] greenhouse gas emissions”.¹³¹

188. In his Reply Evidence, the Officer recommended an amendment to the explanatory text to the Policy to note that district plans have a limited role in reducing GHGe from existing activities “except at the time of redevelopment”.¹³² We agree with this recommendation and do not agree with submissions seeking to limit Policy CC.8 to regional plans.
189. The amendments proposed to Method CC.2 (guidance on avoiding, reducing and offsetting GHGe)¹³³ and the amendments to the Explanation to Policy CC.8 address the relief sought by various submitters, including Kāinga Ora, asking for more direction for district plans and clarity regarding new activities vs existing activities.¹³⁴ In response to WIAL’s submission, the Officer recommends the Chapter 4.1A Introduction text is amended to say that the provisions in the Chapter do not apply to GHGe from aircraft.
190. We recommend a minor amendment in the Explanation to clarify that provisions in district and regional plans directed by Policy CC.8 help to deliver national policy and strategies (that is, the ERP and NAP). This amendment clarifies the policy intent in our view.

3.10.2 Finding and s 32AA Evaluation

191. We agree with the Reporting Officer’s recommendations on Policy CC.8 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend the Explanation is amended to clarify the link between the Policy and national strategies on climate change which regional and district plans will help to deliver. This is an appropriate reflection of statutory requirements

¹³¹ Hearing Transcript, HS3 – Climate Change, Day 1, page 24, lines 1185 – 1194; see also Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 34.

¹³² Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 8.

¹³³ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, paras 27 – 31.

¹³⁴ Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities, Hearing Stream 3, Climate Change (Planning), 14 August 2023, para 4.20.

including s 61(2)(a)(i) of the RMA which requires a regional council to have regard to management plans and strategies prepared under other Acts (such as the CCRA) when changing an RPS. We also recommend a minor amendment to improve readability.

3.10.3 Recommendation

Policy CC.8: Prioritising ~~the reduction of greenhouse gas emissions~~ **reduction over offsetting – district and regional plans**

~~When giving effect to the climate change objectives and policies in the RPS, ~~district and regional plans~~ shall, where relevant, include objectives, policies, rules and/or methods to prioritise reducing greenhouse gas emissions in the first instance rather than applying offsetting, and to identify the type and scale of the activities to which this policy should apply: prioritise reducing greenhouse gas emissions by applying the following hierarchy in order:~~

- a. ~~in the first instance, gross greenhouse gas emissions are avoided or reduced where practicable; and~~
- b. ~~where gross greenhouse gas emissions cannot be avoided or reduced, a net reduction in greenhouse gas emissions is achieved where practicable, with any offsetting undertaken as close to the source of the greenhouse gas emissions as possible; and~~
- c. ~~increases in net greenhouse gas emissions are avoided to the extent practicable.~~

Explanation

~~This policy recognises the importance of reducing gross greenhouse gas emissions as the first priority, then reducing net greenhouse gas emissions, then avoiding increases in net greenhouse gas emissions to the extent practicable. and only using carbon removals to offset emissions from hard-to-abate sectors. Relying heavily on net-emissions through offsetting will delay people taking actions that reduce gross emissions, lead to higher cumulative emissions and push the burden of addressing gross emissions onto future generations.~~

~~The intent is that Wellington Regional Council will work with city and district councils to provide co-ordination and guidance as to how to implement this policy direction. The intent is; to ensure regional and district plan provisions to reduce greenhouse gas emissions from key emitting sectors in the region support this hierarchy approach to reducing emissions where relevant and appropriate, are co-ordinated, and also help deliver complement national policy and strategies initiatives. This work will recognise the respective RMA functions of the Wellington Regional Council and city and district councils in relation to controlling greenhouse gas emissions from air discharges and land-use activities and the limited role of district plans in reducing greenhouse gas emissions from existing activities except at the time of redevelopment. This work will consider issues such as scale, equity, and the type of activities to which offsetting should apply.~~

3.11 Method CC.1: Climate change education and behaviour change programme

192. The notified Method said:

Method CC.1: Climate change education and behaviour change programme

Support and enable climate education and behaviour change programmes, that include Te Ao Māori and Mātauranga Māori perspectives, to support a fair transition to low-emission and climate resilient region.

Implementation: Wellington Regional Council

193. The Method will help to achieve a number of climate change objectives, including Objectives CC.2, CC.3 and CC.7. As the s 42A Report says, the inclusion of the Method in Change 1 recognises that education and behaviour change are key to support the transition to a low-emissions and climate-resilient region, alongside other regulatory and non-regulatory methods.¹³⁵

3.11.1 Submissions, Evidence and Analysis

194. There were approximately seven original and three further submission points on Method CC.1. The majority of submitters supported the Method and three iwi submitters requested that it be strengthened.

195. Rangitāne [S168.0149] requested that the word “enable” is replaced with “implement” to ensure that the programmes are achieved. Taranaki Whānui [S167.0142] requested amendments to Method CC.1 to include clear statements on the resourcing, funding and capability building of mana whenua partners.

196. Ātiawa [S131.0118] requested amendments to provide for mana whenua partnership with Council in the development and implementation of any climate change programmes that use Ātiawa values and mātauranga. The relief requested is: “The Regional Council will work in partnership with mana whenua to develop and implement climate change education and behaviour change programmes that include te ao Māori and mātauranga

¹³⁵ Section 42A Hearing Report, Climate Change – General, para 283.

Māori. Mana whenua are enabled to partner with the Regional Council through adequate funding and resourcing.”

197. During the hearing Dr Spinks for Ngā Hapū o Ōtaki said:¹³⁶

We would like to mention that we are really pleased to see that the Regional Policy Statement Change 1 and Climate Change workstream includes recognition of te ao Māori and mātauranga, but we want to extend that intention to ensure that we are included in the planning and implementation that must follow.

198. We agree with the Officer’s recommendation to amend the Method to refer to “partnership with mana whenua / tangata whenua”. In terms of resourcing, funding and capability building of mana whenua partners, the Officer said that funding for work programmes is in place through Kaupapa Funding Agreements which provide mana whenua / tangata whenua resourcing to support engagement with Council. Therefore, in the Officer’s view, it was not necessary for Method CC.1 to include a specific commitment to funding and resourcing.¹³⁷

3.11.2 Finding

199. We agree with the Reporting Officer’s recommendations on Method CC.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.11.3 Recommendation

Method CC.1: Climate change education and behaviour change programme

Support, ~~and enable and implement~~ climate education and behaviour change programmes, that include Te Ao Māori and Mātauranga Māori perspectives ~~in partnership with mana whenua/tangata whenua~~, to support an ~~equitable~~ fair transition to a low-emission and ~~climate-resilient~~ region.

Implementation: Wellington Regional Council.

¹³⁶ Hearing Transcript, HS3 – Climate Change, Day 4, page 26, lines 1291 - 1298.

¹³⁷ Section 42A Report, Climate Change – General, para 284.

3.12 Method CC.2: Develop carbon emissions offsetting guidance

200. The notified Method read:

Method CC.2: Develop carbon emissions offsetting guidance

Develop offset guidelines to assist with achieving the regional target for greenhouse emissions where reduction cannot be achieved at the source.

Implementation: Wellington Regional Council*

201. The Method was redrafted in the s 42A Report and focuses on implementing Policy CC.8. As Mr Wyeth said at the hearing, Method CC.2 is about working out how Policy CC.8 works in practice, including how to avoid emissions from new activities and how to reduce emissions at the time of redevelopment.¹³⁸

3.12.1 Submissions, Evidence and Analysis

202. In the s 42A Report, the Officer recommended consequential amendments to Method CC.2 to ensure the effective implementation of Policy CC.8.

203. Forest and Bird [S165.099] sought that the Method is strengthened through an additional requirement for offsets to be achieved by the planting of indigenous vegetation over plantation forestry. Ātiawa [S131.0119] also requested that Method CC.2 is amended to be more directive and specific, by making it clear in the Method that emission reductions at source should always be prioritised over offsets. Taranaki Whānui sought a reference to mana whenua partnerships in the development of guidance, and Rangitāne wanted a timeframe attached to implementation. Some submitters sought the Method be deleted on the basis it is considered as part of a full review of the RPS (eg WFF [S163.090]).

204. Ms Heppelthwaite for Waka Kotahi sought that the Method refer to “prioritising avoiding or reducing gross greenhouse gas emissions” (rather than “and”) to reflect the wording in Policy CC.8. The heading to Policy CC.8 is “Prioritising the reduction of GHGe” and we agree with Ms

¹³⁸ Hearing Transcript, HS3 – Climate Change, Day 1, lines 1249 – 1252.

Heppelthwaite that Policy CC.8 does require, as the first step in the hierarchy, the avoidance or reduction of emissions where practicable. However, we consider that it is appropriate for the Method to require guidance to be developed on opportunities to both ‘avoid’ and ‘reduce’ emissions, and if the Method framed these as alternatives, then there is a chance that guidance would only focus on the latter and not assist with implementation of the Policy.

205. The Officer also recommended amendments to include working with mana whenua / tangata whenua to implement the hierarchy approach to reducing GHGe in Policy CC.8, and to include a timeframe of “by the end of 2024”. The Officer considered that the best type of planting for offsetting should be addressed in the guidelines so did not recommend amendments in light of Forest and Bird’s relief.
206. In our view, Method CC.2 is appropriate and necessary to implement the direction in Policy CC.8.

3.12.2 Finding

207. We agree with the Reporting Officer’s recommendations on Method CC.2 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence Recommendation.

Method CC.2: Develop ~~carbon emissions offsetting~~ guidance on avoiding, reducing and offsetting greenhouse gas emissions

~~Wellington Regional Council will work with city and district councils and mana whenua/tangata whenua to develop guidelines to implement the hierarchy approach to reducing greenhouse gas emissions in Policy CC.8 by the end of 2024, including how to prioritise avoiding and reducing gross greenhouse gas emissions and when and how to allow for greenhouse gas emissions to be offset. Develop offset guidelines to assist with achieving the regional target for greenhouse~~

3.13 Definitions: General subtopic

3.13.1 Carbon emission assessment

208. The notified definition stated:


Carbon emissions assessment
<u>An evaluation of the carbon footprint which measures the total volume of greenhouse gases emitted at different stages of a project lifecycle.</u>


209. This term is used in Policy CC.11 and was sought to be retained by Forest and Bird while other submitters sought it was deleted. The Officer said the definition provided useful guidance on the interpretation of the Policy. Mr Smeaton’s evidence for PCC proposed that the definition be replaced with a clearer, more scientifically accurate definition for “whole-of-life carbon emissions assessment” which referred to carbon dioxide equivalents to capture all GHGe (as referred to in Mr Roos’ technical evidence).

210. The Officer sought advice from Mr Roos and recommended that Mr Smeaton’s definition of “whole-of-life carbon emissions assessment” be largely accepted but with some refinements. In the Officer’s Rebuttal Evidence, he recommends the definition is amended to refer to “whole-of-life greenhouse gas emissions assessment”.¹³⁹ We recommend the Officer’s revised wording is adopted.

3.13.2 Emissions and greenhouse gases

211. The notified definitions stated:

Emissions	
<u>Greenhouse gases released into the atmosphere, where they trap heat or radiation.</u>	

Greenhouse gases	
<u>Atmospheric gases that trap or absorb heat and contribute to climate change. The gases covered by the Climate Change Response Act 2002 are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆).</u>	

212. The Regional Council [S137.63] requested that these two definitions be combined into a single “greenhouse gas emissions” definition. The Officer agreed with this relief. In Reply Evidence, the Officer recommended that

¹³⁹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 118.

the definition be amended to note that a reference to greenhouse gas emissions means “gross” emissions unless otherwise expressed.¹⁴⁰

3.13.3 Finding

213. We agree with the Reporting Officer’s recommendations on the definitions coded to the Climate Change – General subtopic for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.13.4 Recommendation

Emissions:

~~Greenhouse gases released into the atmosphere, where they trap heat or radiation:-~~

Greenhouse gases emissions

Atmospheric gases ~~released into the atmosphere that trap or absorb heat and~~ contribute to climate change. These gases ~~covered by the Climate Change Response Act 2002~~ are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF₆) ~~which are all covered by the Climate Change Response Act 2002. A reference to greenhouse gas emissions means “gross” greenhouse gas emissions unless otherwise expressed as “net greenhouse gas emissions” or “net-zero”.~~

Whole-of-life greenhouse gas carbon emissions assessment

~~An evaluation of the total greenhouse gas emissions of a proposal carbon footprint which measured in tonnes of carbon dioxide equivalent units, derived from assessing the emissions associated with all elements of the proposed project over its entire life. the total volume of greenhouse gases emitted at different stages of a project lifecycle~~

¹⁴⁰ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 14.

4. Climate Change: Subtopic 2 – Energy, Waste and Industry

4.1 Overview

214. The provisions in this subtopic are:
- a. Policy 2: Reducing adverse effects of the discharge of odour, smoke, dust and fine particulate matter and reducing greenhouse gas emissions – regional plans
 - b. Policy 7: Recognising the benefits from renewable energy and regionally significant infrastructure – district and regional plans
 - c. Policy 11: Promoting and enabling energy efficient design and small and community scale renewable energy generation – district plans
 - d. Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration
 - e. Policy 65: Supporting and encouraging efficient use and conservation of resources – non-regulatory
 - f. Method 17: Reducing waste and greenhouse gases emissions from waste streams.
215. There were approximately 136 original submissions and 126 further submissions on this subtopic.
216. The key issues raised were:
- a. Whether the provisions are sufficient to enable an increase in renewable energy capacity to support GHGe reduction targets
 - b. Whether the provisions give appropriate effect to relevant national direction (NPS-ET and NPS-REG)
 - c. Whether new terms such as low and zero-carbon regionally significant infrastructure are unclear and potentially create a third tier of infrastructure
 - d. Whether Policies 7 and 39 should be amended to remove references to these new and uncertain terms

- e. General concerns that the provisions are not sufficiently directive in relation to regionally significant infrastructure (RSI)
- f. Requests to reference mineral and aggregate extraction in the provisions.
- g. Deleting/withdrawing the amendments to Policy 2 on the basis these have been largely superseded by national direction on emissions from industrial process heat
- h. Strengthening and refining the policy direction in Policies 7, 11 and 39 to better give effect to relevant national direction and the climate change objectives in Change 1.

Provision by Provision Analysis

4.2 Policy 2: Reducing adverse effects of the discharge of odour, smoke, dust and fine particulate matter, and reducing greenhouse gas emissions – regional plans

217. The notified Policy read:

Policy 2: Reducing adverse effects of the discharge of odour, smoke, dust and fine particulate matter, and reducing greenhouse gas emissions – regional plans

Regional plans shall include policies, ~~and/or~~ rules and/or methods that:

- (a) protect or enhance the *amenity values* of neighbouring areas from discharges of odour, smoke and dust; and
- (b) protect people’s health from discharges of dust, smoke and fine particulate matter; and
- (c) support industry to reduce greenhouse gas emissions from industrial processes, and
- (d) phase-out coal as a fuel source for domestic fires and large-scale generators by 2030.

Explanation

Policy 2 seeks to protect neighbouring areas and people’s health from discharges of contaminants into the air. In addition, it seeks to support industry to reduce discharges of greenhouse gas emissions from industrial processes, and to phase out coal as a fuel source for domestic fires and large-scale industrial boilers by 2030.

Explanation

~~The amenity value of air reflects how clean and fresh it is. High amenity is associated with good visibility, low levels of deposited dust and with people’s ability to enjoy their outdoor environment. Amenity is reduced by contaminants in the air affecting people’s wellbeing – such as when dust or smoke reduces visibility or soils surfaces, or when odour is objectionable.~~

~~Amenity values need to be considered in the context of different environments and they may change temporarily or seasonally. In effect, what constitutes an objectionable odour, or level of smoke or dust is, in part, dependant on the normal conditions experienced in a locality or at a time of year.~~

~~Protecting people’s health from discharges to air includes considering the effects of fine particulate matter discharged from human activities. The Wairarapa (specifically Masterton), Wainuiomata and Upper Hutt are the airsheds known to be at risk of exceeding the National Environmental Standards for Air Quality, in relation to fine particulate matter (PM10), during cold calm winter nights. Domestic fires are the main source of fine particulate emissions in these airsheds during winter.~~

218. There were approximately 14 original submission points and 10 further submission points on the proposed amendments to the Policy, many seeking it be retained as notified or that its intent be clarified through drafting amendments.
219. The intent of the proposed amendments to Policy 2 is to reduce GHGe from industrial processes.¹⁴¹

4.2.1 Submissions, Evidence and Analysis

220. After Change 1 was notified, national direction was gazetted and came into force on 27 July 2023 (the NPS-Industrial Process Heat and NES-Industrial Process Heat (IPH)). The NPS requires certain provisions to be directly inserted into regional plans, and the NES contains comprehensive rules to regulate GHGe from industrial process heat.
221. In the s 42A Report, the Officer said it is important that Proposed Change 1 does not require rules that duplicate or conflict with the NES, as the NES does not expressly enable more stringent or lenient rules, and any such rules would therefore be contrary to s 44A of the RMA.¹⁴² We agree with this analysis.
222. The Officer recommended that the amendments to Policy 2 are withdrawn / deleted as these have largely been superseded by more comprehensive national direction, the remaining GHGe from industrial processes are small in terms of regional emissions and difficult to regulate through regional plan controls, and it is unclear how regional plans can ‘support’ industry to reduce GHGe from industrial processes.
223. We are comfortable the notified amendments to Policy 2 relating to industrial processes are not needed as they are now addressed by the NPS and NES on IPH. Mr Wyeth explained the scope of the new national direction in his Reply Evidence.¹⁴³ In essence, the instruments apply to the discharge of GHGe from the burning of fossil fuels to generate heat for industrial processes with some specific exceptions. Mr Wyeth explained that Policy 2(c) should be deleted from Proposed Change 1 because the NPS-IPH requires certain provisions to be inserted directly into regional

¹⁴¹ Section 42A Hearing Report, Climate Change – Energy, Waste and Industry, para 76.

¹⁴² Section 42A Hearing Report, Climate Change – Energy, Waste and Industry, para 77.

¹⁴³ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, paras 41 – 43.

plans without a Schedule 1 process, and the NES-IPH provides rules and standards to regulate discharges of GHGe from IPH.

224. Mr Wyeth also explained that the regulatory plan changes directed by Policy 2(d) were not needed as:¹⁴⁴

- a. Only 0.3% of households in the Region use coal and this is a fraction of GHGe in the Region (as stated in the s 32 Report),
- b. Coal is being phased out due to cost and availability of more efficient forms of domestic heating, and
- c. a requirement to include provisions in a plan to “phase out coal as a fuel source for ...large scale generators by 2030” would conflict with the prohibited activity rule in Regulation 7 of the NES-IPH (as it would be more stringent than the rule, which is not authorised under s 44A of the RMA).

225. We agree with Mr Wyeth’s analysis and agree that Policy 2(c) and (d) should be deleted.

4.2.2 Finding

226. We agree with the Reporting Officer’s recommendations on Policy 2 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence Recommendation.

4.2.3 Recommendation

Policy 2: Reducing adverse effects of the discharge of odour, smoke, dust and fine particulate matter, ~~and reducing greenhouse gas emissions~~ – regional plans

Regional plans shall include policies, ~~and/or~~ rules ~~and/or~~ methods that:

- (a) protect or enhance the *amenity values* of neighbouring areas from discharges of odour, smoke and dust; and
- (b) protect people’s health from discharges of dust, smoke and *fine particulate matter*.; ~~and~~
- ~~(c) support industry to reduce greenhouse gas emissions from industrial processes; and~~
- ~~(d) phase-out coal as a fuel source for domestic fires and large-scale generators by 2030.~~

¹⁴⁴ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, paras 42 – 46.

Explanation:

Policy 2 seeks to protect neighbouring areas and people's health from discharges of *contaminants* into the air. ~~In addition, it seeks to support industry to reduce discharges of greenhouse gas emissions from industrial processes, and to phase out coal as a fuel source for domestic fires and large-scale industrial boilers by 2030⁴.~~

4.3 Policy 7: Recognising the benefits from renewable energy and regionally significant infrastructure – district and regional plans

227. The notified amendments to the Policy read:

Policy 7: Recognising the benefits from renewable energy and regionally significant infrastructure – district and regional plans	
District and regional plans shall include policies and/or methods that recognise:	
(a)	the social, economic, cultural and environmental benefits of <i>regionally significant infrastructure</i> , and in particular <u>low and zero carbon regionally significant infrastructure</u> including: <ul style="list-style-type: none">(i) people and goods can travel to, from and around the region efficiently and safely <u>and in ways that support transitioning to low or zero carbon multi modal travel modes</u>;(ii) public health and safety is maintained through the provision of essential services: - supply of potable water, the collection and transfer of sewage and stormwater, and the provision of emergency services;(iii) people have access to energy, <u>and preferably low or zero carbon energy</u>, so as to meet their needs; and(iv) people have access to telecommunication services.
(b)	the social, economic, cultural and environmental benefits of energy generated from renewable energy resources including: <ul style="list-style-type: none">(i) security of supply and diversification of our energy sources;(ii) reducing dependency on imported energy resources; and(iii) reducing greenhouse gas <i>emissions</i>.
Explanation	
<u>Notwithstanding that renewable energy generation and regionally significant infrastructure can have adverse effects on the surrounding environment and community, Policy 7 recognises that these activities can provide benefits both within and outside the region, in particular if regionally significant infrastructure is a low or zero carbon development.</u>	
Energy generated from renewable energy resources and regionally significant infrastructure can provide benefits both within and outside the region. Renewable energy benefits are not only generated by large scale renewable energy projects but also smaller scale projects.	
Renewable energy means energy produced from solar, wind, hydro, geothermal, biomass, tidal wave and ocean current sources.	

~~Renewable energy generation and regionally significant infrastructure can also have adverse effects on the surrounding environment and community. These competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.~~

~~Imported and non-renewable energy sources include oil, gas, natural gas and coal.~~

~~When considering the benefits from renewable energy generation the contribution towards national goals in the New Zealand Energy Strategy (2007) and the National Energy Efficiency and Conservation Strategy (2007) will also need to be given regard.~~

~~Regionally significant infrastructure is defined in Appendix 3.~~

228. Policy 7 is in the Operative RPS. Proposed Change 1 proposed amendments to recognise and provide for the benefits of energy generated from renewable energy resources.
229. There were approximately 29 original and 32 further submission points on the proposed amendments to Policy 7.

4.3.1 Submissions, Evidence and Analysis

230. A number of submitters supported Policy 7 and requested that it be retained as notified; others sought that it be strengthened so it did not just allow the status quo to continue.
231. Genesis [S99.001] sought amendments to make the Policy more directive so it could better help deliver the climate change objectives sought by Change 1.
232. Ms Foster for Meridian provided evidence about the importance of renewable energy generation and the need to provide for it to address climate change. Ms Foster said the quantum of new development required to meet New Zealand's target of zero emissions by 2050 will be needed at an unprecedented pace.¹⁴⁵ Referring to research commissioned by the Electricity Authority, Ms Foster said that a much larger contribution to new supply for the Wellington Region, is expected to be from wind energy and solar energy generation, and electricity is expected to largely replace petrol and diesel in vehicles, and for industrial

¹⁴⁵ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 3.4.

and domestic use.¹⁴⁶ Strong policy direction in the RPS, including for RSI that supports reductions in GHG emissions, will help support electrification and therefore decarbonisation of the energy sector. Ms Foster discusses in her evidence the inadequate “muted approach” of the current RPS policies in respect of providing for renewable energy development and sought stronger direction to address the urgency of the system change required.¹⁴⁷

233. Ms Foster’s evidence on the need to increase renewable generation to support decarbonisation was not contested by any submitter. We asked Mr Feierabend, Statutory Advocacy Strategy Manager for Meridian who also presented at the Hearing, about how the government’s targets for renewable energy could be achieved. He said that Meridian was exploring opportunities across New Zealand and Wellington for increased development, and achieving the target will depend, to some degree, on having the “regulatory framework that’s available to foster, enable, encourage development.”¹⁴⁸ We agree with this statement and support the strengthened ‘enabling’ direction the Officer recommends in both Policies 7 and 39.
234. At the Hearing, Ms Foster said she accepted that the amendments she had sought to Policy 7 ‘try to get ahead’ of new national direction for renewable generation which may even require insertion of enabling provisions without a Schedule 1 process.¹⁴⁹ We understand that, on this basis, Ms Foster supported the Officer’s amendments to Policy 7, including to the explanation.¹⁵⁰
235. We agree with the amendments to Policy 7 proposed by the Officer in his s 42A Report, and as further amended in Rebuttal and Reply Evidence, including amendments to include “objectives”, “rules” and “other methods” in the chapeau. These amendments largely support the relief requested by Transpower and Meridian. Meridian sought an additional clause to protect the benefits of renewable energy generation and RSI. Policy 8 in the Operative RPS is a regulatory policy protecting RSI.

¹⁴⁶ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 3.6.

¹⁴⁷ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, paras 9.7 – 9.8.

¹⁴⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 10, lines 466 – 472.

¹⁴⁹ Hearing Transcript, HS3 – Climate Change, Day 2, pages 5 - 6, lines 231 – 245.

¹⁵⁰ Hearing Transcript, HS3 – Climate Change, Day 2, page 6, lines 247 – 249; 263 – 264.

236. We agree with the Officer that the words “low and zero carbon RSI” and “low or zero carbon” renewable energy should be deleted from Policy 7 as they could be interpreted as creating a third tier of infrastructure. The intent can be achieved by stronger recognition of the benefits of RSI and renewable energy.
237. Mr Wyeth supported amendments to Policy 7 (and also Policy 39) to ensure the Electricity Transmission Network (the National Grid) was “on the same par as renewable energy generation” as it was nationally significant.¹⁵¹
238. WFF wanted increased recognition of water storage infrastructure in Policy 7. The definition of RSI includes “the local authority water supply network (including intake structures) and water treatment plants” and “the local authority wastewater and stormwater networks and systems, including treatment plants and storage and discharge facilities”. Policy 7(a) recognises the benefits of all RSI, including water storage infrastructure within the definition of RSI.
239. Wellington Water [S113.015] sought that Policy 7 be more enabling of RSI in general, and not just renewable energy. Ms Horrox for Wellington Water said this was supported by Policy 39 which requires “particular regard” be given to benefits of RSI. Ms Horrox said in her written evidence that clause (a) of Policy 7 should say “recognise and support” the benefits of RSI¹⁵², although during the Hearing Ms Horrox advocated for “recognise and provide for”, saying that this would not undermine the need for RSI to still mitigate effects (which was inherent to the RPS in general and through a raft of provisions).¹⁵³
240. Mr Slyfield said in his legal submissions for Wellington Water, that Wellington Water is “focussed on the ways in which climate change may impact on water security, namely the increasing potential and severity of drought, and the increased risk of saline intrusion into aquifers associated with sea level rise.”¹⁵⁴ He also said that infrastructure providers have a huge amount of work ahead of them to respond to climate change issues,

¹⁵¹ Hearing Transcript, HS3 – Climate Change, Day 1, page 52, lines 2636 – 2638; page 55, lines 2806 – 2808.

¹⁵² Statement of Evidence of Caroline Horrox on behalf of Wellington Water (Planning), 11 August 2023, para 53.

¹⁵³ Hearing Transcript, HS3 – Climate Change, Day 2, page 77, lines 3995 – 3999.

¹⁵⁴ Hearing Stream 3, Legal Submissions for Wellington Water Ltd, 14 August 2023, para 6.

manage the increased risk of natural hazards, and implement Te Mana o te Wai for the Wellington Region across all aspects of water services, supply, wastewater and stormwater management.¹⁵⁵

241. Ms Horrox providing planning evidence for Wellington Water, urged the Panels to keep in mind that the purpose of Proposed Change 1 is:¹⁵⁶

wider than just responding to climate change and supporting reductions in greenhouse gas emissions urban development, freshwater and the NPS-Freshwater, climate change, indigenous biodiversity and natural character. I think you've got to have that in mind and not just a couple of things. ...integrated management ... requires consideration of the extent to which the RPS provisions impact on delivery of all objectives of the plan change, not just one objective, for example climate change or delivering on the NPS for Renewable Energy.

Otherwise, essentially what you do is you might potentially make a change to address one issue in a provision and you risk some undermining of the ability for the changes you've made delivering on other objectives.

242. Transpower also supported the use of more directive language within Policy 7 and 39, and in particular supported the Officer's recommendation in the s 42A Report to include new clause (iv) in Policy 7: "the provision of an efficient, effective and resilient electricity transmission network" as this would give effect to Policy 1, NPSET.¹⁵⁷
243. In Ms Eng's hearing statement provided on Transpower's behalf, she said Transpower considers there is merit in providing more directive wording in clause (a) as "recognised and provide for" would give effect to Policy 1 of the NPSET which requires decision-makers to recognise and provide for the benefits of sustainable, secure and efficient electricity transmission.
244. In his Reply Evidence, the Reporting Officer recommends deleting the amendment he proposed to clause (a)(iv), and amending clause (b) to "recognise and provide for the benefits of energy generated from

¹⁵⁵ Hearing Stream 3, Legal Submissions for Wellington Water Ltd, 14 August 2023, paras 8 – 11, and 13.

¹⁵⁶ Hearing Transcript, HS3 – Climate Change, Day 2, page 76, lines 3963 – 3978.

¹⁵⁷ Hearing Stream 3, Statement by Transpower NZ Ltd, prepared by Ms Eng, 10 August 2023, pages 2 – 3.

renewable energy resources, and its transmission through the electricity transmission network ...”.

245. We agree with these amendments and consider that they appropriately enable renewable energy and its transmission through the National Grid, give effect to national direction, and are the most appropriate way to achieve the Change 1 objectives, including Objective CC.1. However, we recommend that the relief Transpower sought in clause (a), and which the Officer had accepted in his s 42A Report and then recommended deleting in his Reply on the basis that it was included within clause (b), be specifically incorporated into clause (b) in order to give effect to Policy 1 of the NPSET.
246. We consider that further amendments are appropriate in Policy 7 to incorporate Wellington Water’s relief and achieve the Change 1 objectives of the Region being climate-resilience and infrastructure being better able to mitigate, and adapt to, climate change (Objectives CC.1 and CC.6).
247. To give effect to Wellington Water’s relief, we recommend an amendment to Policy 7(c) to recognise and support the benefits of RSI that contributes to reductions in GHGe, gives effect to *Te Mana o te Wai* as the concept is articulated in the NPS-FM, mitigates natural hazards, and enables people and communities to be resilient to climate change. We consider there is scope for this relief in Wellington Water’s submission [S113.015] which says, among other things, that “it will be very difficult for infrastructure providers to achieve *Te Mana o te Wai*, support growth, manage biodiversity, provide resilience for climate change and manage natural hazard risks if appropriate planning pathways are not provided in District and Regional Plans.” We also consider there is scope through WIAL’s submission [S148.031] which says “it is critically important that the RPS protects existing regionally significant infrastructure from the adverse effects of climate change and should include sufficient flexibility to adapt and respond to the challenges climate change will present”.
248. We consider the restrictions imposed by the NZCPS are set out appropriately in Policies 29, 51 and 52 which must be read together with Policy 7.
249. We also recommend amendments to the Explanation to reflect the additional changes we recommend.

4.3.2 Finding and s 32AA Evaluation

250. We largely agree with the Reporting Officer’s recommendations on Policy 7 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We also recommend the following amendments to Policy 7:

- a. In clause (b), the words “an efficient, effective and resilient” are included before “electricity transmission network”, and
- b. Clause (c) is expanded to recognise and support the benefits of RSI that gives effect to Te Mana o te Wai, mitigates natural hazards, and enables people and communities to be resilient to climate change.

251. We consider the amendment described in a. above is required to give proper effect to Policy 1 of the NPSET as sought by Transpower. We consider the amendments described in b. above are more appropriate to give effect to national direction, in particular the NPS-FM, and align with Objectives CC.1, CC.3 and CC.6 as they will support decarbonisation of the energy system, reduce GHGe and support climate-resilience. The amendments will increase the effectiveness of these Objectives by strengthening the direction and outcomes sought. We do not consider there to be substantive costs associated with the amendments which seek to strengthen the relevant Objectives.

4.3.3 Recommendation

Policy 7: Recognising the benefits from renewable energy and *regionally significant infrastructure – district and regional plans*

District and regional plans shall include objectives, policies, rules and/or other methods that ~~recognize:~~

- (a) ~~recognise~~ the social, economic, cultural and environmental benefits of *regionally significant infrastructure*, ~~and in particular low and zero carbon regionally significant infrastructure~~ including:
 - (i) people and goods can travel to, from and around the region efficiently and safely ~~and in ways that support the transitioning to low or zero carbon multi modal transport travel modes;~~
 - (ii) public health and safety is maintained through the provision of essential services: - supply of potable water, the collection and transfer of sewage and stormwater, and the provision of emergency services;
 - (iii) people have access to energy, ~~and preferably low or zero carbon renewable energy~~, so as to meet their needs;
 - ~~(iv) the provision of an efficient, effective and resilient electricity transmission network; and~~
 - ~~(v) people have access to telecommunication services.~~
- (b) ~~recognise and provide for~~ the social, economic, cultural and environmental benefits of energy generated from renewable energy resources ~~and its~~

transmission through an efficient, effective and resilient the electricity transmission network, including:

- i. avoiding, reducing and displacing greenhouse gas emissions;
 - ii. contributing to the security of supply, resilience, independence and diversification of our energy sources and the transmission of this energy to communities, homes and businesses;
 - iii. reducing dependency on imported energy resources; and
 - iv. using renewable resources rather than finite resources reducing greenhouse gas emissions; and
 - v. the reversibility of the adverse effects on the environment of some renewable electricity generation technologies;
 - vi. the provision of an efficient, effective and resilient electricity transmission network; and
 - vii. providing for the economic, social and cultural well-being of people and communities.
- (c) recognise and support the benefits of regionally significant infrastructure to that support contribute to reductions in greenhouse gas emissions, give effect to Te Mana o te Wai, mitigate natural hazards, and enable people and communities to be resilient to climate change.

Explanation

Notwithstanding that renewable energy generation and regionally significant infrastructure can have adverse effects on the surrounding environment and community, Policy 7 recognises that renewable energy generation and regionally significant infrastructure these activities can provide a range of local, regional and national benefits both within and outside the region, including helping to reduce greenhouse gas emissions, and provide essential services for the well-being of people and communities particular if regionally significant infrastructure is a low or zero carbon development. The Policy also recognises the benefits of regionally significant infrastructure that supports lower greenhouse gas emissions, the health and wellbeing of freshwater and receiving environments, climate change resilience and natural hazard mitigation, and must be read with other policies that restrict the location of infrastructure in certain places, such as Policy 52.

4.4 Policy 11: Promoting and enabling energy efficient design and small scale renewable energy generation – district plans

252. As notified, the amendments to the Policy stated:

Policy 11: Promoting and enabling energy efficient design and small scale renewable energy generation – district plans
District plans shall include policies and/or rules and other methods that:
(a) promote energy efficient design and <u>the energy efficient alterations to existing buildings;</u>
(b) <u>enable the installation and use of domestic scale (up to 20 kW) and small scale distributed renewable energy generation (up to 100 kW); and provide for energy efficient alterations to existing buildings;</u>
Explanation
<u>Policy 11 promotes energy efficient design, energy efficient alterations to existing buildings, and enables installation of domestic scale and renewable energy generation (up to 100kW).</u>
<u>Energy efficient design and alteration to existing buildings, can reduce total energy costs (i.e., heating) and reliance on non-renewable energy supply.</u>
<u>Small scale distributed renewable electricity generation means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network. (from NPS-REG 2011).</u>
Orientation, layout and design can have a significant influence on the energy efficiency of developments.
Improved energy efficiency can be achieved by:
1. Enabling everyday services – such as shops, schools, businesses and community facilities to be accessed by walking and cycling
2. Enabling easy access to public transport services
3. Locating and designing infrastructure and services to support walking, cycling or the use public transport
4. Enabling the efficient use of the sun as a source of power and heating
5. Incorporating renewable energy generation facilities – such as solar panels and domestic scale wind turbines
Small scale distributed renewable energy generation facilities (up to 20 kW for domestic use and up to 100 kW for small community use) include solar generation particularly for water heating and wind turbines used for on-site or domestic purposes.
Energy efficient alteration may include alterations of buildings for the installation of solar water heating systems or domestic scale wind turbines.

253. There were approximately 22 original submissions and 7 further submissions on the proposed amendments to this Policy. Proposed Change 1 amends the operative Policy to enable small and community scale renewable electricity generation where appropriate to give better effect to the NPS-REG. The main changes are to update the explanation to better align with the NPS-REG 2011 definition of small and community scale and a supporting definition.¹⁵⁸
254. The s 32 Report also notes that the development of small and community scale renewable electricity has been limited since 2013, but this has the potential to increase in coming years.¹⁵⁹

4.4.1 Submissions, Evidence and Analysis

255. The majority of submissions requested the Policy be retained as notified (or with minor amendments) on the basis that all forms of renewable energy generation must be enabled to achieve the proposed climate change objectives in Change 1.
256. The s 42A Report proposed various amendments in response to submissions, including expanding the Policy to community scale renewable generation. Ms Foster for Meridian supported the addition of “community scale” into the Policy, and the deletion of the 100kW threshold.¹⁶⁰ However, Ms Foster did not support Mr Wyeth’s proposed amendments to the definition of “small scale and community scale renewable energy generation” as she considered these were unnecessary and misaligned with the NPS-REG,¹⁶¹ although at the hearing, Ms Foster accepted this was not a significant concern to Meridian.¹⁶² SWDC [S79.027] sought that the definition align with the definition of “small and community scale” in the NPS-REG.
257. Mr Wyeth’s view was that the intent of the amendments to the definition were the same as those in the NPS-REG definition.¹⁶³

¹⁵⁸ Section 42A Hearing Report, Climate Change – Energy, Waste and Industry, para 119.

¹⁵⁹ Section 42A Hearing Report, Climate Change – Energy, Waste and Industry, para 120.

¹⁶⁰ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 11.2.

¹⁶¹ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3, Climate Change, 14 August 2023, para 11.3.

¹⁶² Hearing Transcript, HS3 – Climate Change, Day 2, page 6, lines 251 – 255.

¹⁶³ Hearing Transcript, HS3 – Climate Change, Day 1, page 53, lines 2665 – 2668.

258. We recommend amending the definition to align with the NPS-REG definition (see section on ‘Definitions’ below).

4.4.2 Finding

259. We agree with the Reporting Officer’s recommendations on Policy 11 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal or Reply Evidence.

4.4.3 Recommendation

Policy 11: Promoting and enabling energy efficient design and *small scale and community scale renewable energy generation* – district plans

District plans shall include policies and/or rules and other methods that:

- (a) promote and enable energy efficient design and ~~the energy efficient alterations to existing buildings;~~
- (b) enable the *development, operation, maintenance and upgrading of installation and use of domestic scale (up to 20 kW) and small scale and community scale distributed renewable energy generation (up to 100 kW);* and provide for energy efficient alterations to existing buildings.

Explanation

Policy 11 promotes energy efficient design, energy efficient alterations to existing buildings, and enables the *development installation of domestic small and community scale and renewable energy generation (up to 100kW).*

Energy efficient design and alteration to existing buildings can reduce total energy costs (i.e., heating) and reliance on non-renewable energy supply.

~~*Small scale distributed renewable electricity generation means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network. (from NPS-REG 2011).*~~

Small scale and community-scale renewable energy generation provides a range of benefits, including increasing local security of supply, energy and community resilience, and providing for the well-being of people and communities. Small scale and community-scale renewable energy generation also plays an important role in reducing greenhouse gas emissions and meeting national and regional emission reduction targets.

~~Orientation, layout and design can have a significant influence on the energy efficiency of developments.~~

~~Improved energy efficiency can be achieved by:~~

- ~~1. Enabling everyday services – such as shops, schools, businesses and community facilities to be accessed by walking and cycling~~
- ~~2. Enabling easy access to public transport services~~
- ~~3. Locating and designing infrastructure and services to support walking, cycling or the use public transport~~
- ~~4. Enabling the efficient use of the sun as a source of power and heating~~
- ~~5. Incorporating renewable energy generation facilities – such as solar panels and domestic scale wind turbines~~

Small scale distributed renewable energy generation facilities (up to 20 kW for domestic use and up to 100 kW for small community use) include solar generation particularly for water heating and wind turbines used for on-site or domestic purposes.

Energy efficient alteration may include alterations of buildings for the installation of solar water heating systems or domestic scale wind turbines.

4.5 Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration

260. As notified, the proposed amendments to the Policy read:

Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration

When considering an application for a resource consent, notice of requirement or a change, variation or review of a district or regional plan, particular regard shall be given to:

- (a) the social, economic, cultural, and environmental benefits of energy generated from renewable energy resources and/or *regionally significant infrastructure*, in particular where it contributes to reducing greenhouse gas emissions; and
- (b) protecting *regionally significant infrastructure* from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure; and
- (c) the need for renewable electricity generation facilities to locate where the renewable energy resources exist; and
- (d) significant wind, solar and marine renewable energy resources within the region.

Explanation

Notwithstanding that renewable energy generation and *regionally significant infrastructure* can have adverse effects on the surrounding environment and community, Policy 39 recognises that these activities can provide benefits both within and outside the region, particularly to contribute to reducing greenhouse gas emissions.

The benefits of energy generated from renewable energy resources include:

- Security of and the diversification of our energy sources
- Reducing our dependency on imported energy resources – such as oil, natural gas and coal
- Reducing greenhouse gas emissions
- Contribution to the national renewable energy target

The benefits are not only generated by large scale renewable energy projects but also smaller scale, distributed generation projects.

The benefits of regionally significant infrastructure include:

- People and goods can efficiently and safely move around the region, and to and from
- Public health and safety is maintained through the provision of essential services – such as potable water and the collection and transfer of sewage or stormwater
- People have access to energy to meet their needs
- People have access to telecommunication services

Energy generation from renewable energy and regionally significant infrastructure (as defined in Appendix 3) can provide benefits both within and outside the region.

~~Renewable energy generation and regionally significant infrastructure can also have adverse effects on the surrounding environment and community. These competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.~~

~~When considering the benefits from renewable energy generation, the contribution towards national goals in the New Zealand Energy Strategy (2007) and the National Energy Efficiency and Conservation Strategy (2007) will also need to be given regard.~~

~~Potential significant sites for development of Wellington region's marine and wind resources have been identified in reports 'Marine Energy – Development of Marine Energy in New Zealand with particular reference to the Greater Wellington Region Case Study by Power Projects Ltd, June 2008' and 'Wind Energy – Estimation of Wind Speed in the Greater Wellington Region, NIWA, January 2008'.~~

~~Policy 39(a) shall cease to have effect once policy 9 is given effect in a relevant district or regional plan.~~

~~Policy 39(b) shall cease to have effect once policy 8 is given effect in a relevant district or regional plan.~~

261. Policy 39 aims to give effect to national direction which recognises the benefits of renewable energy generation and electricity transmission. The Policy also provides direction to protect regionally significant infrastructure and to recognise the need for REG activities to be located where the renewable energy resource exists.
262. There were approximately 24 original and 37 further submission points on Policy 39.

4.5.1 Submissions, Evidence and Analysis

263. Many submissions sought the amendments be retained as notified. Wellington Water [S113.029] and WIAL [S148.035] oppose the amendments to clause (a) on the basis they create a 'third tier' of infrastructure which is inappropriate in their view. Other submitters such as Genesis [S99.003] and Meridian [S100.018] requested that the amendments to Policy 39 are strengthened and are more directive, particularly as this relates to REG. Transpower [S10.004] sought explicit recognition of the electricity transmission network in clause (d). WFF [S163.068] opposed amendments to Policy 39 on the basis that they do not provide for the social, economic, cultural, and environmental benefits of water storage infrastructure, in particular where it contributes to security of supply for municipal, industrial and primary production uses. Fulton Hogan [S114.003] and Winstone Aggregates [S162.010] sought specific recognition of quarrying activities and mineral resources.

264. In response to submissions and evidence, the Officer recommends strengthening the direction for renewable generation and the transmission network and recognising the benefits of other RSI (clause (b)).
265. We consider the Officer’s amendments as provided in his s 42A Report, Rebuttal and Reply evidence are appropriate and within the scope of relief sought by submitters including Transpower [S10.004], Chorus, Spark and Vodafone [S49.004], PCC [S30.063] and Meridian [S100.018]. We agree with the Officer that Policy 39 should retain its focus on renewable generation and RSI and should not provide specific recognition of quarrying activities and mineral resources as requested by Winstone Aggregates [S162.010] and Fulton Hogan [S114.003].
266. Ms Hunter for WIAL supported an amendment to clause (b) to include the words “enable activities which support their ability to respond to the changing needs of the climate and/or contribute to reducing greenhouse gas emissions”.
267. The Reporting Officer considered that Ms Hunter’s relief was potentially very broad and enabling, and he did not support including it.¹⁶⁴ We agree that WIAL’s relief is broad, but we heard in different hearing streams from WIAL and its experts that the seawall, which is WIAL’s major climate adaptation project is “significantly underdone, compared to how it would be built if built today” and yet it protects the entire airfield, runway, road and other infrastructure around the airport.¹⁶⁵
268. We agree with Ms Hunter’s relief in part. Although Policies 29, 51 and 52 support hard engineering methods and RSI for hazard management/mitigation, we support Policy 39(b) recognising the benefits of RSI that provide for climate change mitigation, climate change adaptation and climate-resilience (as defined terms). We consider this aligns with the direction in Policies CC.14 and 14A (considered as part of the FPI).

4.5.2 Finding and s 32AA Evaluation

269. We largely agree with the Reporting Officer’s recommendations on Policy 39 for the reasons above, and otherwise as set out in the Officer’s s 42A

¹⁶⁴ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, HS3 – Climate Change – Energy, Waste and Industry, 22 August 2023, para 59.

¹⁶⁵ Hearing Transcript, HS3 – Climate Change, Day 2, page 26, lines 1301 – 1317, per Ms Raeburn, although these issues were discussed by others presenting for WIAL in different hearing streams.

Report, or the Officer's Rebuttal or Reply Evidence. We recommend clause (b) of Policy 39 is amended to recognise (in addition to the matters already stated in the clause) the benefits of RSI that provide for *climate change mitigation, climate change adaptation and climate-resilience*. We consider this amendment satisfies WIAL's relief in part, is appropriate, and more effective and efficient in achieving Objective CC.6 than the version of the clause as supported by the Officer, as it will support infrastructure to be climate-resilient and in turn increase community resilience as set out in the strategies and action plans in the EAP and NAP.

4.5.3 Recommendation

Policy 39: Recognising the benefits from renewable energy and regionally significant infrastructure – consideration

When considering an application for a resource consent, notice of requirement or a change, variation or review of a *district or regional plan*: ~~particular regard shall be given to:~~

- (a) ~~recognise and provide for~~ the social, economic, cultural, and environmental benefits of energy generated from renewable energy resources ~~and its transmission through the electricity transmission network; and~~
- (b) ~~recognise the social, economic, cultural, and environmental benefits of other and/or~~ regionally significant infrastructure, ~~including in particular~~ where it contributes to reducing greenhouse gas emissions and ~~provides for climate change mitigation, climate change adaptation and climate-resilience~~; and
- (c) ~~have particular regard to~~ protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the *infrastructure*; and
- (d) ~~recognise and provide for the operational need and functional the need for of for~~ renewable electricity generation ~~activities to be in particular locations, including the need facilities~~ to locate where the renewable energy resources exist; and
- (e) ~~recognise the benefits of utilising the~~ significant wind, solar and marine renewable energy resources within the region ~~and the development of the electricity transmission network to connect the renewable energy resource to distribution networks and end-users.~~

Explanation

~~Notwithstanding that renewable energy generation and regionally significant infrastructure can have adverse effects on the surrounding environment and community,~~ Policy 39 recognises that ~~renewable energy generation and regionally significant infrastructure these activities~~ can provide a range of environmental, economic, social and cultural benefits locally, regionally and nationally, ~~particularly to including where it contributes to reducing greenhouse gas emissions as sought by Objective CC.3. These benefits are outlined in Policy 7.~~

The benefits of energy generated from renewable energy resources include:

- ~~Security of and the diversification of our energy sources~~
- ~~Reducing our dependency on imported energy resources – such as oil, natural gas and coal~~
- ~~Reducing greenhouse gas emissions~~
- ~~Contribution to the national renewable energy target~~

The benefits are not only generated by large scale renewable energy projects but also smaller scale, distributed generation projects.

The benefits of regionally significant infrastructure include:

- People and goods can efficiently and safely move around the region, and to and from
- Public health and safety is maintained through the provision of essential services—such as potable water and the collection and transfer of sewage or stormwater
- People have access to energy to meet their needs
- People have access to telecommunication services

Energy generation from renewable energy and regionally significant infrastructure (as defined in Appendix 3) can provide benefits both within and outside the region.

Renewable energy generation and regionally significant infrastructure can also have adverse effects on the surrounding environment and community. These competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.

When considering the benefits from renewable energy generation, the contribution towards national goals in the New Zealand Energy Strategy (2007) and the National Energy Efficiency and Conservation Strategy (2007) will also need to be given regard.


Potential significant sites for development of Wellington region's marine and wind resources have been identified in reports 'Marine Energy – Development of Marine Energy in New Zealand with particular reference to the Greater Wellington Region Case Study by Power Projects Ltd, June 2008' and 'Wind Energy – Estimation of Wind Speed in the Greater Wellington Region, NIWA, January 2008'.

Policy 39(a) shall cease to have effect once policy 9 is given effect in a relevant district or regional plan.

Policy 39(b) shall cease to have effect once policy 8 is given effect in a relevant district or regional plan.

4.6 Policy 65: Supporting and encouraging efficient use and conservation of resources – non regulatory

270. As notified, the proposed amendments to the Policy read :

Policy 65: <u>Supporting and encouraging efficient use and conservation of resources – non-regulatory</u>	
<p>To promote <u>support and encourage</u> conservation and efficient use of resources by:</p> <p>(a) <u>applying the 5 Rs (Reduceing, Reusing, Recycling, Recover, recycling and Residual waste management);</u></p> <p>(b) <u>reducing <i>organic waste</i> at source from households and commercial premises;</u></p> <p>(c) <u>increasing the diversion of wastewater sludge from wastewater treatment plants before deposition to municipal landfills;</u></p> <p>(d) <u>requiring efficient municipal landfill gas systems;</u></p> <p>(be) using water and energy efficiently; and</p> <p>(ef) conserving water and energy.</p> <p>Explanation</p> <p><u>Policy 65 promotes the efficient use of resources to reduce <i>emissions</i>. The policy endorses the waste hierarchy and also promotes similar principles for efficient water and energy use.</u></p> <p>For waste, using resources efficiently means following the waste hierarchy: reducing unnecessary use of resources, including reducing packaging; reusing unwanted goods that are still ‘fit for purpose’; recycling new products from waste materials; and recovering resources (such as energy) from waste before disposing of the remaining waste safely. If resources are used efficiently, the amount of unwanted materials disposed of at landfills and at sewage treatment plants will be reduced.</p> <p>Similar principles apply for reducing energy demand and conserving energy. This includes minimising the use of energy, reducing the need to use or being more efficient in use.</p> <p>Some of the ways to efficiently use or conserve water include reducing water demand and wastage by:</p> <ul style="list-style-type: none"> • Setting targets for reducing leakage from reticulated water supplies within each district • Providing information to water suppliers and water users on how to conserve water and use it as efficiently as possible • Providing information about long-term rainfall and drought predictions • Investigating the use of transferable water permits <p>Leaks from water reticulation systems can waste over 15 per cent of treated water. Water supply authorities already have programmes for repair and maintenance, and it is vital that targets are set so that development of such programmes continues and water wastage is reduced.</p>	

~~Water efficient household appliances and garden watering tied to garden needs, along with fixing dripping taps and planting locally appropriate plants, are some of the ways that people could make the water delivered to their house go further. Greywater irrigation and recycling, and the use of rainwater tanks, are ways that households can make more efficient use of water.~~

~~Weather predictions can help people prepare for possible weather extremes, for example by buying in stock feed or ensuring water reserves are at full capacity. Transferring water permits, or parts of water permits, allows allocated water to be used by as many people as the resource can sustain.~~

271. The proposed amendments to non-regulatory Policy 65 in the Operative RPS aim to support and encourage efficient use of resources and reduce waste and associate GHGe from waste streams in the Region.¹⁶⁶

4.6.1 Submissions, Evidence and Analysis

272. There were 16 original and 12 further submissions on the Policy 65. Some submitters supported the amendments on the basis that they are necessary to give effect to the NPS-FM and are consistent with Climate Action Plans prepared by territorial authorities.
273. Meridian [S100.022] and Genesis [S99.004] requested recognition of renewable energy generation in Policy 65 and some amendments were recommended in the s 42A Report in recognition of the importance of transitioning to renewable energy sources to reduce GHGe. In her planning evidence, Ms Foster for Meridian sought an amendment to clause (e) regarding increasing the proportion of energy generated and used from renewable sources. The Officer recommended this amendment be made. The Officer did not support PCC’s relief to list who was responsible for the initiatives in the Policy [S30.083] because there would be overlapping responsibilities, and this information was too specific for the Policy.
274. Forest and Bird [S165.086] sought a better link between the Policy and the Explanation. Some submitters requested stronger language such as “incentivise” rather than “promote” or “support”. Ātiawa requested that the Policy be a regulatory Policy.
275. Although the Officer recommended some amendments in response to Forest and Bird, at the Hearing, we questioned whether the Explanation to

¹⁶⁶ Section 42A Hearing Report, Climate Change – Energy, Waste and Industry, para 162.

Policy 65 needed further changes to better reflect the amendments in the Policy. The Officer agreed in his Reply Evidence to amend the Explanation to note that the Policy also seeks to increase the proportion of energy generated and used from renewable sources.¹⁶⁷

276. Policy 65 supports the implementation of Objectives CC.1 and CC.3 and the amendments the Officer supports clarify the intent of the Policy regarding **increased** generation and use of renewable energy.

4.6.2 Finding

277. We agree with the Reporting Officer's recommendations on Policy 65 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal or Reply Evidence.

4.6.3 Recommendation

Policy 65: Supporting and encouraging Promoting efficient use and conservation of resources – non-regulatory

- To promote sSupport and encourage the conservation and efficient use of resources by:
- (a) ~~applying the 5 Rs (3Reducing, Reusing, Recycling, Recover, recycling and Residual waste management);~~
 - (b) ~~reducing organic waste at source from households and commercial premises;~~
 - (c) ~~increasing the diversion of wastewater sludge from wastewater treatment plants before deposition to municipal landfills;~~
 - (d) ~~requiring encouraging efficient municipal landfill gas systems;~~
 - (e) ~~increasing the proportion of energy generated and used from renewable sources;~~
 - (ef) using water and energy efficiently; and
 - (fg) conserving water and energy.

Explanation

Policy 65 ~~supports and encourages-promotes~~ the efficient use of resources to reduce emissions. The policy endorses the waste hierarchy, **supports increasing generation and use of renewable energy** and also promotes similar principles for efficient water and energy use.

For waste, using resources efficiently means following the waste hierarchy: reducing unnecessary use of resources, including reducing packaging; reusing unwanted goods that are still 'fit for purpose'; recycling new products from waste materials; and recovering resources (such as energy) from waste before disposing of the remaining waste safely. If resources are used efficiently, the amount of unwanted materials disposed of at landfills and at sewage treatment plants will be reduced.

¹⁶⁷ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 54.3.

Similar principles apply for reducing energy demand and conserving energy. This includes minimising the use of energy, reducing the need to use or being more efficient in use.

Some of the ways to efficiently use or conserve water include reducing water demand and wastage by:

- Setting targets for reducing leakage from reticulated water supplies within each district
- Providing information to water suppliers and water users on how to conserve water and use it as efficiently as possible
- Providing information about long-term rainfall and drought predictions
- Investigating the use of transferable water permits

Leaks from water reticulation systems can waste over 15 per cent of treated water. Water supply authorities already have programmes for repair and maintenance, and it is vital that targets are set so that development of such programmes continues and water wastage is reduced.

Water efficient household appliances and garden watering tied to garden needs, along with fixing dripping taps and planting locally appropriate plants, are some of the ways that people could make the water delivered to their house go further. Greywater irrigation and recycling, and the use of rainwater tanks, are ways that households can make more efficient use of water.

Weather predictions can help people prepare for possible weather extremes, for example by buying in stock feed or ensuring water reserves are at full capacity. Transferring water permits, or parts of water permits, allows allocated water to be used by as many people as the resource can sustain.

4.7 Method 17: Reducing waste and greenhouse gases emissions from waste streams

278. As notified, the proposed amendments to the Policy read:

Method 17: <u>Reducing waste and greenhouse gases emissions from waste streams</u> Information about waste management
<u>Work in partnership with mana whenua / tangata whenua and with city and district councils, the waste management sector, industry groups and the community to:</u>
(a) <u>reduce organic matter at source, and</u>
(b) <u>work towards implementing kerbside recovery of organic waste from households and commercial premises, and</u>
(c) <u>encourage development opportunities for increasing the recovery of biogas from municipal landfills, and</u>
(d) <u>increase the diversion of organic waste (sludge) from the waste stream before deposition to municipal landfills.</u>
<u>Implementation: Wellington Regional Council, iwi authorities, city and district councils.</u>
<u>Prepare and disseminate information about how to reduce, reuse, or recycle, residual waste</u>
<u>Implementation: Wellington Regional Council and city and district councils*</u>

4.7.1 Submissions, Evidence and Analysis

279. Some submitters, in particular iwi submitters, sought that the Method be more direct and specific regarding responsibilities for implementation (for example Ngāti Toa [S170.067]). Taranaki Whānui [S167.0153] and Ātiawa [S131.0166] supported the requirement to partner with mana whenua / tangata whenua but sought reference to resourcing, funding and capability building. Rangitāne sought an amendment to provide for Kaupapa Māori approaches to reducing waste and monitoring and the use of mātauranga Māori to design, manage and monitor waste reduction and management solutions.

280. The Officer did not recommend any amendments to the notified Method on the basis that it was drafted to provide some flexibility in implementation while also recognising that all local authorities, industry, mana whenua / tangata whenua and community have a role to play. The Officer said the partnership approach will provide opportunities to use mātauranga Māori and that funding for work programmes has been

provided through Kaupapa Funding Agreements to support mana whenua / tangata whenua to work with Council.

281. No written or oral evidence was presented by submitters on Method 17.

4.7.2 Finding

282. We agree with the Reporting Officer's recommendations on Method 17 for the reasons above, and otherwise as set out in the Officer's s 42A Report.

4.7.3 Recommendation

Method 17: Reducing waste and greenhouse gases emissions from waste streams
Information about waste management

Work in partnership with mana whenua / tangata whenua and with city and district councils, the waste management sector, industry groups and the community to:

- (a) reduce organic matter at source, and
- (b) work towards implementing kerbside recovery of organic waste from households and commercial premises, and
- (c) encourage development opportunities for increasing the recovery of biogas from municipal landfills, and
- (d) increase the diversion of organic waste (sludge) from the waste stream before deposition to municipal landfills.

Implementation: Wellington Regional Council, iwi authorities, city and district councils.

4.8 Definitions: Energy, Waste and Industry subtopic

4.8.1 *Small scale (in relation to electricity generation)*

283. The notified definition stated:

Small scale (in relation to electricity generation)

Has the same meaning as in the National Policy Statement for Renewable Energy Generation 2011: small and community-scale distributed electricity generation means renewable electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.

284. This definition is in Policy 11.

285. In the s 42A Report the Officer recommended the definition be amended to remove the reference to the NPS-REG 2011. This would ‘future-proof’ the definition if the NPS was updated. The wording the Officer recommended stated:

Small scale and community scale renewable energy (in relation to electricity generation)

~~Has the same meaning as in the National Policy Statement for Renewable Energy Generation 2011: small and community-scale distributed electricity generation~~ means renewable energy electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.

286. Ms Foster for Meridian did not support these amendments and said in her evidence that they create unnecessary misalignment with the NPS-REG.¹⁶⁸ At the Hearing, Ms Foster further explained that although this was not a substantial issue:¹⁶⁹

There are several differences in the way that people refer to the use or harvesting and development of renewable energy to generate renewable electricity; so, the thing they’re using, the resources, the energy and what they’re creating is electricity, which is why it's renewable electricity generation NPS for example.

287. As we noted earlier in relation to Policy 11, we recommend amending the definition to align with the NPS-REG definition: “**Small and community-scale distributed electricity generation** means renewable electricity

¹⁶⁸ Statement of Evidence of Christine Foster called by Meridian Energy Limited, Hearing Stream 3 – Climate Change, 14 August 2023, para 11.3


¹⁶⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 7, lines 339 – 343.

generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.”

288. We do not consider that this changes the policy intent in any way but more closely aligns with the NPS-REG definition. We do not consider there to be any cost implications from the amendment.

4.8.2 *Organic waste*

289. The notified definition stated:

Organic waste	
<p><u>Wastes containing carbon compounds that are capable of being readily biologically degraded, including by natural processes, such as paper, food residuals, wood wastes, garden and plant wastes, but not inorganic materials such as metals and glass or plastic. Organic wastes can be decomposed by microorganisms into methane, carbon dioxide, nitrous oxide, and simple organic molecules (plastic contains carbon compounds and is theoretically organic in nature, but generally is not readily biodegradable).</u></p>	

290. The definition relates to Policy 65 and Method 17. There was one general submission on the definition. Winstone Aggregates [S162.029] was concerned that this definition, and others, took an overly restrictive approach for quarrying activities. The Officer did not consider this to be a risk and recommended that the definition be retained as notified.

4.8.3 *Large scale generators*

291. The notified definition stated:

Large scale generators
<p><u>Any boiler, furnace, engine or other device designed to burn for the primary purpose of energy production having a net heat or energy output of more than 40kW, but excluding motor vehicles, trucks, boats and aircraft. This definition excludes domestic fires.</u></p>

292. Meridian [S100.025] requested that the definition applies to devices burning fossil fuels so that it doesn't unintentionally apply to devices fuelled by renewable electricity.
293. The definition is relevant to Policy 2(d) which the Officer recommends is deleted. We support that recommendation and therefore agree with the Officer that this definition can be deleted.

4.8.4 Recommendations

Organic waste

Wastes containing carbon compounds that are capable of being readily biologically degraded, including by natural processes, such as paper, food residuals, wood wastes, garden and plant wastes, but not inorganic materials such as metals and glass or plastic. *Organic wastes* can be decomposed by microorganisms into methane, carbon dioxide, nitrous oxide, and simple organic molecules (plastic contains carbon compounds and is theoretically organic in nature, but generally is not readily biodegradable).

Large scale generators

~~Any boiler, furnace, engine or other device designed to burn for the primary purpose of energy production having a net heat or energy output of more than 40Kw, but excluding motor vehicles, trucks, boats and aircraft. This definition excludes domestic fires.~~

Small scale and community scale distributed electricity renewable energy (in relation to electricity generation)

~~Has the same meaning as in the National Policy Statement for Renewable Energy Generation 2011: small and community-scale distributed electricity generation m~~Means renewable ~~energy~~ electricity generation for the purpose of using electricity on a particular site, or supplying an immediate community, or connecting into the distribution network.

5. Climate Change: Subtopic 3 – Agricultural Emissions

5.1 Overview

294. The provisions in this subtopic are:
- a. Policy CC.5: Reducing agricultural emissions – regional plans
 - b. Policy CC.13: Managing agricultural emissions – consideration
 - c. Policy CC.15: Improve rural resilience to climate change – non-regulatory
 - d. Method CC.5: Confirm regional response to reducing agricultural GHG emissions
 - e. Method CC.8: Programme to support low-emissions and climate-resilient agriculture – non-regulatory methods.
295. There were approximately 80 original submissions and 78 further submissions on this subtopic.
296. The key issues raised were:
- a. Whether Change 1 should address agricultural emissions and the potential to duplicate or conflict with national policy and initiatives
 - b. Strong opposition from the primary sector
 - c. Divergent views on agricultural emissions target in Policy CC.5:
 - i. that it be strengthened (i.e. to reduce emissions)
 - ii. that it be deleted as it unfairly targets the agriculture sector in the region
 - iii. unclear how it will be implemented and potential impacts on the sector
 - d. Policy CC.13 – unclear how it will be implemented, will have significant impact on the sector and rural communities, policy should not apply to territorial authorities

- e. General support for non-regulatory Policy CC.15 and Method CC.8 but questions from TAs about responsibilities.

Provision by Provision Analysis

5.2 Policy CC.5 – Avoid increases in agricultural greenhouse gas emissions – regional plans

297. As notified, the proposed amendments to the Policy read:

<u>Policy CC.5: Avoid increases in agricultural greenhouse gas emissions – regional plan</u>
<u>Regional plans shall include objectives, policies, rules and/or methods to avoid changes to land use activities and/or management practices that result in an increase, in gross greenhouse gas emissions from agriculture.</u>
<u>Explanation</u> <u>As agriculture is the second largest emitter of greenhouse gases in the Wellington Region, contributing 34 percent of the region’s greenhouse gas emissions, reducing emissions from the agricultural sector is critical to contribute to achieving Objective CC.3. While central government is taking the lead on the policy approach to reduce agricultural greenhouse gas emissions through the use of a pricing mechanism (the Emissions Trading Scheme), this policy sets a minimum expectation that there should be no increase in agricultural greenhouse gas emissions in the Wellington Region.</u>
<u>As of 30 November 2022, regional councils are able to make rules to control the discharge of greenhouse gases having regard to the effects on climate change. A plan change process will determine the way in which Policy CC.5 is given effect to and will need to consider issues such as equity and the relationship with the national pricing approach for agricultural emissions.</u>

298. Policy CC.5 is a regulatory policy that directs regional plans to include provisions to support reductions in gross agricultural emissions¹⁷⁰.

299. The s32 Report sets out the rationale for Policy CC.5 as part of the proposed policy approach to agricultural GHGe in Change 1, noting that the intent of Policy CC.5 is to set a clear expectation that there should be no increase in gross agricultural GHG emissions in the Region.¹⁷¹ This direction is to be implemented through a future regional plan change process with flexibility as to how best achieve this.

¹⁷⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 59, lines 3009 – 3012.

¹⁷¹ Section 32 Report, page 134.

300. The explanation to Policy CC.5 notes that:

As agriculture is the second largest emitter of greenhouse gases in the Wellington Region, contributing 34 percent of the region's greenhouse gas emissions, reducing emissions from the agricultural sector is critical to contribute to achieving Objective CC.3.

301. The s 42A Report on Agricultural Emissions notes that Policy CC.5 provides new, and potentially unprecedented, direction to manage agricultural GHGe under the RMA and has understandably attracted significant interest in submissions, both in support and opposition.¹⁷²

5.2.1 Submissions, Evidence and Analysis

302. There were 19 original and 24 further submission points on Policy CC.5.

303. The key issues raised in submissions are:

- a. Whether the RPS should address agricultural GHGe
- b. Whether agricultural GHGe should be reduced or whether there should be no increase in gross GHGe
- c. The extent to which Policy CC.5 duplicates or conflicts with central government policy, and
- d. Implementation of Policy CC.5.

304. Concerns from some primary sector submitters included that the sector is being unfairly targeted, that the policy will result in perverse outcomes in relation to land use change, emissions leakage outside the Region, and that a regional approach will lead to misalignment with national policies and instruments. At the Hearing, Mr Roos clarified that the concept of leakage is where an activity that is regulated in one area, then moves to another area that doesn't have regulations and there is therefore no benefit to the climate.¹⁷³ MDC [S166.045] requested clarification as to the impact of the Policy on farming and land use intensification. HortNZ [S128.022] requested the Policy be refocused or a new policy added, to recognise the benefits of enabling rural land use change that contributes

¹⁷² Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, para 63.

¹⁷³ Hearing Transcript, HS3 – Climate Change, Day 1, page 60, lines 3062 – 3064.

to reducing GHGe from agriculture. Other submitters sought that Policy CC.5 be strengthened.

305. In response to concerns that the agricultural sector is being unfairly targeted, the s 42A Report notes that Objective CC.3 seeks a reduction in GHGe across all sectors to contribute to a 2050 net-zero target.¹⁷⁴ While the revisions recommended to Objective CC.3 in the Rebuttal Evidence remove reference to specific sectors, it still requires a contribution across the region for a 50% reduction in net GHGe from 2019 levels and to achieving net zero GHGe by 2050. If there is no reduction in GHGe from the agricultural sector this will require higher emissions reductions from other sectors. The Reporting Officer Mr Wyeth said that the key question is what level of reduction of agricultural emissions is needed, when, and how this is best achieved.
306. The Officer considered that it is more equitable and effective for Policy CC.5 to provide high-level direction that agricultural GHGe in the Region are to be reduced to contribute to Objective CC.3 without specifying a specific reduction target for agricultural emissions at this point of time.¹⁷⁵ This amendment also shifts the focus from regulating land-use change and management practices. The Officer said that the Policy as amended would not undermine central government policy but would support its work with the sector. The Officer recommended the words “land use activities and/or management practices” are deleted from the Policy as a future regional plan would be the opportunity to determine the most effective and efficient management approach (that is whether rules and/or controls or other methods, or a non-regulatory response¹⁷⁶ are most appropriate) and at what scale.¹⁷⁷
307. Subsequent to the amendments recommended in the s 42A Report, some submitters were still of the view that Policy CC.5 is not necessary and should be deleted as it will not result in any additional benefits that will not otherwise be achieved through the national policy approach. The Officer responded that it is still beneficial to set clear direction that

¹⁷⁴ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, para 66.

¹⁷⁵ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, paras 70 – 71.

¹⁷⁶ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3, Climate Change – Agricultural Emissions, 22 August 2023, para 24.

¹⁷⁷ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, para 79.

agricultural emissions need to be reduced in the Region while providing flexibility on how this is achieved through a future regional plan process. The Officer said that withdrawing or deferring the Policy would result in further inaction and loss of the opportunity to include a provision in a future RPS change or review.

308. Similarly at the Hearing, Mr Wyeth said that:¹⁷⁸

the risk of not acting is greater. I still support the general direction of travel in terms of reducing agricultural emissions and allowing the time for that to figure out the most efficient and effective approach to do that through Method CC.5.

309. We agree with the Officer that it is appropriate for Proposed Change 1 to include a policy requiring regional plans to include provisions to support reductions in agricultural emissions to contribute to the 2050 net-zero target. This is justified by the s 32 Report and Mr Roos' technical evidence on the importance of reducing agricultural GHGe to meet New Zealand's climate mitigation objectives. We do not consider that the Policy unfairly targets the agricultural sector as it aligns with Objective CC.3 and Policy CC.8 (which apply to all sectors).¹⁷⁹ The Policy is clear that further work needs to occur through the regional plan on how the Policy is best achieved and this will be supported by non-regulatory Policy CC.15 and Method CC.8 that seek to support management practices at a farm level to reduce GHGe. These provisions collectively provide flexibility for engagement by the primary sector in how regional planning can support agricultural GHGe reductions to contribute to New Zealand's GHGe reduction targets.

5.2.2 Finding

310. We agree with the Reporting Officer's recommendations on Policy CC.5 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

5.2.3 Recommendation

Policy CC.5: Avoid increases in Reducing agricultural greenhouse gas emissions – regional plans

¹⁷⁸ Hearing Transcript, HS3 – Climate Change, Day 1, page 65, lines 3288 – 3291.

¹⁷⁹ See for instance Hearing Transcript, HS3 – Climate Change, Day 1, page 64, lines 3237 – 3248; Statement of Supplementary Technical Evidence of Jame Roos, HS3- Climate Change, 22 August 2023, in particular paragraphs 17 – 18.

Regional plans shall include objectives, policies, ~~rules and/or~~ methods to support reductions in agricultural *greenhouse gas emissions* from 2019 levels to contribute to the Objective CC.3 2050 net-zero emissions target. ~~avoid changes to land use activities and/or management practices that result in an increase, in gross greenhouse gas emissions from agriculture.~~

Explanation:

As agriculture is the second largest emitter of greenhouse gases in the Wellington Region, contributing 34 percent of the region's *greenhouse gas emissions*, reducing emissions from the agricultural sector is critical to contribute to achieving Objective CC.3. While central government is taking the lead on the policy approach to reduce agricultural *greenhouse gas emissions* ~~through the use of a pricing mechanism (the Emissions Trading Scheme)~~. Policy CC.5 seeks to complement this by directing regional plans to include provisions to support reductions in agricultural emissions. This will be supported by non-regulatory Policy CC.15 and Method CC.8 that seek to support change and improved management practices at a farm level to reduce *greenhouse gas emissions*. ~~this policy sets a minimum expectation that there should be no increase in agricultural greenhouse gas emissions in the Wellington Region.~~

As of 30 November 2022, regional councils are able ~~to make rules~~ to control the discharge of *greenhouse gases* having regard to the effects on climate change. ~~This policy is intended to provide flexibility as to how agricultural greenhouse gas emissions are reduced through a future regional plan change process which A plan change process will determine the way in which Policy CC.5 is given effect to and will need to consider issues such as equity and the relationship with the national pricing approach for agricultural greenhouse gas emissions to ensure that these are complementary.~~

5.3 Policy CC.13: Managing agricultural gross greenhouse gas emissions – consideration

311. The Policy as notified stated:

<u>Policy CC.13: Managing agricultural gross greenhouse gas emissions – consideration</u>
<p><u>When considering an application for a resource consent, associated with a change in intensity or type of agricultural land use, particular regard shall be given to:</u></p> <ul style="list-style-type: none">(a) <u>reducing gross greenhouse gas emissions as a priority where practicable, and</u>(b) <u>where it is not practicable to reduce gross greenhouse gas emissions, achieving a net reduction in greenhouse gas emissions, and</u>(c) <u>avoiding any increase in gross greenhouse gas emissions.</u> <p><u>Explanation</u></p> <p><u>As agriculture is the second largest emitter of GHG in the region, contributing 34 percent of the region’s GHG emissions, reducing emissions from this sector is critical to contribute to achieving Objective CC.3. As of 30 November 2022, consent authorities may have regard to the effects of discharges into air of greenhouse gases on climate change in considering an application for a discharge permit or coastal permit. Where resource consent is required in association with a change in land use intensity or type of agricultural land use, the policy requires a hierarchy of effort, seeking to reduce gross greenhouse gas emissions in the first instance, followed by achieving a net reduction, with a minimum expectation that any increase in gross emissions is avoided.</u></p>

312. The s 32 Report says that the intent of Policy CC.13 is to provide an interim consideration policy until Policy CC.5 is implemented to ensure that agricultural GHGe are assessed when considering a resource consent application required for a “change in intensity or type of agricultural land use”.¹⁸⁰

5.3.1 Submissions, Evidence and Analysis

313. Some submitters supported the Policy but others raised concerns about its application to land use decisions and sought that it only apply to regional discharge permits. The Policy was opposed by SWDC [S79.041], Dairy NZ [S136.016] and WFF [S163.067] including that it lacked adequate detail on how it would be implemented through the resource consent, including what information would be accepted by Council, and that it

¹⁸⁰ Section 32 Report, page 136.

would result in inequitable allocation on rural environments and communities of the costs of climate change response.

314. In the s 42A Report the Officer considers that the Policy raises a number of practical challenges and implementation issues that are likely to outweigh any emissions reductions benefits.¹⁸¹ The Officer recommends deleting the Policy and this is supported by planners representing Dairy NZ, Kāinga Ora, WFF and UHCC.

5.3.2 Finding

315. We agree with the Reporting Officer's recommendation to delete Policy CC.13 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

5.3.3 Recommendation

~~**Policy CC.13: Managing agricultural gross greenhouse gas emissions – consideration**~~

~~When considering an application for a resource consent, associated with a change in intensity or type of agricultural land use, particular regard shall be given to:~~


- ~~(a) reducing gross greenhouse gas emissions as a priority where practicable, and
(b) where it is not practicable to reduce gross greenhouse gas emissions, achieving a net reduction in greenhouse gas emissions, and
(c) avoiding any increase in gross greenhouse gas emissions.~~

~~**Explanation:** As agriculture is the second largest emitter of GHG in the region, contributing 34 percent of the region's GHG emissions, reducing emissions from this sector is critical to contribute to achieving Objective CC.3. As of 30 November 2022, consent authorities may have regard to the effects of discharges into air of greenhouse gases on climate change in considering an application for a discharge permit or coastal permit. Where resource consent is required in association with a change in land use intensity or type of agricultural land use, the policy requires a hierarchy of effort, seeking to reduce gross greenhouse gas emissions in the first instance, followed by achieving a net reduction, with a minimum expectation that any increase in gross emissions is avoided.~~

¹⁸¹ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, paras 99 - 103.

5.4 Policy CC.15: Improve rural resilience to climate change – non regulatory

316. The notified Policy stated:

<u>Policy CC.15: Improve rural resilience to climate change – non-regulatory</u>	
<u>Support rural communities in their <i>climate change adaptation</i> and mitigation efforts, including by:</u>	
(a) <u>providing practical and easily accessible information on climate change projections at a local level,</u>	
(b) <u>promoting and supporting land management practices and/or land uses that improve resilience to climate change, including <i>nature-based solutions</i>,</u>	
(c) <u>promoting and supporting land management practices and/or land uses that will reduce gross greenhouse gas <i>emissions</i>,</u>	
(d) <u>giving preference to climate change efforts that also deliver benefits for indigenous biodiversity, land, fresh and coastal water.</u>	
 <u>Explanation</u>	
<u>This policy promotes and supports low emission agriculture and increased rural resilience to climate change.</u>	

317. The Policy is a non-regulatory policy that seeks to improve climate change mitigation and adaptation efforts in rural areas through sustainable land-uses and management practices. The Reporting Officer said that the Policy is likely to include some transition in land-use to less intensive, lower emission land uses.¹⁸²

5.4.1 Submissions, Evidence and Analysis

318. There were 13 original and 12 further submission points on the Policy.

319. Some submitters supported the Policy and its reference to nature-based solutions and supporting land management practices that improve resilience and reduce gross GHGe. Some TAs requested that the Policy only apply to regional council functions.

320. The Officer said that the Policy should not be limited to regional council functions as TAs have a role in working with the primary sector and their

¹⁸² Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, para 39.

communities to improve resilience to climate change. Ms Rushmere on behalf of UHCC said many TAs do not possess the resources to implement the measures in the Policy.

321. The Officer responded in his Rebuttal Evidence to say that the actions in the Policy are worded in an enabling and flexible manner and are therefore unlikely to result in any onerous requirements for TAs.¹⁸³
322. The Officer recommends some amendments in Rebuttal Evidence in response to relief sought by WFF and HortNZ to include water resilience and food security into the natural hazards provisions. The Officer discussed this relief with the Reporting Officers for the Natural Hazards subtopic and recommended amendments to Policy CC.15 to address this relief.¹⁸⁴ We agree with these amendments.

5.4.2 Finding

323. We agree with the Reporting Officer's recommendations on Policy CC.15 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

5.4.3 Recommendation

Policy CC.15: Improve rural resilience to climate change – non-regulatory

Support rural communities in their *climate change adaptation* and *climate change mitigation* efforts, including by:

- (a) providing practical and easily accessible information on climate change projections at a local level.
- (b) promoting and supporting land management practices and/or land uses, including *nature-based solutions*, that improve *resilience* to climate change, including rural water resilience and food security including *nature-based solutions*.
- (c) promoting and supporting land management practices and/or land uses that will reduce gross *greenhouse gas emissions*.
- (d) giving preference to climate change efforts that also deliver benefits for *indigenous biodiversity*, land, fresh and coastal water.

Explanation

This policy promotes and supports low emission agriculture and increased rural resilience to climate change.

¹⁸³ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3, Climate Change – Agricultural Emissions, 22 August 2023, para 29.

¹⁸⁴ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream Three – Climate Change Subtopics (General, Agricultural Emissions, and Energy, Industry and Waste), 21 September 2023, paras 41 – 42.

5.5 Method CC.5: Review regional response to reducing agricultural greenhouse gas emissions

324. The notified Method stated:

Method CC.5: Review regional response to reducing agricultural greenhouse gas emissions

Monitor changes in agricultural land use and land management practices and review the regional policy approach by 31 December 2024, responding to any predicted changes in greenhouse gas emissions from the agricultural section in the Wellington Region and any new national policy direction.

Implementation: Wellington Regional Council

325. The Method is intended to work with Policy CC.5. It is a non-regulatory Method to review the regional response to reducing agricultural GHGe.

5.5.1 Submissions, Evidence and Analysis

326. Some submitters requested the Method be strengthened, others requested clarification on how it would be implemented, and others sought that it be deleted.

327. The Officer recommended that in light of the amendments he recommended to Policy CC.5 (to refer to regional plan provisions being developed to support reductions in agricultural GHGe), it would be premature for Method CC.5 to require the regional response to be reviewed when the regional plan would probably still be in development or recently notified by December 2024.

328. The Officer recommended that Method CC.5 be amended to focus on undertaking the necessary engagement and other work to confirm the preferred approach to implement Policy CC.5 by December 2024.

329. Ms Hunter for DairyNZ supported the removal of the ‘drop-dead-date’ of December 2024 if the Method is to remain.¹⁸⁵ She noted in her evidence statement that a range of key actions were underway in the farming sector but they had an initiation timeframe of 2025, therefore, in Ms Hunter’s view, the date of 31 December 2024 appeared premature against that

¹⁸⁵ Hearing Transcript, HS3 – Climate Change, Day 2, page 66, lines 3417 – 3420.

existing framework¹⁸⁶ and the Method should monitor progress and initiative a review by a certain date.

330. The Officer said that the intent of the Method was not to require a plan change to be initiated or notified by 31 December 2024 and that this may not be desirable for a range of factors. To provide more flexibility, the Officer recommended in his Rebuttal Evidence that the Method require the Regional Council confirm the preferred “policy approach and timeframe to implement Policy CC.5” by 31 December 2024.¹⁸⁷
331. This would first require, as the Officer signals in the s 42A Report, the Council undertaking the necessary technical and policy work and stakeholder engagement, as well as a review of GHGe from rural land-use in the Region, an evaluation of regulatory and non-regulatory methods and identifying national policy and initiatives.¹⁸⁸ This seems an appropriate approach to developing the regional plan provisions required by Policy CC.5. We agree with the Officer’s recommendations.

5.5.2 Finding

332. We agree with the Reporting Officer’s recommendations on Method CC.5 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

5.5.3 Recommendation

Method CC.5: Confirm Review regional response to reducing agricultural greenhouse gas emissions

Monitor changes in agricultural land use and land management practices and review the regional policy approach by By 31 December 2024, Wellington Regional Council will confirm the preferred policy approach and timeframe option to implement Policy CC.5, taking into account changes in agricultural land use and land management practices, responding to any predicted changes in greenhouse gas emissions from the agricultural sector in the Wellington Region, regulatory and non-regulatory responses, and relevant any new national policy direction and initiatives.
Implementation: Wellington Regional Council.


¹⁸⁶ Statement of Evidence by Claire Hunter for WIAL, 14 August 2023, para 30; Statement of Evidence by Claire Hunter for Dairy NZ, 14 August 2023, paras 40 – 41.

¹⁸⁷ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3, Climate Change – Agricultural Emissions, 22 August 2023, para 33.

¹⁸⁸ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Agricultural Emissions, para 125.

5.6 Method CC.8: Programme to support low-emissions and climate-resilient agriculture – non-regulatory methods

333. The notified Method stated:

<u>Method CC.8: Programme to support low-emissions and climate-resilient agriculture-non-regulatory methods</u>	
<p><u>By June 2024, develop a targeted climate change extension programme to actively promote and support changes to reduce agricultural greenhouse gas emissions and increase rural land use resilience to climate change, including by:</u></p> <ul style="list-style-type: none">(a) <u>providing practical and easily accessible information on projected climate change impacts at a local level,</u>(b) <u>providing base data held by the regional council to support the development of farm greenhouse gas emission profiles,</u>(c) <u>promoting and supporting actions to reduce agricultural gross greenhouse gas emissions and/or increase climate resilience,</u>(d) <u>identifying appropriate areas and species for tree planting/natural regeneration in farm plans as part of implementing the regional spatial forest plan (see Method CC.4),</u>(e) <u>identifying other on-farm nature-based solutions that will increase the resilience of a farm system and/or catchment to the effects of climate change,</u>(f) <u>supporting central government and industry climate change programmes/initiatives.</u> <p><i>Implementation: Wellington Regional Council</i></p>	

334. The Method directs the Regional Council to establish a programme to support low-emission and climate-resilient agriculture through non-regulatory measures.

5.6.1 Submissions, Evidence and Analysis

335. Some submitters requested reference to partnership with appropriate stakeholders in the chapeau of the Method and the Regional Council requested that the Method refer to develop ‘and implement’ the extension programme. The Reporting Officer agreed with this amendment.

336. Ms Sands for HortNZ requested that the Method refer expressly to low emissions land use change and that it enable land use change to horticulture. The Officer said that a transition to horticulture with less GHGe may be a likely outcome from Method CC.8(c), but he did not think this level of specificity was needed in the Method.

337. Ms McGruddy on behalf of WFF asked that the Climate Change provisions recognise water security as an important issue. The Reporting Officer for the Natural Hazards subtopic recommended amendments to Method CC.8 in response to Ms McGruddy’s request to include a method to assist catchment groups and water user groups in the development of

adaptation plans. The Reporting Officer for the Agricultural Emissions subtopic agreed with these amendments.

5.6.2 Finding

338. We agree with the Reporting Officer's recommendations on Method CC.8 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

5.6.3 Recommendation

Method CC.8: Programme to support low-emissions and climate-resilient agriculture-non-regulatory methods

By June 2024, develop **and start implementing** a targeted climate change extension programme, **with mana whenua/tangata whenua and relevant stakeholders**, to actively promote and support changes to reduce agricultural *greenhouse gas emissions* and increase rural land use *resilience* to climate change, including by:

- (a) providing practical and easily accessible information on projected climate change impacts at a local level.
- (b) providing base data held by the regional council to support the development of farm *greenhouse gas emission* profiles.
- (c) promoting and supporting actions to reduce agricultural ~~gross~~ *greenhouse gas emissions* and/or increase *climate resilience*.
- (d) identifying appropriate areas and species for tree planting/natural regeneration in farm plans as part of implementing the regional spatial forest plan (see Method CC.4).
- (e) identifying other on-farm *nature-based solutions* that will increase the *resilience* of a farm system and/or catchment to the effects of climate change.
- (f) identify and assist catchment groups and water user groups in the development of *adaptation plans*, and
- (fg) supporting central government and industry climate change programmes/initiatives.

Implementation: Wellington Regional Council

6. Climate Change: Subtopic 4 – Transport

6.1 Overview

339. The provisions in this subtopic are:
- a. Policy CC.1: Reducing greenhouse gas emissions associated with transport infrastructure – district and regional plans
 - b. Policy CC.2: Travel demand management plans – district plans
 - c. Policy CC.3: Enabling a shift to low and zero-carbon emission transport - district plans
 - d. Policy CC.9: Reducing greenhouse gas emissions associated with transport infrastructure – consideration
 - e. Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration
 - f. Policy CC.11: Encouraging whole of life carbon emissions assessment – consideration
 - g. Policy 9: Promoting greenhouse gas emission reduction and uptake of low emission fuels – Regional Land Transport Plan Strategy
 - h. Policy 10: Promoting travel demand management plans and the Regional Land Transport Strategy
 - i. Policy EIW1: Promoting affordable high quality active mode and public transport services – Regional Land Transport Plan
 - j. Method CC.3: Travel demand management plans
 - k. Method CC.3A: Whole of life carbon emissions assessments
 - l. Method CC.7: Advocating for the use of transport pricing tools – non regulatory method
 - m. Method CC.10: Establish incentives to shift to active and public transport
 - n. Method 25: Information about the provision of walking, cycling and public transport for development.
 - o. Definitions
340. There were approximately 245 original submissions and 135 further submissions on this subtopic.
341. The key issues raised were:
- a. The strength of provisions (that is, whether they were too directive or not directive enough to contribute to emissions reduction and mode shift)

- b. Requests for more tools other than Travel Demand Management Plans
- c. Lack of legislative support for provisions in relation to GHGe
- d. Concerns about duplication with national direction
- e. The potential for exacerbation of social inequalities as a result of the provisions
- f. Concerns about implementation, including timeframes referenced in Policy CC.2 and Policy CC.3
- g. The scale at which policies could be applied, practical implementation in rural areas, and information requirements
- h. The types of activities that district plans and district councils have jurisdiction over, and concern about the transfer of regional functions to territorial authorities e.g. greenhouse gas emissions and the operation of public transport
- i. Exemptions from some policies for Wellington International Airport
- j. Requests for definitions to assist with policy application (e.g. transport infrastructure, low and zero carbon modes, optimising overall transport demand, maximising mode shift)
- k. The use of verbs within policies and tensions created by using two directions within a single policy e.g. 'consideration' and 'regard'.

342. All of the provisions in this subtopic were notified under Schedule 1, Part 1.

343. In Minute 12 issued on 8 September 2023, we directed expert caucusing on the Transport subtopic (among other subtopics). Planning experts who had filed and/or presented evidence on the Transport provisions were invited to attend a caucusing session facilitated by Jason Jones, Principal Consultant at Resource Management Group Limited who was appointed as the independent facilitator of the session. The Transport caucusing session took place on 21 September 2023 and a Joint Witness Statement (Transport- JWS) was uploaded to the Hearings webpage on 28 September 2023. Submitters were able to comment on the Transport JWS by 5 October 2023 and the Council Reporting Officers were to file their Reply by 19 October 2023.

344. The Transport JWS records that the planning experts agreed that the following provisions were not in contention:

- a. Method CC.10
- b. Method CC.7

- c. Policy 9
- d. Policy 10 (proposed to be deleted)
- e. Method 25 (proposed to be deleted).

345. There was no consensus among the planners who attended caucusing on the other provisions coded to this subtopic.

Provision by Provision Analysis

6.2 Policy CC.1: Reducing greenhouse gas emissions associated with transport infrastructure – district and regional plans

346. The notified Policy said:

<p><u>Policy CC.1: Reducing greenhouse gas emissions associated with transport infrastructure – district and regional plans</u></p>
<p><u>District and regional plans shall include objectives, policies, rules and/or methods to require that all new and altered transport infrastructure is designed, constructed, and operated in a way that contribute to reducing greenhouse gas emissions by:</u></p> <ul style="list-style-type: none"> (a) <u>Optimising overall transport demand;</u> (b) <u>Maximising mode shift from private vehicles to public transport or active modes; and</u> (c) <u>Supporting the move towards low and zero-carbon modes.</u>
<p><u>Explanation</u></p> <p><u>This policy requires transport infrastructure planning (including design, construction and operation) to consider and choose solutions that will contribute to reducing greenhouse gas emissions.</u></p>

347. The Policy requires district and regional plans to include provisions in plans requiring new and altered transport infrastructure be designed, constructed and operated in a way that contributes to reducing GHGe.

6.2.1 Submissions, Evidence and Analysis

348. There were 21 original submissions and 14 further submissions on Policy CC.1.

349. Various submitters including NZSCS [S151.004] and KiwiRail [S124.003] sought the Policy be retained as notified. Numerous submitters sought

amendments or opposed the Policy including KCDC [S16.014] and UHCC [S34.025].

350. The s 32 Report describes the role TAs and district plans have in reducing GHGe from the integration of land use planning and transport.¹⁸⁹
351. The Policy recognises the relationship between spatial planning, transport and GHGe. We understand the Policy aims to help achieve mode shift by requiring new and altered land transport infrastructure to be designed, constructed and operated in ways that will shift demand across the transport network to lower carbon emission-options. One of the questions that arose with the Policy is whether it is directive enough to support mode shift goals.
352. Various experts supported the intention of the Policy, including Ms Heppelthwaite, planner for Waka Kotahi.¹⁹⁰ At the Hearing, Mr Keating for Waka Kotahi said that the provisions were the most ambitious he had seen.¹⁹¹ We asked Ms Heppelthwaite whether the provisions would achieve emission reductions targets. She said that:¹⁹²

the provisions are based on some fairly well-known and accepted premises, ensuring that land use is located conjointly with frequent transport services. That's a key one. Reducing the need for people to hop in their cars is another key point....it is definitely a supportive step in the right direction.

353. Various submitters had concerns with the words “Providing for, and concentrating development” in clauses (a) and (b) as recommended in the s 42A Report. The Officer agreed that these words were ‘leaning too much’ into directing the spatial location of development and recommended in her Rebuttal Evidence that they are replaced with “supporting development”.¹⁹³
354. We agree with the recommended amendments to replace “providing for and concentrating development” with “supporting development” because the strategic or spatial location of development to support mode shift (for

¹⁸⁹ See for instance the discussion in the s 32 Report in response to KCDC’s comments on pages 295 and 296.

¹⁹⁰ Statement of Evidence of Ms Heppelthwaite, para 7.

¹⁹¹ Hearing Transcript, HS3 – Climate Change, Day 4, page 65, lines 3325 – 3327.

¹⁹² Hearing Transcript, HS3 – Climate Change, Day 4, page 66, lines 3352 – 3359.

¹⁹³ Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3, Climate Change – Transport, 15 August 2023, para 24.

example enabling more development within walkable catchments), is provided for through Policies coded to the Hearing Stream 4 topic (discussed further below).

355. The Officer’s amendments more clearly convey that Policy CC.1 is about how “new and altered land transport infrastructure” can be designed, constructed and operated to reduce GHGe rather than directing the location of developments (for instance compact regional form which is addressed through Policies 30, UD.4 and others). In our view this amendment satisfies the relief sought by various submitters, including PPFL, as it removes duplication with (HS4) provisions directing greater density through the NPS-UD.¹⁹⁴

356. Counsel for PCC provided helpful submissions on the relationship between urban development and lower emissions. Ms Viskovic said:¹⁹⁵

there is a clear relationship (recognised in national policy) between the development of urban environments, and the mitigation of climate change and reduction of greenhouse gas emissions. PCC submits that this should be better recognised in the Change 1 provisions. ...

Given the potential for intensified, or well-located, urban development to reduce reliance on high-emitting transport modes, it is submitted that it would be appropriate for the climate change provisions of the RPS to acknowledge the important role of urban development. For example, increasing density around public transport stations both enables mode shift to active and public transport modes, as well as creating a more compact urban form. Where this intensification is located in climate resilient areas this also assists communities in responding to climate change effects.

357. While the Policy alone cannot achieve the region’s mode shift goals, it can limit or minimise barriers to mode shift by improving connectivity and accessibility to new developments, requiring integrated transport infrastructure planning and providing alternative options of travel to the private car. Policy CC.1 does not direct where developments should be

¹⁹⁴ As discussed in Mr Lewandowski’s evidence for PPFL, Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited, Hearing Stream 3 – Climate Change, 14 August 2023, para 5.25.

¹⁹⁵ Legal Submissions on behalf of Porirua City Council, HS3, 14 August 2023, paras 5.5 – 5.6 (footnotes omitted).

located spatially (as that is addressed elsewhere in the RPS), however, Policy CC.1 directs land transport infrastructure be designed, constructed and operated to reduce trip length or travel distance and support the uptake of public transport and active modes. We consider this to be appropriate direction that has a clear resource management purpose.

358. We discuss further below how Policy CC.1 aims to support mode shift in the Region, but first we make some general comments about the concept of mode shift and the technical evidence we heard on the issue.

6.2.2 Mode shift

359. Various provisions in Proposed Change 1 both direct and enable mode shift including Policies CC.1, CC.2, EIW.1, CC.3 and CC.9. One of the key questions that arose through the submissions and Hearings is whether collectively these policies are directive enough to support mode shift goals and whether it should contain a hierarchical approach or not.
360. Chapter 7 of the ERP discusses the potential for New Zealand’s planning system and investment in infrastructure to reduce emissions. Chapter 10 of the ERP notes that transport is one of New Zealand’s largest sources of emissions and mode shift is an outcome sought through the ERP.
361. There is clearly opportunity within the planning system to reduce transport emissions, including by locating development in places that reduce reliance on cars and support people to walk, cycle and use public transport, and support the decarbonisation of heavy transport and freight as envisaged in the ERP.
362. We agree with the statement from Doctors for Active Safe Transport (DAST) that the RPS must “drive dramatic and rapid change in the way we do transport”.¹⁹⁶ Dr David Tripp, presenting on behalf of DAST, sought amendments to the Change 1 provisions so that the improved health outcomes from mode shift and active transport are considered as part of transport planning.
363. The Wellington Regional Mode Shift Plan (WMSP) was developed by Waka Kotahi NZ Transport Agency with the Regional Council, KiwiRail and the

¹⁹⁶ Further Comments from Doctors for Active Safe Transport (made pursuant to Minute 12), 30 September 2023, para 4.

eight territorial local authorities in the region.¹⁹⁷ While it is a non-statutory document, it was developed to inform the RLTP and regional projects.

364. The WMSP states that mode shift has a key role to play in reducing regional emissions with land transport making up 28% of the region's GHGe.¹⁹⁸ The WMSP sets out how the Region will increase the share of travel by public transport, walking and cycling over the short-medium term. The WMSP says Wellington Region "has the highest combined active mode and public transport mode share across New Zealand with 31% of all regional journey to work trips made using these modes and half of the 82,000 people that travel into central Wellington every morning using public transport, walking or cycling".¹⁹⁹

365. The WMSP identifies three levers and a range of focus areas for achieving mode shift:²⁰⁰

a. Shaping urban form by (among other things):

- Increasing development density near rail stations and major bus hubs and improving multi-modal connections to these stations/hubs
- Ensuring the location, layout, and design of greenfield growth areas encourages people to travel by shared and active modes
- Intensification and place-making in Wellington City, particularly near future mass rapid transit and public transport corridors.

b. Making shared and active modes more attractive by (among other things):

- Improving multi-modal access, including bike parking and park and ride management
- Revitalising town centres in the region with a focus on walking and biking for shorter trips, through permanent changes or

¹⁹⁷ Regional Mode Shift Plan Wellington, Waka Kotahi NZ Transport Agency, September 2020, page 7.

¹⁹⁸ Regional Mode Shift Plan Wellington, Waka Kotahi NZ Transport Agency, September 2020, page 9.

¹⁹⁹ Regional Mode Shift Plan Wellington, Waka Kotahi NZ Transport Agency, September 2020, page 4.

²⁰⁰ The focus areas that relate specifically to roles/functions of the planning system and the RPS are identified. Further focus areas are set out in the WMSP, page 6.

temporary/trial interventions through Innovating Streets for People projects across the Region.

- Making walking and cycling more attractive for getting to school by stepping-up implementation of the Bikes in Schools and other programmes
- Establishing a connected regional cycling network by eliminating pinch points on the network and delivering transformational projects to improve access.
- Promoting e-bike uptake.

c. Influencing travel demand and transport choice.

366. The WMSP notes that mode shift is central to the Let's Get Wellington Moving programme, a 30-year programme of investment aimed at mass transit and giving greater priority for public transport, walking, cycling and placemaking.²⁰¹ Even though the programme is no longer progressing, the mode shift targets in the RLTP 2021 remain:

- a. 30% reduction in transport generated carbon emissions in the region by 2030
- b. 40% increase in active travel and public transport mode share by 2030 (equivalent to a 45% mode share).

367. Mr Tindall provided technical transport evidence on behalf of the Regional Council. He explained how the RPS could support a reduction in transport related GHGe by providing for a hierarchical “avoid, shift, improve framework” as referred to in Waka Kotahi’s Sustainability Action Plan, Toitū te Taiao.²⁰² It was his opinion that a hierarchical approach is needed to achieve the ‘Avoid-Shift-Improve’ framework. Mr Tindall explains the framework in the following way:

- a. Avoid: considering the spatial pattern of development in the provision of new or altered transport infrastructure in order to support the reduction of transport related GHGe. Spatial planning removes the distances needed to travel so that if journeys are shorter, emissions will be lower.

²⁰¹ Regional Mode Shift Plan Wellington, Waka Kotahi NZ Transport Agency, September 2020, page 8.

²⁰² Hearing Transcript, HS3 – Climate Change, Day 1, page 31, lines 1560 – 1563.

- b. Shift: reducing barriers and reallocating space in the existing network to low-carbon transport modes (walking, cycling and public transport)
- c. Improve: providing and designing transport infrastructure to facilitate public transport, active or shared modes.

368. Mr Tindall explained that the most effective tool for reducing transport related emissions is spatial planning, which he described as:²⁰³

The process for considering the location of land use relative to other land uses, to reduce the distances that need to be travelled.

369. Mr Tindall went on to note that:²⁰⁴

good application of spatial planning provides communities with good accessibility to the goods and services they need... [and this] relates to the proximity of schools, healthcare, education, employment and essential retail, such as food, to residential areas. In the urban context this could mean that all of these are within a twenty minute walk.

370. Mr Tindall accepted that in a rural context, the goods and services people need will be further away from where they live and it may not be practical to walk or cycle, and there may not be public transport options. But he noted that a shorter journey, for instance a ten-kilometre trip rather than a 20km trip, is likely to reduce emissions by half, so spatial planning is still very effective as a mechanism to reduce GHGe from transport.²⁰⁵

371. Mr Tindall explained that the second layer, which is 'shift', is about increasing a person's ability to choose a sustainable mode that generates less emissions, as the distance they need to travel decreases.²⁰⁶

372. The third layer is about providing transport infrastructure that supports a reduction of GHGe, including through more efficient public transport.

373. Various experts at the planners' caucusing considered that a hierarchy was not needed, as did DAST who provided comments on the JWS.

²⁰³ Hearing Transcript, HS3 – Climate Change, Day 1, page 31, lines 1565 - 1568.

²⁰⁴ Hearing Transcript, HS3 – Climate Change, Day 1, page 31, lines 1570 – 1577.

²⁰⁵ Hearing Transcript, HS3 – Climate Change, Day 1, pages 31 -32, lines 1577 – 1583.

²⁰⁶ Hearing Transcript, HS3 – Climate Change, Day 2, page 32, lines 1585 – 1587.

374. We are persuaded by Mr Tindall’s evidence that:²⁰⁷

Where the avoid and shift layers are applied the intent is that some increases in capacity (Improve) may no longer be needed, as such the first two layers should be considered ahead of any increases in capacity to the transport network, particularly if they are to facilitate private vehicle movements.

In applying (a) Optimising overall transport demand of the policy, the intent is for the ASI framework to be applied, by virtue ‘all new and altered transport infrastructure is designed, constructed, and operated... to ‘optimise’ transport demand, maximising mode shift (b) and supporting the move towards low and zero-carbon modes (c).

6.2.3 Relationship of Policy CC.1 with other provisions in Change 1

375. In the hearing, Mr Tindall said that Policy CC.9 focuses on spatial planning, and not Policy CC.1 as he had initially supported in his primary evidence statement.²⁰⁸ He said that Policy CC.1 is “very much in the space of the infrastructure side, so the physical part of the equation”,²⁰⁹ whereas Policy CC.9 is about spatial planning. Policy CC.1 is about the “shift and improve” part of the hierarchy, to ensure, “as far as it’s practicable, that there [are] no barriers to [active and public transport] modes”.²¹⁰ Mr Tindall said that providing for walking and cycling connections and for public transport to pass through the site, is “very much ... physical infrastructure [but it is also] that shift that ... allows somebody the choice through the provision of that infrastructure”.²¹¹

376. Ms Allwood helpfully explained the relationship between Policies CC.1, CC.2 and CC.9 in this way at the hearing:²¹²

... Policy CC.1 [is] directing the improved shift framework, which is focused around Land Transport infrastructure. Then Policy CC.2 is focused on the land development aspect which

²⁰⁷ Statement of Evidence of Duncan Tindall on behalf of Wellington Regional Council, Technical Transport Planning Evidence, Hearing Stream 3 – Climate Change, Transport, 28 August 2023, paras 27 – 28.

²⁰⁸ Hearing Transcript, HS3 – Climate Change, Day 1, page 32, lines 1608 - 1610.

²⁰⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 38, lines 1897 – 1901.

²¹⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 38, lines 1922 – 1928.

²¹¹ Hearing Transcript, HS3 – Climate Change, Day 1, page 38, lines 1929 – 1933.

²¹² Hearing Transcript, HS3 – Climate Change, Day 1, page 39, lines 1940 – 1944.

support[s] Policy CC.1. Then you have Policy CC.9 which is acting as a stop-gap ... until the plans are updated.

377. Ms Allwood also explained that Policy CC.2 is a direction for district plans requiring provisions directing how subdivision, use and development has “thought about the design to optimise for a mode shift or provide for mode shift”.²¹³ As Ms Allwood said:²¹⁴

... it’s around designing early and thinking early in terms of how people are going to want to get around for example cycling, walking, public transport connections and things. That assessment would be provided as part of a resource consent application.

378. Ms Allwood explained that as the “first principal”, the spatial location of development must attempt to reduce trip length and enable mode shift (which was the aim of the HS4 Policies). Then Policies CC.1, CC.2 and CC.9 require a person to look at the options within the scope of the development to provide for mode shift, making a “considered, tiered approach as you step down [the] hierarchy and what you can do – what’s practical for that development to do”.²¹⁵

379. Ms Allwood also said that if you optimise transport demand, you maximise mode shift.²¹⁶

380. Ms Allwood went on to explain that Policy CC.2 requires a technical assessment (the travel choice assessment) as part of the resource consent application. A developer would have to show the “points in the design [where] they have made amendments or improvements [showing] how they’re achieving the mode shift and reducing reliance on cars. It’s about providing options of how people want to travel around; so they’re not having to rely on the car...”.²¹⁷

381. In our view the Transport subtopic provisions will support and enable mode shift by directing regional and district plans to require transport infrastructure to be designed, constructed and operated in a way that contributes to reducing GHGe.

²¹³ Hearing Transcript, HS3 – Climate Change, Day 1, page 41, lines 2056 – 2058.

²¹⁴ Hearing Transcript, HS3 – Climate Change, Day 1, page 39, lines 1952 – 1957.

²¹⁵ Hearing Transcript, HS3 – Climate Change, Day 1, pages 41 - 42, lines 2093 – 2098.

²¹⁶ Hearing Transcript, HS3 – Climate Change, Day 1, page 45, lines 2271 – 2272.

²¹⁷ Hearing Transcript, HS3 – Climate Change, Day 1, page 41, lines 2055 – 2071.

382. The ‘avoid’ component is best achieved through Policies 30, 31, UD.4 and 57. Therefore, we think that the Avoid-Shift-Improve framework can and should be achieved through the RPS, but across a range of policies, not just those in the Transport subtopic.
383. We accept Mr Tindall’s evidence that the starting point is to achieve emission-reductions through spatial planning and complement that with measures to support mode choice to public transport and active modes, and make those modes operate as efficiently and effectively as possible. Spatial planning outcomes are delivered through Policies 30, 31 and UD.4 and others in HS4, therefore we agree with Ms Allwood that the words “Providing for, and concentrating development” should be deleted from Policy CC.1(a) and (b) as these words “lean too much into directing the spatial location of development”.²¹⁸ As Ms Allwood says in her Reply Evidence, the focus in Policy CC.1 is not on the management and use of land, but rather “new and altered transport infrastructure”.²¹⁹
384. We do not think the Policy should apply to ‘upgraded’ infrastructure instead of ‘altered’ (as requested by Mr Smeaton for PCC). The Policy provides direction for local authorities so they have flexibility in interpreting the word ‘altered’ and smaller maintenance activities are unlikely, in Ms Allwood’s view, to trigger a consenting requirement.²²⁰
385. We agree with Dr Tripp, that the matters in Policy CC.1 must all occur “simultaneously”.²²¹ The priority is supporting compact growth and infrastructure choice and delivery that helps to maximise mode shift and public and active transport, must occur together. We do not agree with the hierarchy the Officer supports for these matters. We acknowledge Dr Tripp’s presentation on behalf of DAST. The point was expressed clearly and with impact. Mode shift has improved health outcomes and no evidence was presented disputing this. We see the corresponding health benefits of mode shift as something that is appropriate to recognise and articulate in the Proposed Change 1 provisions as part of the RMA’s sustainable management purpose. As Dr Tripp stated, s 5 promotes the

²¹⁸ Statement of Supplementary Evidence of Louise Ruth Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 15 August 2023, para 24.

²¹⁹ Statement of Supplementary Evidence of Louise Ruth Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 15 August 2023, para 21.

²²⁰ Statement of Supplementary Evidence of Louise Ruth Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 15 August 2023, para 18

²²¹ Hearing Transcript, HS3 – Climate Change, Day 3, page 46, line 2304 and lines 2320 – 2323.

management of resources in a way that enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety. However, we do not think that providing for health assessments is within the scope of a planning or consenting assessment. We recommend that the health benefits of active transport modes are included in the explanation to Policy CC.1 and also CC.9 (discussed further below).

386. We also agree with Dr Tripp that to address the climate change crisis (and to help what Dr Tripp described as the country’s health crisis), we “need change that drives mode shift in existing suburbs, down my street”.²²²
387. While we agree there is a need for a hierarchy, this is achieved through Policies 30, 31 and UD.4. We share submitters’ concerns that the proposed definition of ‘Optimise transport demand’ perhaps unnecessarily complicates or duplicates the concepts in Policy CC.1.
388. We agree with Mr Rachlin for PCC, that Table 1A: Climate change Objectives and titles of policies and methods to achieve the Objectives, should be amended to include Policies 30 and 31.²²³ This is consistent with Chapter 7, ERP as Mr Rachlin notes.²²⁴
389. We recommend amendments to Policy CC.1 which we consider will achieve better integration with the ‘spatial management’ provisions in HS4 and also better enable mode shift. The amendments we recommend require district and regional plans to include objectives, policies, rules and/or other methods that require new and altered land transport infrastructure to be designed, constructed and operated in a way that contributes to an efficient transport network and maximise mode shift.
390. We recommend the hierarchy between what is now limbs (a) to (d) is removed because they are achieving different things in our view. For instance (c) is about ensuring transport projects support developments within walkable catchments and remove barriers to public transport and active mode-uptake from existing spaces; (d) is about prioritising public transport and active mode-uptake when designing and constructing new

²²² Hearing Transcript, HS3 – Climate Change, Day 3, page 46, line 2334 – 2335.

²²³ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, para 41.

²²⁴ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Change – General, 14 August 2023, paras 31 – 32.

infrastructure or capacity upgrades. On the other hand, we see (a) and (b) as elements that apply to both (c) and (d) by supporting development in locations that minimise travel distances and also better enabling multi-modal transport networks. In other words, as some submitters noted, all of the elements should be considered “simultaneously” rather than being applied as a hierarchy of considerations which could mean some elements are not provided for appropriately.

391. We agree with Mr Smeaton (planner for PCC) that the definition of optimise transport demand and the three clauses essentially say the same thing.²²⁵ We also agree with Mr Smeaton that the Policy is focused on transport infrastructure and policy for spatial direction is better articulated through the urban development provisions. However, although Mr Smeaton says the clauses in the Policy can be deleted and it is more appropriate to rely on the concept and definition of ‘optimise transport demand’, our view is that capturing the ‘Avoid-Shift-Improve’ framework in the Policy itself provides clearer direction to policy statement users rather than via the definition. However, we consider the ‘Avoid’ component (the spatial aspect) is best provided for through Policies 30, 31 and UD.4, and the ‘Shift and Improve’ components should be captured in the Policy but not as a hierarchy as they should all be provided for wherever possible. Our recommended drafting is below.
392. We agree with the Officer’s recommendation to exclude aircraft from the Policy, but we consider it appropriate to limit the exclusion to “aircraft” as activities undertaken at Wellington Airport which support aircraft activities seems too broad and could capture activities such as car rental facilities which we understand is not the policy intent. Aircraft have an exemption from the CCRA and it is appropriate that exemptions from climate change policies are limited to aircraft, rather than in relation to the general operation of the Airport. We note this approach is supported by the Reporting Officer on the General subtopic through his recommended amendments to the Chapter 4.1A Introduction i.e by stating that the provisions in the Chapter “do not apply to GHGe from aircraft”.
393. We consider that “aircraft parking stands” which are currently mentioned in the Explanation, would be captured by the exclusion for “aircraft”. We note that in the s 42A Report (although in the context of Policy CC.9), the

²²⁵ Statement of Evidence of Rory Smeaton on behalf of Porirua City Council, Planning, Energy, Waste and Industry and Transport, 14 august 2023, para 35.

Officer says GHGe from “aeroplanes flying, landing and taking off” should not be considered, and further, in her Rebuttal Evidence she says that “it is important that car rental facilities and other freight depots demonstrate how they are contributing to and providing for a travel choice to and from the airport”.²²⁶ We consider that an exemption for “aircraft” in Policy CC.1 is consistent with these statements.

6.2.4 Finding and s 32AA Evaluation

394. We agree with some of the Reporting Officer’s recommendations on Policy CC.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence. However, we recommend amendments to the Policy to remove the term *optimise transport demand*, remove the hierarchy, and focus the Policy on the ‘Shift and Improve’ aspects of the framework Mr Tindall discussed in his evidence. We consider the amendments we recommend are more directive as to mode shift and align with the direction in the ERP and better support the implementation of Objectives CC.1 and CC.3. Enabling mode shift will also help people become more actively involved in climate change mitigation as envisaged in Objective CC.7.
395. We recommend that the exemption for aircraft is tightened so that it applies to aircraft only and not to other activities associated with the airport.
396. We recommend a consequential amendment to delete the definition of *optimise transport demand*.

6.2.5 Recommendation

Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods ~~that optimise transport demand by requiring that~~ require all new and altered ~~land~~ transport infrastructure ~~to be is~~ designed, constructed, and operated in a way that contributes to an efficient transport network, maximises mode shift from private vehicles to public transport and active modes and ~~reduces in~~ ~~es~~ greenhouse gas emissions by ~~giving effect to a hierarchical approach (in order of priority), by:~~

- ~~(a) Optimising overall transport demand;~~
- ~~(b) Maximising mode shift from private vehicles to public transport or active modes;~~
- ~~and~~
- ~~(c) Supporting the move towards low and zero-carbon modes.~~

²²⁶ Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change – Transport, 15 August 2023, para 45.

- ~~(a) Supporting Providing for, and concentrating, development in locations to *minimise* travel distances between residential, employment and the location of other essential services, in combination with the delivery of multi-modal transport networks and infrastructure to serve developments; then~~
- (b) Enabling multi-modal transport networks and infrastructure to serve development
- ~~(c)(b) Supporting Providing for and concentrating development within *walkable catchments* of public transport routes where practicable, and utilising existing space to remove barriers for access to walking, cycling and public transport; then~~
- ~~(d)(c) Where Pproviding new infrastructure or capacity upgrades on the transport network, to prioritise walking, cycling and public transport, such as improved or new bus and cycle lanes and measures, to prioritise the need of pedestrians, cyclists and public transport above the car.~~

Explanation

This policy requires transport infrastructure planning (including design, construction and operation) to consider and choose solutions that will contribute to reducing *greenhouse gas emissions*: ~~by applying a hierarchy to requiring all new or altered transport infrastructure that to supports an efficient transport network~~, influences travel demand through ensuring that supports development in locations that can be best served by and public transport and other low and zero-carbon transport modes to support development. ~~This will supports behaviour change through mode shift from private vehicles to public transport or active modes,~~ which also improves health outcomes as a co-benefit. ~~This policy does not apply to aircraft, or activities undertaken at Wellington Airport which support aircraft activities, e.g. aircraft parking stands at the Airport.~~

Consequential amendment:

Optimise transport demand

Optimise transport demand means:

- ~~(a) Influencing demand spatially and reducing trip length; then~~
- ~~(b) Creating choices to travel via sustainable modes and reduce emissions; then~~
- ~~(c) Designing and delivering development in a way that supports sustainable modes and an efficient transport network.~~

6.3 Policy CC.2: Demand management plans - district plans

397. The notified Policy said:

Policy CC.2: Travel demand management plans – district plans
<p><u>By 30 June 2025, district plans shall include objectives, policies and rules that require subdivision, use and development consent applicants to provide <i>travel demand management plans</i> to minimise reliance on private vehicles and maximise use of public transport and active modes for all new subdivision, use and development over a specified development threshold where there is a potential for a more than minor increase in private vehicles and/or freight travel movements and associated increase in greenhouse gas emissions.</u></p>
<p><u>Explanation</u></p> <p><u>Location suitable development thresholds triggering a consent requirement for a <i>travel demand management plan</i> are to be developed by territorial authorities and should apply to residential, education, office, industrial, community, entertainment and other land use activities that could generate private vehicle trips and freight travel. Development thresholds should specify the trigger level (for example, number of dwellings, number of people accommodated or gross floor area) where the <i>travel demand management plan</i> requirement applies.</u></p>

398. The purpose of this proposed new Policy is to require territorial authorities to develop thresholds that trigger the requirement for a travel choice assessment to be provided as part of a resource consent application. The travel choice assessment will support mode shift as it will make developers and applicants think about how their development responds to assisting in reducing the reliance on private vehicles by, for example, including walking and cycling connections to public transport.²²⁷ The Reporting Officer explained that the Policy is one of the tools necessary to support the change directed by higher order documents.²²⁸

399. There were 28 original submission points and 19 further submission points on Policy CC.2 seeking a range of relief.

400. The Policy does not present completely new concepts in that it would replace Operative Policy 10 which requires district plans and the

²²⁷ Section 42A Hearing Report, Hearing Stream 3 – Climate Change – Transport, 31 July 2023, para 227.

²²⁸ Section 42A Hearing Report, Hearing Stream 3 – Climate Change – Transport, 31 July 2023, para 207.

Wellington Regional Land Transport Strategy to include policies to promote travel demand management mechanisms that reduce:

- (a) the use and consumption of non-renewable transport fuels; and
- (b) carbon dioxide emissions from transportation.

6.3.1 Submissions, Evidence and Analysis

401. Various submitters including Generation Zero [S141.005], Waka Kotahi [S129.007] and Ātiawa [S131.048] supported the Policy and sought that it be retained as notified. Others including KCDC [S16.015] and PPFL [S118.005] sought it be deleted or amended. WIAL [S148.022] sought amendments to clarify the Policy does not apply to development within the Wellington International Airport.
402. KCDC [S16.015] said a non-regulatory method would be more appropriate than the Policy and city and district councils should not be required to develop threshold targets as they have no legal authority under the RMA to manage discharges to air. MDC [S166.050] questioned how the Policy would apply to NPS-UD 'Tier 3' councils.
403. The Officer said that non-regulatory methods alone would not be sufficient to create a shift in transport mode or give effect to the actions and targets in the ERP.²²⁹ The Officer agreed that TAs were not responsible for managing discharges to air, however they were responsible for managing the integrated management of the use of land, and that includes the integrated management of land and transport under s 31(1)(a) of the RMA. The Officer explained the point concisely in these terms:²³⁰
- I acknowledge a district plan cannot control people's decisions on how they wish to travel, but it can support providing people with a choice of how they'd like to travel around the district.
404. Counsel presented legal submissions setting out the statutory framework that requires TAs to take action to support reductions in GHGe.²³¹ We agree with this analysis.

²²⁹ Section 42A Hearing Report, Hearing Stream 3 – Climate Change – Transport, 31 July 2023, para 210.

²³⁰ Section 42A Hearing Report, Hearing Stream 3 – Climate Change – Transport, 31 July 2023, para 209.

²³¹

405. The Officer agreed with PCC that Policy CC.2 needed reframing to focus on the provision of transport options and that part of the transport mode shift outcomes which are sought work in conjunction with the location of activities relative to existing urban areas (and this is addressed in the HS4 provisions).²³² The Officer recommended various amendments in the s 42A Report including changing the heading of the Policy to “Travel Choice Assessments” and including regional thresholds which would apply as a minimum for territorial authorities to use as guidance for developing their district level thresholds. The Officer also recommended amendments to require the subdivision, use or development to demonstrate how mode shift is being achieved within their resource consent application by providing a travel choice assessment. The Officer said that the extent to which the Policy applies in a rural context will be determined by the development of individual thresholds for each district.
406. Ms Woodbridge providing planning evidence for Kāinga Ora considered that Policy CC.2 should be redrafted to provide greater clarity and direction for councils. She considered there was duplication between the definition of travel choice assessment and clauses (a)-(c) of the Policy and there are two different directions within the Policy, and that these requirements could be more appropriately expressed as two separate policies.²³³
407. Mr Smeaton, providing planning evidence for PCC, was concerned about the additional resource consent requirements and the ‘regional thresholds’ proposed. He said the Policy directs applicants to provide travel choice assessments in resource consent applications before the Policy is given effect to in the respective district plan. Mr Smeaton considered Policy CC.2 essentially replicates the existing district plan methods in relation to ‘high trip generating’ activities.
408. Mr Lewandowski for PPFL was concerned with the enforceability of the words “will be maximised / minimised” in Policy CC.2(a) and (b). He said that while a travel choice assessment can address the matters in (a) and (b), it would be much more difficult to enforce the take up of those options

²³² Section 42A Hearing Report, Hearing Stream 3 – Climate Change – Transport, 31 July 2023, para 214.

²³³ Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities, Hearing Stream 3, Climate Change (Planning), 14 August 2023, para 6.14.

as that depends largely on personal choice.²³⁴ Mr Lewandowski recommended that the clauses be amended to say “can be maximised / minimised”.

409. The Reporting Officer recommended some amendments in her Rebuttal Evidence to incorporate Ms Woodbridge’s concerns, but she did not agree that there was an enforceability concern as the travel choice assessment required measures within the design of the subdivision, use and development that demonstrated how (a) and (b) would be achieved. The Officer said:²³⁵

The subdivision, use and development should be constructed in accordance with the approved resource consent plans and its associated conditions of consent. In my view, clauses (a) to (c) would have the same level of enforceability as any other typical resource consent application.

410. The Officer said that the direction from Council is that the Policy should be applied to Tier 3 Councils to the extent practicable within rural and urban environments, and that she understood the Regional Council will work with Tier 3 TAs to provide support with implementation.²³⁶
411. The Officer recommended including the regional thresholds in a new Policy CC.2A for Territorial Authorities to use as a starting point when developing their own local thresholds. The Officer therefore recommended separating the notified Policy into 2 Policies. First, requiring provisions in district plans to require a travel choice assessment as part of a resource consenting assessment; and second, requiring territorial authorities to develop their own local thresholds for when travel choice assessments are required.
412. Ms Allwood clarified at the Hearing that the thresholds in Table 1 of Policy CC.2A are not in effect and are simply guidance for territorial authorities to develop their own thresholds. There would therefore be no thresholds until district plans were amended to include local thresholds.²³⁷ Mr Tindall identified two districts in Wellington Region that have district plan

²³⁴ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited, Hearing Stream 3 – Climate Change, 14 August 2023, para 5.30.

²³⁵ Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3, Climate Change – Transport, 15 August 2023, para 51.

²³⁶ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 338.

²³⁷ Hearing Transcript, HS3 – Climate Change, Day 1, page 47, lines 2369 – 2372.

provisions requiring transport assessments. Mr Smeaton for PCC says in his evidence that three other districts (the Proposed Porirua District Plan, City of Lower Hutt District Plan and Operative Kāpiti Coast District Plan) also include provisions relating to high trip generating activities and require transport assessments when consent requirements are triggered.²³⁸ Mr Smeaton was of the view that Policy CC.2 duplicated existing district plan methods, and was inefficient in that it would require PCC to review and probably prepare plan changes to include separate requirements for ‘travel choice assessments’. At the Hearing, Mr Smeaton confirmed that integrated transport assessments required under the Porirua Proposed District Plan, did not specifically require any information about GHGe, although they did list relevant matters such as active modes.²³⁹

413. Mr Tindall was of the view that the ‘high trip generating’ transport assessments required by district plans serve a different purpose and do not deliver:²⁴⁰

the step change in how transport choices are considered and incorporated as a part of subdivision and development to achieve mode shift and ... greenhouse gas emission reductions.

414. He did not think that the Policy precludes the use of thresholds that already apply as a part of high trip generating activities and a Travel Choice Assessment could be incorporated alongside established processes in place.²⁴¹

415. As Mr Tindall said:²⁴²

In my view the intent and outcome sought by the Travel Choices Assessment is to embed the provision for a range of modes (including associated infrastructure), this includes consideration of connectivity and accessibility to the wider

²³⁸ Statement of evidence of Rory Smeaton on behalf of Porirua City Council, Planning, Energy, Waste and Industry, and Transport, 14 August 2023, para 44.

²³⁹ Hearing Transcript, HS3 – Climate Change, Day 3, pages 55 -56 , lines 2802 – 2814.

²⁴⁰ Statement of Rebuttal Evidence of Duncan Tindall on behalf of Wellington Regional Council, HS 3, Climate Change – Transport, 22 August 2023, paras 23 and 28.

²⁴¹ Statement of Rebuttal Evidence of Duncan Tindall on behalf of Wellington Regional Council, HS 3, Climate Change – Transport, 22 August 2023, paras 23 – 31.

²⁴² Statement of Rebuttal Evidence of Duncan Tindall on behalf of Wellington Regional Council, HS 3, Climate Change – Transport, 22 August 2023, paras 26 and 28.

area, as a part of the feasibility stage of a subdivision or development. Where design for all modes and infrastructure are embedded as a part of feasibility this will establish travel patterns from the outset, contributing to how long and by what mode a journey is made...

The intent is not about considering the capacity of a network and the ability for the network to accommodate the growth. It's about changing the way people move from and through the subdivision, land use, development and how the design and infrastructure provision influences this movement and mode choice.

416. The Officer agreed with Mr Tindall that it is appropriate for territorial authorities to use the existing trip generation activity thresholds. The Officer thought that adopting Mr Smeaton's preferred wording of Policy CC.2 would result in the loss of outcomes the Policy seeks, that is, updates to district plans to require a travel choice assessment over a specified threshold in consent applications, and a requirement for territorial authorities to develop their own local thresholds.
417. At the Hearing, we asked Ms Allwood to clarify why the exemption for emissions from aircraft (relief sought by WIAL) had been accepted in other provisions but not specifically in Policy CC.2. Ms Allwood clarified that Policy CC.2 was directed at district councils and because the Airport is designated, the Policy would have limited impact in terms of a consenting assessment.²⁴³ Ms Hunter agreed with this in relation to activities that WIAL was a requiring authority for, but the Policy could apply to activities like rental car facilities.²⁴⁴ Ms Dewar also noted that the Airport's designation boundaries would cover immediate onsite terminal activities but some ancillary operations, such as the retail part in Lyall Bay, occurred outside those boundaries.²⁴⁵
418. We consider it appropriate, based on Mr Tindall's evidence, that Policy CC.2 apply to the Airport's activities. Mr Tindall comments that airports can be a significant generator of trips and in his view, a blanket exclusion was not appropriate and would foreclose opportunities to reduce transport emissions.

²⁴³ Hearing Transcript, HS3 – Climate Change, Day 2, page 31, lines 1580 – 1582.

²⁴⁴ Hearing Transcript, HS3 – Climate Change, Day 2, page 31, lines 1600 – 1604.

²⁴⁵ Hearing Transcript, HS3 – Climate Change, Day 2, page 32, lines 1639 – 1652.

419. Ms Rushmere for UHCC was concerned about the implementation timeframes in Policies CC.2 and CC.3 and sought they be deleted. She said the 6 months anticipated to notify the plan change would not be possible with existing resources and capacity.²⁴⁶ PCC also raised concerns about the timeframe. The Reporting Officer addresses this in the s 42A and her Rebuttal Evidence. She admits the timeframe of 30 June 2025 (which is for notification of the plan change²⁴⁷) is not driven by legislative direction, but that a timeframe was needed to ensure implementation.²⁴⁸
420. We are satisfied that the emissions reduction and mode shift goals of travel choice assessments serve a resource management purpose, are aligned with the action plans and strategies in the ERP, and appropriate direction to include in the RPS. One of the outcomes of successful implementation of Policies CC.2 and CC.2A will be a reduction in GHGe from private vehicle use. In this way, the Policies give effect to Objective 8 and Policy 1 of the NPS-UD which require urban environments to support the reduction in GHGe.
421. Travel choice assessments have a different function from high trip generating transport assessments and there is enough flexibility in the Policy for TAs to develop thresholds that are locally specific. The provisions in district plans required by the Policy must set a clear expectation for the design measures in a. and b. of the Policy, and these may form the basis for conditions of consent, but the Policy itself cannot require the measures be undertaken. Therefore, we consider that the word “achieves” in clause c. should be replaced with “addresses” as we consider that better reflects the Policy intent. We also recommend an addition to the Policy and Explanation to say that the results of *travel choice assessments* may form the basis for consent conditions.

6.3.1 Finding and s 32AA Evaluation

422. We largely agree with the Reporting Officer’s recommendations on Policy CC.2 and CC.2A for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence. We recommend an

²⁴⁶ Hearing Transcript, HS3 – Climate Change, Day 2, page 39, lines 1992 – 1998.

²⁴⁷ Hearing Transcript, HS3 – Climate Change, Day 2, page 40, lines 2047 – 2048.

²⁴⁸ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, paras 211 and 263; Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, HS3 – Climate Change – Transport, para 73.

amendment to replace the word “achieves” in clause c. with “addresses” as we consider that this better captures the Policy intent. The Policy itself cannot require design measures in subdivision, use and development which achieve mode shift and minimise private vehicle use, but can require provisions in district plans that set this clear expectation with corresponding conditions then included as part of a resource consent. We consider this is a drafting amendment that clarifies the interpretation and application of the Policy and does not change its intent.

6.3.2 Recommendation

Policy CC.2: ~~Travel choice assessment demand management plans~~ – district plans

By 30 June 2025, *district plans* shall include objectives, policies and rules that require subdivision, use and development ~~to contribute to the reduction of greenhouse gas emissions by requiring consent applicants to provide a travel demand management plans to minimise reliance on private vehicles and maximise use of public transport and active modes for choice assessment that:~~

- a. ~~demonstrates how the use of public transport and active modes will be maximised;~~
- b. ~~demonstrates how the use of private vehicles will be minimised; and~~
- c. ~~includes measures within the design of subdivision, use and development which achieves~~ addresses parts (a) and (b) above.

~~The requirement for a travel choice assessment must apply to all new subdivision, use and development over a specified travel choice development threshold as required by Policy CC.2A where there is a potential for a more than minor increase in private vehicles and/or freight travel movements and associated increase in greenhouse gas emissions.~~

~~The results of travel choice assessments may form the basis for conditions of consent.~~

Policy CC.2A: Travel choice assessment local thresholds – district plans

By 30 June 2025, *district plans* shall include local thresholds for *travel choice assessments* as required by Policy CC.2. As a minimum, city and district councils must use the regional thresholds set out in Table 1 as the basis for developing their own local thresholds. The regional thresholds in Table 1 will cease to apply when Policy CC.2A is given effect through a *district plan*. To contribute to reducing *greenhouse gas emissions* city and district councils must develop their own travel choice thresholds that are locally specific.

Table 1: Regional Thresholds

Activity and Threshold per application
100 residential units located within a <i>walkable catchment</i> .
Commercial development of 2,500m ² gross floor area

Greenfield subdivision over 100 residential units

Explanation

The regional travel choice thresholds have been developed as a minimum and as guidance to assist city and district councils in developing their local travel choice thresholds. Local travel choice thresholds are important to reflect the differences in connectivity and accessibility between rural and *urban areas*. In addition, local travel choice thresholds should reflect local issues, challenges and opportunities. Local travel choice thresholds ~~Location suitable development thresholds triggering a consent requirement for a travel demand management plan are to be developed by territorial authorities and~~ should apply to residential, education, office, industrial, community, entertainment and other land use activities that could generate private vehicle trips and freight travel. Development thresholds should specify the trigger level (for example, number of dwellings, number of people accommodated or gross floor area) where the ~~requirement for a travel choice assessment demand management plan requirement~~ applies.

The results of travel choice assessments may form the basis for conditions of consent

Policy 10: Promoting travel demand management – district plans and the Regional Land Transport Strategy

District plans and the Wellington Regional Land Transport Strategy shall include policies to promote travel demand management mechanisms that reduce:

- a. ~~the use and consumption of non-renewable transport fuels; and~~
- b. ~~carbon dioxide emissions from transportation.~~

Explanation

Travel demand management includes a range of mechanisms – such as travel behavioural change programmes, road pricing tools and improvements to the efficiency of the existing network.

Land use planning is important in managing demand for travel. Land use patterns – such as higher density or mixed use development in areas close to good public transport links and community facilities, or community facilities and employment close to where people live – can reduce dependence on the private car, the need to travel and journey lengths. It is also important to ensure good connectivity within and between settlements to optimise walking, cycling and public transport

6.4 Policy CC.3 – Enabling a shift to low and zero-carbon emission transport – district plans

423. The notified Policy said:

Policy CC.3: Enabling a shift to low and zero-carbon emission transport – district plans

By 30 June 2025, district plans shall include objectives, policies, rules and methods that enable infrastructure that supports the uptake of zero and low-carbon multi modal transport that contribute to reducing greenhouse gas emissions.

Explanation

District plans must provide a supportive planning framework (for example, permitted activity status) for zero and low-carbon multi modal transport infrastructure, such as public transport infrastructure, cycleways and public EV charging network.

424. Ms Allwood explained that the Policy is about land use and transport infrastructure integration²⁴⁹ and “enabling ... infrastructure that supports low emissions modes of transport [such as] EV charging network[s].”²⁵⁰ The Officer explained the importance of the Policy in the RPS in this way:²⁵¹

For example, if EV charging points require a resource consent every time one needs to be established this causes time delays and also additional cost making it harder rather than easier.

425. The Officer also said that the purpose of the Policy is to reduce the requirement for resource consents associated with infrastructure that enables low and zero-carbon modes, therefore making them easier to establish.²⁵²

6.4.1 Submissions, Evidence and Analysis

426. Some submitters supported the Policy and others requested that it be deleted, be non-regulatory only, or at least amended to clarify how exactly district plans are to enable to desired shift to low and zero-carbon emission transport. UHCC was concerned about potential environmental effects of significant public infrastructure. The Officer recommended an

²⁴⁹ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023 para 265.

²⁵⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 45, lines 2260 – 2263.

²⁵¹ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 260.

²⁵² Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 269.

amendment in the Policy to clarify that the focus is on enabling ancillary transport infrastructure which supports public transport such as EV charging point for E-bikes, scooters, buses etc. The Officer explained that ancillary environmental effects would be addressed where relevant through other provisions such as earthworks and vegetation clearance rules.²⁵³

427. In evidence, Mr Smeaton for PCC considered that the term “enabling” should be replaced with “provided for” to recognise that it may not be appropriate to enable all infrastructure that supports zero and low carbon transport in all locations. The Officer said this did not require a change to the Policy because if enabling infrastructure was not appropriate in a location, this would be managed by other provisions eg heritage rules. Ms Rushmere for UHCC was concerned about the timeframe in the Policy given the extent of resources required for implementation. She also did not think the direction in the Policy could be achieved within the RMA’s framework. The Officer continued to maintain that a timeframe was appropriate to ensure implementation, noting that Policy 10 in the Operative RPS which did not have a timeframe, was not implemented fully by TAs and so a change of approach was needed.²⁵⁴
428. The Officer also said that while the outcomes sought by the Policy cannot be achieved within the RMA framework, the Policy can provide enabling direction for EV charging etc through the planning framework, including as permitted activity rules. The Officer said this was one of the mechanisms to support the reduction in GHGe which the ERP directs and territorial authorities are required to have regard to pursuant to s74(2)(b) of the RMA.
429. We are satisfied that the Policy is appropriate and for a valid and justified resource management purpose. The Policy gives effect to Objective 8 and Policy 1 of the NPS-UD which require urban environments to support the reduction in GHGe.

²⁵³ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, paras 211 and 263.

²⁵⁴ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, paras 211 and 263; and Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, HS3 – Climate Change – Transport, para 73.

6.4.2 Finding

430. We agree with the Reporting Officer's recommendations on Policy CC.3 for the reasons above, and otherwise as set out in the Officer's s 42A Report or Rebuttal or Reply Evidence.

6.4.3 Recommendation

Policy CC.3: Enabling a shift to low and zero-carbon emission transport – district plans

By 30 June 2025, district plans shall include objectives, policies, rules and methods for ~~enabling infrastructure that enable infrastructure~~ that supports the uptake of zero and low-carbon multi modal transport that contribute to reducing *greenhouse gas emissions*.

Explanation

District plans must provide a supportive planning framework (for example, permitted activity status) for zero and low-carbon multi modal transport *infrastructure*, such as public transport *infrastructure*, cycleways, ~~footpaths, walkways~~ and public EV charging network ~~for EV modes of transport~~.

6.5 Policy CC.9

431. As notified, the proposed Policy stated:

Policy CC.9: Reducing greenhouse gas emissions associated with transport infrastructure – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to whether the subdivision, use and development have been planned to optimise overall transport demand, maximising mode shift from private vehicles to public transport or active modes, in a way that contributes to reducing greenhouse gas emissions.

Explanation

This policy requires regional and district councils to consider whether subdivision, use and development proposals have fully considered all options to reduce greenhouse gas emissions as far as practicable.

6.5.1 Submissions, Evidence and Analysis

432. Many submitters supported the Policy but some raised concerns including saying that TAs cannot control the way people travel, nor can they control the provision of public transport (UHCC [S34.032]). The Officer did not support restricting the application of the Policy. She said that through a plan change or consenting process, a TA could consider how developments are designed to contribute to providing travel choice such as the extent to which walking and cycling connections are provided to public transport, or by requiring EV charging stations where on-site parking is proposed.²⁵⁵ Similarly, even in large projects, a requiring authority should be considering opportunities to maximise mode shift and reduce GHGe.

433. Ms Hunter for WIAL sought an exclusion for aircraft and activities undertaken at Wellington Airport that support aircraft activities. Mr Smeaton for PCC thought the Policy should be restricted to resource consents and NoRs rather than plan changes/reviews, the cross-reference to Policy CC.1 could be deleted, and he also supported a reference to ‘well-functioning urban environments’.

434. We consider the Policy has a resource management purpose and is aligned with the NPS-UD (Objective 8, Policies 1 and 6). We agree with the

²⁵⁵ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 304.

Officer that it is appropriate for the Policy to apply to consenting, NoRs plan changes/reviews as these processes may present opportunities to maximise mode shift and reduce GHGe. We consider that the hierarchy can be deleted from the Policy in line with our recommendations on Policy CC.1. We also consider the words “the move towards” are superfluous and can be deleted without losing the intent, and instead stating the desired outcome in a clearer way.

435. We consider that the exclusion sought by WIAL apply only to aircraft in line with the present exemption from the CCRA. We consider that the words recommended by the Officer “activities undertaken at Wellington Airport which support aircraft activities. e.g. aircraft parking stands at the airport” are too broad and have uncertain application and contrary to the recommendation in the General subtopic on the appropriate exclusion in the Chapter 4.1A Introduction text. We consider the policy intent is achieved by limiting the exclusion to “aircraft”.

6.5.2 Finding

436. We largely agree with the Reporting Officer’s recommendations on Policy CC.9 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence. We recommend that the hierarchical approach is deleted in line with our recommendations in Policy CC.1 and that the Policy is amended to delete the words “the move towards”. We also recommend that the exclusion in the Explanation apply only to aircraft, in line with the ‘exemption’ currently in the CCRA and because the balance of the words in the Explanation (as recommended by the Officer) are broad and not clear as to their application and interpretation and inconsistent with recommendation in the General subtopic on the Chapter 4.1A Introduction text.

6.5.3 Recommendation

Policy CC.9: Reducing greenhouse gas emissions associated with transport infrastructure subdivision, use or development – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to whether the subdivision, use ~~and-or~~ development ~~have~~ ~~has~~ been planned in a way that contributes to reducing greenhouse gas emissions by ~~to-optimise~~ ~~optimising~~ overall transport demand ~~by giving effect to its the hierarchical approach in order of priority within Policy CC.1 (a)-(c), by~~ maximising mode shift from private vehicles to public transport or active modes, and supporting the move towards low and zero-carbon modes in a way that contributes to reducing greenhouse gas emissions.

Explanation

This policy requires regional and district councils to consider whether subdivision, use and development proposals have fully considered all options to reduce *greenhouse gas emissions* as far as practicable. For example, EV charging infrastructure, car share infrastructure, provision for bus stops and a transport network designed to support public transport or active modes which has co-benefits including improved health outcomes. This policy does not apply to aircraft, or activities undertaken at Wellington Airport which support aircraft activities. e.g. aircraft parking stands at the airport.

6.6 Policy 9: Promoting greenhouse gas emission reduction and uptake of low emission fuels – Regional Land Transport Plan

437. The notified amendments to the Policy stated:

Policy 9: Promoting greenhouse gas emission reduction and uptake of low emission fuels – Regional Land Transport Plan Strategy Reducing the use and consumption of non-renewable transport fuels, and carbon dioxide emissions from transportation

The Wellington Regional Land Transport Plan Strategy shall include objectives and policies that promote a reduction in:

- (a) a reduction of the consumption of non-renewable transport fuels; and
- (b) the emission of carbon dioxide from transportation
- (b) a reduction of the emission of *greenhouse gases*, and other transport-generated harmful *emissions* such as nitrogen dioxide; and
- (c) the uptake of low emission or zero carbon fuels, biofuels and new technologies.

including through prioritising public and active transport investment to serve future urban areas, to enable development in a sequential manner which minimises the risk of increasing car journeys in the region

Explanation

This policy provides direction to the Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan, in promoting a reduction in *greenhouse gas emissions* to decarbonise the transport system, promotes the uptake of low emission or zero carbon fuels and new technologies. Regionally, in 2019, transport was the biggest source of *greenhouse gas emissions*. Transport *emissions* accounted for 39 percent of total *gross emissions*.

Transportation is a significant and growing contributor to the consumption of non-renewable fuels and the emission of carbon dioxide. In 2004, 86 per cent of the oil consumed in New Zealand was used by the transport sector. The transport sector also accounts for around 45 per cent of the country's carbon dioxide emissions. Carbon dioxide is a greenhouse gas that contributes to climate change.

The Wellington Regional Land Transport Strategy is a statutory document, prepared under the Land Transport Act 2003, which Wellington Regional Council must produce. It is a strategy for the development of the region's land transport system over the next 30 years and provides policies to guide regional transport decisions and action programmes. The operative Wellington Regional Land Transport Strategy 2007-2016 was prepared under the Land Transport Act 1998 for the required timeframe of 10 years.

The Wellington Regional Land Transport Strategy will play an important role in ensuring that the demand for non-renewable energy and the emissions of carbon dioxide are reduced through improving the passenger transport network, promoting an increased uptake in walking and cycling, managing the demand for travel and increasing travel efficiency. It is, however, only one of the mechanisms to achieve national targets for reducing carbon dioxide-equivalent emissions from transportation and complements other central government and industry mechanisms.

438. Section 14 of the Land Transport Management Act 2003 (LTMA) requires that preparation of a regional land transport plan (RLTP) must take into account the RPS. The amendments to Policy 9 provide the direction to the RLTP to meet this requirement²⁵⁶ and are directed at future content of the RLTP.²⁵⁷

6.6.1 Submissions, Evidence and Analysis

439. There were sixteen original submission points and 10 further submission points on Policy 9.

440. Waka Kotahi [S129.018] supports the shift to low emission fuels and seeks clarification about how the Policy will direct the shift to greenhouse gas reduction and low emission fuels. They suggested that the current wording placed the onus on infrastructure providers. Ngāti Toa [S170.022] sought more directive language ('reduce' rather than 'promote'). The

441. The Officer did not think amendments were needed in response to Waka Kotahi's submission as the Policy is directed at future content of the RLTP. The detail of where the onus falls will be worked through in the RLTP by the Regional Transport Committee and general direction from Central Government, particularly in relation to the ERP. The Officer agreed in part with Forest and Bird's submission that amendments were required to address reducing emissions from the public transport vehicle fleet. The Officer also accepted the submission from WIAL [S148.032] that Policy 9 is focussed on the RLTP which relates to land-based transport and therefore excludes aviation. The Officer said she agreed the aviation industry will take some time to transition to sustainable aviation fuel.²⁵⁸ The Officer considered that the direction in the Policy was appropriate given the LTMA requires a regional land transport plan take the RPS into account. We recommend the same amendments here as we did in Policies CC.1 and CC.9 on the exemption for aircraft and for the reasons in that analysis.

6.6.2 Finding

442. We largely agree with the Reporting Officer's recommendations on Policy 9 for the reasons above, and otherwise as set out in the Officer's s 42A Report or Rebuttal or Reply Evidence. We recommend that the exclusion

²⁵⁶ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 283.

²⁵⁷ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 288.

²⁵⁸ Section 42A Hearing Report, HS3 – Climate Change – Transport, 31 July 2023, para 290.

in the Explanation apply only to aircraft, in line with the ‘exemption’ currently in the CCRA and because the balance of the words in the Explanation (as recommended by the Officer) are broad and not clear as to their application and interpretation and inconsistent with the recommendation in the General subtopic on the Chapter 4.1A Introduction text.

6.6.3 Recommendation

Policy 9: Promoting greenhouse gas emission reduction and uptake of low emission fuels – Regional Land Transport Plan Strategy Reducing the use and consumption of non-renewable transport fuels, and carbon dioxide emissions from transportation

The Wellington Regional Land Transport Plan Strategy shall include objectives and policies that promote a reduction in:

- (a) a reduction of the consumption of non-renewable transport fuels; and
- ~~(b) the emission of carbon dioxide from transportation~~
- (b) a reduction of the emission of *greenhouse gases*, and other transport-generated harmful *emissions*, such as nitrogen dioxide; and
- (c) an increase in the uptake of low emission or zero carbon fuels, biofuels and new technologies.; and
- ~~(d) the decarbonisation of the public transport vehicle fleet.~~

~~Including through prioritising public and active transport investment to serve future urban areas, to enable development in a sequential manner which minimises the risk of increasing car journeys in the region~~

Explanation

This policy provides direction to the Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan, in promoting a reduction in *greenhouse gas emissions* to decarbonise the transport system, promotes the uptake of low emission or zero carbon fuels and new technologies. Regionally, in 2019, transport was the biggest source of *greenhouse gas emissions*. Transport emissions accounted for 39 percent of total gross emissions. This policy does not apply to aircraft.; or activities undertaken at Wellington Airport which support aircraft activities. e.g. aircraft parking stands at the airport.

Transportation is a significant and growing contributor to the consumption of nonrenewable fuels and the emission of carbon dioxide. In 2004, 86 per cent of the oil consumed in New Zealand was used by the transport sector. The transport sector also accounts for around 45 per cent of the country's carbon dioxide emissions. Carbon dioxide is a greenhouse gas that contributes to climate change.

6.7 Policy 10

443. Proposed Change 1 proposed to delete Policy 10:

Policy 10: Promoting travel demand management – district plans and the Regional Land Transport Strategy

District plans and the Wellington Regional Land Transport Strategy shall include policies to promote travel demand management mechanisms that reduce:

- (a) the use and consumption of non-renewable transport fuels; and
- (b) carbon dioxide emissions from transportation.

Explanation

Travel demand management includes a range of mechanisms – such as travel behavioural change programmes, road pricing tools and improvements to the efficiency of the existing network.

Land use planning is important in managing demand for travel. Land use patterns – such as higher density or mixed use development in areas close to good public transport links and community facilities, or community facilities and employment close to where people live – can reduce dependence on the private car, the need to travel and journey lengths. It is also important to ensure good connectivity within and between settlements to optimise walking, cycling and public transport.

444. Policy CC.2 is the proposed replacement Policy for Policy 10 and provides similar direction regarding travel demand management plans. There were some submissions on Policy 10. The planners who attended caucusing agreed that the deletion of Policy 10 was not in contention.

6.7.1 Finding

445. We agree with the Reporting Officer’s recommendation to delete Policy 10 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence.

6.7.2 Recommendation

Policy 10: Promoting travel demand management – district plans and the Regional Land Transport Strategy

District plans and the Wellington Regional Land Transport Strategy shall include policies to promote travel demand management mechanisms that reduce:

- (a) the use and consumption of non-renewable transport fuels; and
- (b) carbon dioxide emissions from transportation.

Explanation

Travel demand management includes a range of mechanisms – such as travel behavioural change programmes, road pricing tools and improvements to the efficiency of the existing network.

Land use planning is important in managing demand for travel. Land use patterns – such as higher density or mixed use development in areas close to good public transport links and community facilities, or community facilities and employment close to where people live – can reduce dependence on the private car, the need to travel and journey lengths. It is also important to ensure good connectivity within and between settlements to optimise walking, cycling and public transport.

6.8 Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration

446. The notified Policy said:

Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan for freight distribution centres and new industrial areas or similar activities with significant freight servicing requirements, particular regard shall be given to the proximity of efficient transport networks and locations that will contribute to efficient freight movements and minimising associated greenhouse gas emissions.

Explanation

This policy requires decisions for freight land use or servicing to consider transport efficiency to contribute to minimising greenhouse gas emissions.

447. There were 15 original submission points and eight further submission points.

448. Policy CC.10 encourages new freight distribution centres to locate near existing and transport connections for ease of freight movement around the region and to reduce GHGe.²⁵⁹

6.8.1 Submissions, Evidence and Analysis

449. PCC [S30.0124] sought that the Policy be more prescriptive and include definitions for clarity. Mr Smeaton providing evidence for PCC thought that the Policy should address efficient and effective connections to transport networks rather than proximity of transport networks to freight distribution centres.²⁶⁰ He also thought the matters in the Policy were covered by Policy CC.2, as did Ms Rushmere for UHCC. WCC sought the Policy be deleted [S140.060].

450. The Officer did not support this relief. She acknowledged the spatial location of land use and transport infrastructure are intrinsically linked but did not think Policy CC.10 duplicated Policy CC.2 which focuses on travel

²⁵⁹ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 335.

²⁶⁰ Statement of evidence of Rory Smeaton on behalf of Porirua City Council, Planning, Energy, Waste and Industry, and Transport, 14 August 2023, para 69.

choice assessments and how people travel. Policy CC.10 on the other hand is about the efficient movement of freight at a regional level.²⁶¹

451. WIAL [S148.026] sought clarification about how Policy CC.10 would apply to the airport. The Officer supported Ms Hunter’s requested relief. In Minute we asked the Officer for more information about the freight strategy referred to in the ERP and whether there was scope under the RMA to support the move to low emissions freight infrastructure. The Officer said that while she was not aware of a freight strategy prepared as part of the ERP, the Ministry of Transport has developed a freight and supply chain strategy and also a ‘Green Freight’ paper. The Officer said that while there is scope within the RMA to move to low emissions freight infrastructure, the transition will take time and Change 1 did not provide scope for supporting objectives and policies.²⁶²

6.8.2 Finding

452. We largely agree with the Reporting Officer’s recommendations on Policy CC.10 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence. We recommend that the exclusion in the Explanation apply only to aircraft, in line with the ‘exemption’ currently in the CCRA and because the balance of the words in the Explanation (as recommended by the Officer) are broad and not clear as to their application and interpretation and inconsistent with the recommendation in the General subtopic on the Chapter 4.1A Introduction text.

6.8.3 Recommendation

Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or *district plan* for freight distribution centres and new industrial areas or similar activities with significant freight servicing requirements, particular regard shall be given to the proximity of efficient transport networks and locations that will contribute to efficient freight movements and minimising associated *greenhouse gas emissions*.

Explanation

²⁶¹ Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, HS3 – Climate Change – Transport, para 80.

²⁶² Reporting Officer Right of Reply of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 19 October 2023, paras 31 – 32.

This policy requires decisions for freight land use or servicing to consider transport efficiency to contribute to minimising greenhouse gas emissions. [This policy does not apply to aircraft, or activities undertaken at Wellington Airport which support aircraft activities. e.g. aircraft parking stands at the airport.](#)

6.9 Policy CC.11 – Encouraging whole of life greenhouse gas carbon emissions assessment

453. As notified, the Policy read:

<u>Policy CC.11: Encouraging whole of life carbon emissions assessment – consideration</u>
<p><u>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, a whole of life <i>carbon emissions assessment</i> is encouraged for all new or altered transport infrastructure as part of the information submitted with the application. This information will assist with evaluating the potential greenhouse gas <i>emissions</i>, options for reducing direct and indirect greenhouse gas <i>emissions</i> and whether the infrastructure has been designed and will operate in a manner that contributes to the regional target for a reduction to transport-related greenhouse gas <i>emissions</i>.</u></p>
<p><u>Explanation</u></p> <p><u>This policy encourages a whole of life <i>carbon emissions assessment</i> for new or altered transport infrastructure. This assessment will provide information and evidence on predicted <i>emissions</i> to enable assessment of impacts and options in the context of regional targets to reduce greenhouse gas <i>emissions</i>. Waka Kotahi has a tool providing accepted assessment methodology.</u></p>

454. This Policy encourages whole of life carbon assessments to be provided with consent applications for all new or altered land transport infrastructure.

6.9.1 Submissions, Evidence and Analysis

455. In the s 42A Report, the Officer states that whole of life carbon assessments are becoming more common as climate change and New Zealand’s response to it becomes more urgent and legislated.²⁶³ We note, as stated in our discussion on the statutory framework, that November 2022 amendments to the RMA repealed sections 70A, 70B, 104E and 104F of the RMA which placed a bar on regional councils considering the effects of the discharge of greenhouse gases in consenting and plan making. Those provisions operated to prevent regional councils from considering the effects on climate change when making rules, or when assessing applications for discharge of greenhouse gases.

²⁶³ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 356.

456. Mr Smeaton for PCC thought carbon assessment could help consent authorities understand the effects on the environment of large transport projects and how these have been avoided, remedied or mitigated, but he thought the Policy should be a non-regulatory policy as it only “encourages” whole of life carbon assessments.²⁶⁴ He also did not think the Policy should be applied to plan changes, variations or reviews as to was not clear how an assessment would relate to those processes. He also sought that “altered” be amended to “upgraded” as altered would capture a broad range of activities that would be inappropriate for the Policy to be applied to.²⁶⁵ Counsel for PCC, Ms Viskovic explained in her legal submissions and at the hearing, that the repeal on the bar in November 2022 on considering the potential effects of discharges on climate change, raised a question about ‘remoteness’ as TAs do not have a function under the RMA relating to the discharge of contaminants to air, and land use management which was within their functions, was too remote from the actual emissions they’re being asked to consider in these assessments.²⁶⁶
457. The Officer was comfortable with the Policy being a consideration policy as it directed particular action for resource consents. Ms Allwood supported the Policy only applying to consenting, but thought it should apply to consents processed by territorial authorities as well as regional consents because territorial authorities have the ability to influence land use and development.²⁶⁷ Also TAs are required to have regard to the ERP (under s 74(2) of the RMA), and whole of life carbon assessments are supported by the ERP. The Officer did not think the Policy would place an unfair burden on road controlling authorities as embodied carbon would soon be included within the Building Act (ie relate to buildings) and Policy CC.11 would cover other components ie roads).²⁶⁸ Amending the wording from “altered” to “upgraded” as recommended by Mr Smeaton would

²⁶⁴ Statement of evidence of Rory Smeaton on behalf of Porirua City Council, Planning, Energy, Waste and Industry, and Transport, 14 August 2023, paras 76 - 79.

²⁶⁵ Statement of evidence of Rory Smeaton on behalf of Porirua City Council, Planning, Energy, Waste and Industry, and Transport, 14 August 2023, paras 82 and 34.

²⁶⁶ Hearing Transcript, HS3 – Climate Change, Day 3, pages 54 - 55, lines 2754 – 2783.

²⁶⁷ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, paras 360 – 361; Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, HS3 – Climate Change – Transport, para 94.

²⁶⁸ Statement of Supplementary Evidence of Louise Allwood on behalf of Wellington Regional Council, HS3 – Climate Change – Transport, para 93.

place the focus on larger works rather than maintenance and repair, which was appropriate in the Officer's view.

458. The Officer also supported an amendment to exclude aircraft and activities undertaken at Wellington Airport which support aircraft activities.
459. During the Hearing we asked Ms Allwood if the Policy should be expanded to refer to all infrastructure. In her Reply Evidence, the Officer said that change would be problematic as some infrastructure such as facilities associated with a port had been excluded at this stage from the ERP, and that change could have unintended consequences for infrastructure that generates electricity.²⁶⁹ There was also no scope to expand the Policy. We accept this assessment. The Rebuttal Evidence of the Officer for the Climate Change General subtopic recommended the definition of "carbon emissions assessment" be replaced with "whole of life greenhouse gas emissions assessment". We recommend this revised term is used in Policy CC.11. We also recommend a more limited exemption for "aircraft" as recommended above with other Policies and we consider that the reference to "aircraft parking stands" in the Officer's Rebuttal would be captured by the term "aircraft".
460. We recommend deletion of the word "regional" before "target" in light of the changes we recommend to Objective CC.3 to delete references to regional sector targets. We note that in the Officer's s 32AA Evaluation, she recommends the Policy apply to resource consent and notice of requirement processes.²⁷⁰ It seems that NoRs have been inadvertently deleted from the Policy. In our view it is important they are retained given the focus of the Policy on new or upgraded land transport infrastructure. We recommend additions below but note the Council may have alternative wording that better incorporates reference to NoRs.

6.9.2 Finding and s 32AA Evaluation

461. We largely agree with the Reporting Officer's recommendations on Policy CC.11 for the reasons above, and otherwise as set out in the Officer's s 42A Report or Rebuttal or Reply Evidence. We recommend that the

²⁶⁹ Reporting Officer Right of Reply of Louise Allwood on behalf of Wellington Regional Council, HS 3, Climate Change, Transport, paras 29 -30.

²⁷⁰ Reporting Officer Right of Reply of Louise Allwood on behalf of Wellington Regional Council, HS 3, Climate Change, Transport, para 99.

exclusion in the Explanation apply only to aircraft, in line with the ‘exemption’ currently in the CCRA and because the balance of the words in the Explanation (as recommended by the Officer) are broad and not clear as to their application and interpretation and inconsistent with the recommendation in the General subtopic on the Chapter 4.1A Introduction text. We recommend “regional” is deleted before “targets” and similar changes are made to the Explanation as a consequential change to amendments we recommend to Objective CC.3. We also recommend the Policy apply to NoRs which we consider is a drafting amendment to capture the Policy intent as outlined in the Officer’s Rebuttal Evidence.

6.9.3 Recommendation

Policy CC.11: Encouraging *whole of life greenhouse gas carbon emissions assessment for transport infrastructure* – consideration

~~Encourage When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, a *whole of life carbon greenhouse gas emissions assessments* is to be provided with resource consent applications to Wellington Regional Council and resource consent applications and notices of requirement to city and district councils for all new or upgraded altered land transport infrastructure, as part of the information submitted with the application. This information will assist with evaluating the potential *greenhouse gas emissions*, options for reducing direct and indirect *greenhouse gas emissions* and whether the infrastructure has been designed and will operate in a manner that contributes to *reducing the regional target for a reduction to* transport-related *greenhouse gas emissions in the Wellington Region*.~~

Explanation

This policy encourages a *whole of life carbon greenhouse gas emissions assessment for new or upgraded altered land transport infrastructure*. This assessment will provide information and evidence on predicted emissions to enable assessment of impacts and options *for reducing in the context of regional targets to reduce greenhouse gas emissions*. Waka Kotahi has a tool providing accepted assessment methodology. ~~This policy does not apply to aircraft, or activities undertaken at Wellington Airport which support aircraft activities, e.g. aircraft parking stands at the airport.~~

6.10 Policy EIW.1: Promoting affordable high quality active mode and public transport services – Regional Land Transport Plan

462. The notified Policy stated:

Policy EIW.1: Promoting affordable high quality active mode and public transport services – Regional Land Transport Plan

The Wellington Regional Land Transport Plan shall include objectives, policies and methods that promote equitable and accessible high quality active mode infrastructure, and affordable public transport services with sufficient frequency and connectedness, including between modes, for people to live in urban areas without the need to have access to a private vehicle, by contributing to reducing greenhouse emissions.

Explanation

This policy provides direction to the Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan, to promote mode shift from private vehicles to public transport and active modes by providing connected, accessible, affordable and extensive multi modal infrastructure and services.

6.10.1 Submissions, Evidence and Analysis

463. The Officer states that the purpose of the Policy which is specific to the RLTP, is to promote alternative modes of transport so people do not have to rely on private vehicles, but the Policy does not require that they give up their private vehicles.²⁷¹

464. Ngāti Toa [S170.023] was concerned that high quality active mode and car share infrastructure and public transport services are not currently always available. In response, the Officer said that the purpose of Policy EIW.1 is to promote equitable and accessible transport options, which should include in areas where they don't currently exist. The Officer said that concerns about equitable and accessible transport options would be more appropriately achieved with a broader partnership approach which is provided for through other provisions in Change 1. The Officer acknowledged that different territorial authorities would approach the Policy in different ways but that it is intended to promote choice and options for transport and is not therefore restricted to Tier 1 and 2 councils

²⁷¹ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 129.

but would apply to Tier 3 councils “as is practicable to do so in the context of their environments”.²⁷²

465. In planning evidence, Ms Hunter for WIAL said that while promoting alternative transport modes could lead to reductions in private vehicle use, other factors will also influence whether people will seek access to a private vehicle. Ms Hunter said the Policy should be deleted or amended to say “encourage a reduction in the dependency and use of private vehicles for everyday living”. The Officer agreed with these proposed amendments.

466. In caucusing, the planners attending agreed that the Policy should be amended as proposed by the Officer in her Rebuttal Evidence.²⁷³

6.10.2 Finding

467. We agree with the Reporting Officer’s recommendations on Policy EIW.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence.

6.10.3 Recommendation

Policy EIW.1: Promoting affordable high quality active mode and public transport services – Regional Land Transport Plan

The Wellington Regional Land Transport Plan shall include objectives, policies and methods that promote equitable and accessible high quality active mode *infrastructure*, and affordable public transport services with sufficient frequency and connectedness, including between modes, to encourage a reduction in the dependency and use of private vehicles for everyday living. for people to live in urban areas without the need to have access to a private vehicle. for people to live in urban areas without the need to have access to a private vehicle. by contributing to reducing greenhouse emissions.

Explanation

This policy provides direction to the Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan, to promote mode shift from private vehicles to public transport and active modes by providing connected, accessible, affordable and extensive multi modal *infrastructure* and services.

²⁷² Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 135.

²⁷³ Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 59.

6.11 Method CC.3: Travel demand management plans

468. The notified Method stated:

Method CC.3: Travel demand management plans

Where requested, the Wellington Regional Council will assist city and district councils with determining land use thresholds for triggering a *Travel Demand Management Plan* requirement, as well as guidelines for a *Travel Demand Management Plan* that city and district councils can provide to developers to assist them with mitigating the travel movements and associated greenhouse gas emissions arising from new subdivision, use and development.

Implementation: Wellington Regional Council*

469. The Method supports the implementation of Policy CC.2 and replaces operative Method 9. Method CC.3 requires the Regional Council to provide guidance and assistance to territorial authorities to develop their individual land use thresholds for *Travel demand management plans*.²⁷⁴

6.11.1 Submissions, Evidence and Analysis

470. There were 9 original submissions and 4 further submissions on the Method.
471. The amendments the Officer recommended to Policy CC.2 (and which we recommend are adopted, including changing the term to *Travel choice assessments*) have consequential effects on Method CC.3. WCC [S140.095] sought amendments to the Method to ensure guidance is provided in collaboration with TAs prior to implementation and to remove the onus on TAs to develop land use thresholds.
472. The Officer agreed that the Regional Council should provide guidance and assistance to a TA without them needing to request it. The Officer recommended an amendment to this effect.
473. Forest and Bird [S165.0100] did not support land use thresholds being used, but this relief was addressed (and rejected) by the Reporting Officer, and also in our recommendations, on Policy CC.2. Other submitters had also requested relief in relation to Method CC.10 but it was addressed through Policy CC.2.

²⁷⁴ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 249.

6.11.2 Finding

We agree with the Reporting Officer's recommendations on Method CC.3 for the reasons above, and otherwise as set out in the Officer's s 42A Report or Rebuttal or Reply Evidence.

6.11.3 Recommendation

Method CC.3: Travel ~~choice assessment demand management plans~~

~~Where requested, t~~The Wellington Regional Council will assist city and district councils with determining land use thresholds for triggering a ~~requirement for a travel choice assessment Travel Demand Management Plan requirement~~, as well as guidelines for a ~~Travel choice assessment Demand Management Plan~~ that city and district councils can provide to developers to assist them with mitigating the travel movements and associated greenhouse gas emissions arising from new subdivision, use and development.

Implementation: Wellington Regional Council.

6.12 Method CC.3A: Whole of life carbon emissions assessments

474. The Regional Council [S137.057] requested in its submission a new non-regulatory method on whole of life carbon emissions assessments to support the implementation of Policy CC.11.
475. In the s 42A Report, the Officer said that guidance on implementation of Policy CC.11 would be beneficial and a method to that effect would ensure appropriate guidance is developed.
476. As noted in the definitions section of this chapter, we recommend the definition of 'carbon emission assessment' is amended to 'Whole-of-life greenhouse gas emissions assessment'. We recommend that this revised term is also used in Method CC.3A for consistency.

6.12.1 Finding and s 32AA Evaluation

We largely agree with the Reporting Officer's recommendation to include new Method CC.3A for the reasons above, and otherwise as set out in the Officer's s 42A Report or Rebuttal or Reply Evidence. We recommend a minor drafting and consequential change in light of our recommendation on the defined term 'carbon emission assessment' which we recommend is amended to 'Whole-of-life greenhouse gas emissions assessment'. This does not alter the policy intent but is important for clarity, interpretation and implementation of the Method, which implements Policy CC.11 which is now also recommended to refer to 'Whole-of-life greenhouse gas emissions assessment'.

6.12.2 Recommendation

Method CC.3A: Whole of life carbon greenhouse gas emissions assessment

Develop guidance to support the development of whole of life carbon greenhouse gas emission assessments, in accordance with Policy CC.11.

Implementation: Wellington Regional Council

6.13 Method CC.7 Advocating for the use of transport pricing tools

477. The notified Method stated:

Method CC.7: Advocating for the use of transport pricing tools

Actively advocate to the Government to introduce new regulatory functions or tools for councils to manage congestion and greenhouse gas emissions within major urban areas through use of pricing tools and/or taxes.

Implementation: Wellington Regional Council

478. The Officer says that, while the Method is not imposing transport taxes, it sends a clear signal about transport pricing tools as a potential means of supporting management of congestion and GHGe. Implementation would occur within a wider national context.²⁷⁵

6.13.1 Submissions, Evidence and Analysis

479. Waka Kotahi [S129.043] agreed in principle with the purpose of the method but considered that further direction is required from central government before it is able to fully support the Method. Ms Heppelthwaite did not recommend any amendments to the Method in her planning evidence.

480. The Officer acknowledged submitters' concerns about the pricing tools but said that the ERP does refer to the need for transport pricing tools to be developed so there is national guidance on the issue. The Officer said that she agreed with Waka Kotahi that further direction is required from central government on the use and content of transport pricing tools and how these might apply to various councils and their communities, but she

²⁷⁵ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 193.

did not think that detail needed to sit in Change 1. The details of those matters would take time to work through with the relevant stakeholders.

481. The planners who attended caucusing agreed that Method CC.7 was not in contention.

6.13.2 Finding

We agree with the Reporting Officer’s recommendations on Method CC.7 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence.

6.13.3 Recommendation

Method CC.7: Advocating for the use of transport pricing tools

Actively advocate to the Government to introduce new regulatory functions or tools for councils to manage congestion and greenhouse gas emissions within major urban areas through use of pricing tools and/or taxes.

Implementation: Wellington Regional Council

6.14 Method CC.10:

482. The notified Method stated:

<p>Method CC.10: Establish incentives to shift to active and public transport</p> <p><u>Establish, support and promote a range of incentives for uptake of zero and low-carbon multi modal transport to reduce greenhouse gas emissions, and to support an equitable and inclusive transition.</u></p> <p><i>Implementation: Wellington Regional Council</i></p>

483. The Method supports various policies in Proposed Change 1 including Polices EIW.1, CC.1, CC.3 and CC.9.

6.14.1 Submissions, Evidence and Analysis

484. Various submitters supported the Method and asked that it be retained as notified, including Meridian [S100.023], Waka Kotahi [S129.045], Ātiawa [S131.0146] and Forest and Bird [S165.0120]. Some submitters sought alignments with central government direction. UHCC [S34.021] sought clarification on what is meant by “equitable and inclusive transition”. The Officer said that the concept of equitable transition was addressed in Chapter 3 of the ERP and it was too complex to define and a definition was not in fact required. The Regional Council [S137.016] sought consistent use of the words ‘low’ and ‘zero-carbon’ throughout Change 1 and also

that the wording align with Policy 9 in relation to decarbonising the public transport fleet.

485. The Officer supported amending the Method by deleting “active” from the title and referring to “low and zero-carbon multi modal transport, including public transport”.
486. The planners attending caucusing agreed that Method CC.10 was not in contention.²⁷⁶
487. We note that Policies CC.1, CC.2 and CC.9 (as we recommend they are amended) all refer to “public transport and active modes” or “public transport or active modes”. We recommend that Method CC.10 also retains reference to “active modes” in the title, and the phrase “public transport and active modes” is used. We also recommend that “active modes” is used in the Method for consistency with the wording in Policies CC.1, CC.2 and CC.9. We agree with the Officer’s recommendation to use the words “low and zero-carbon” and note these words are also used in Policies CC.3, CC.9 and the Explanation to Policy CC.1.

6.14.2 Finding and s 32AA Evaluation

488. We largely agree with the Reporting Officer’s recommendations on Method CC.10 for the reasons above, and otherwise as set out in the Officer’s s 42A Report or Rebuttal or Reply Evidence. We recommend that the title of the method is “Establish incentives to shift to public transport and active modes”, and that the Method itself refer to “low-and zero carbon multi modal transport, including public and active transport”. This is not a change in policy intent but is a drafting amendment that will support clarity and consistency with the wording in Change 1, including Policies CC.1, CC.2 and CC.9.

6.14.3 Recommendation

Method CC.10: Establish incentives to shift to ~~active~~ low and zero-carbon multi modal transport ~~and including~~ public transport ~~and active modes~~

Establish, support and promote a range of incentives for uptake of low and zero-carbon ~~zero and low-carbon~~ multi modal transport, including public transport

²⁷⁶ Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 15.

and active modes, to reduce greenhouse gas *emissions*, and to support an equitable and inclusive transition.

Implementation: Wellington Regional Council

6.15 Method 25

489. Proposed Change proposed the deletion of Method 25:

Method 25: Information about the provision of walking, cycling and public transport for development
Prepare and disseminate information about how to provide for walking, cycling and public transport.
<i>Implementation: Wellington Regional Council</i>

490. Various submissions were received supporting the deletion of the Method. The Officer said deletion was appropriate as other provisions in Change 1 now replace the Method. The planners who attended caucusing agreed that the deletion of Method 25 was not in contention.

6.15.1 Finding

491. We agree with the Reporting Officer's recommendation to delete Method 25 for the reasons above.

6.15.2 Recommendation

Method 25: Information about the provision of walking, cycling and public transport for development
Prepare and disseminate information about how to provide for walking, cycling and public transport.
<i>Implementation: Wellington Regional Council</i>

6.16 Definitions: Transport subtopic

492. Submitters sought the inclusion of various Transport related definitions in their submissions. The Officer discusses this relief in the s 42A Report but does not recommend additional definitions are included. The following paragraphs discuss the definitions coded to the subtopic that are discussed in the Officer's Evidence.

6.16.1 *Hazard risk management strategy*

493. This definition was proposed in the Officer's Reply Evidence. The definition was discussed in planners' caucusing as a result of amendments to Policy 52 and agreement was reached. We recommend the definition is included in Proposed Change 1.

6.16.2 *Optimise transport demand*

494. We discuss under Policy CC.1 why we do not consider a definition of *optimise transport demand* (proposed to be included through the s 42A Report) is required.

6.16.3 *Walkable catchment*

495. This definition was recommended to be included in the s 42A Report. It appears in Policies CC.1 and CC.2A. The Officer notes the definition is consistent with MfE guidance on the NPS-UD.²⁷⁷

496. In planning evidence, Mr Smeaton for PCC said that the definition may be problematic where a district plan has already been varied by the Intensification Planning Instrument and does not already define the term. The Officer agreed with this and recommended an amendment in the definition to include a walkable catchment identified by TAs. We agree with this amendment. We note that the definition is proposed to be amended through the HS4 – Urban Development topic. The definition is discussed in that section of our report and so is not included below.

²⁷⁷ Section 42A Hearing Report, Hearing Stream 3, Climate Change, Transport, 31 July 2023, para 163.

6.16.4 Recommendations

Optimise transport demand

Optimise transport demand means:

(a) Influencing demand spatially and reducing trip length; then

(b) Creating choices to travel via sustainable modes and reduce emissions; then

(c) Designing and delivering development in a way that supports sustainable modes and an efficient transport network;

Hazard risk management strategy

A strategic approach for the management of the risks from natural hazards to minimise or reduce the overall risk of social, environmental and economic harm and adverse effects from natural hazards. It includes some or all of the following elements; hazard and hazard risk identification, impact assessment, potential mitigation works (costs/impacts/maintenance), assessment of environmental effects, assessment of alternate options, cost-benefit analysis, budget allocation; community engagement and implementation plan. The scale of a hazard risk management strategy should be commensurate to the size of the proposed development or activity.

7. Climate Change: Subtopic 5– Climate Resilience and Nature-Based Solutions

7.1 Overview

497. The provisions in this subtopic are:
- a. Objective CC.4: Nature-based solutions are an integral part of climate change mitigation and adaptation
 - b. Objective CC.5: Increase in permanent forest; right tree-right place
 - c. Policy CC.4: Climate-resilient development – plans
 - d. Policy CC. 14: Climate-resilient development – consideration
 - e. Policy CC.6: Increasing regional forest cover and avoiding plantation forestry on highly erodible land – plans
 - f. Policy CC.7: Protecting, restoring and enhancing ecosystems that provide nature based solutions to climate change – plans
 - g. Policy CC.12: Protecting, restoring and enhancing ecosystems that provide nature based solutions to climate change – consideration
 - h. Policy CC.18: Increasing regional forest cover to support climate change mitigation -non regulatory
 - i. Policy FW.8: Land use adaptation – non regulatory
 - j. Method CC.4: Prepare a regional forest spatial plan
 - k. Method CC.6: Identifying nature-based solutions for climate change
 - l. Method CC.9: Support and funding for protecting, enhancing and restoring indigenous ecosystems and nature-based solutions
 - m. Definitions.
498. There were approximately 323 original submissions and 212 further submissions on this subtopic.
499. The Reporting Officer recommended that all provisions be categorised as Freshwater provisions other than Policy CC.7. The Panels have differing views on the categorisation of the *nature-based solutions* provisions, as discussed in the FPI Part C Report, and have recommended that only some of the nature-based solutions provisions progress as part of the FPI, with other provisions assessed under the P1S1 process as they address matters that are broader than freshwater quantity or quality or NPS-FM implementation.

500. This section of the Report therefore considers Objective CC.5, Policies CC.6, Policy CC.7, CC.18, Method CC.4, Method CC.9 and related definitions.
501. The key issues in the subtopic were:
- a. Whether policy preference should be given to indigenous forest, and
 - b. Concerns at the risk that provisions promoting an increase in forest cover could result in unfettered afforestation in the region, particularly in the Wairarapa.
502. The provisions in this subtopic were the subject of expert planners' caucusing as directed in Minute 12.
503. Policy CC.7: Protecting, restoring and enhancing ecosystems that provide nature-based solutions to climate change – plans, was agreed during caucusing to not be a matter of contention among the planners attending.
504. We support Ms Guest's amendments to Policy CC.7 to add in the sustainable management of ecosystems that provide nature-based solutions and consider that amendment to be for a resource management purpose supported by Part 2 of the Act and the ERP.

Provision by Provision Analysis

7.2 Objective CC.5

505. The Objective as notified stated:

Objective CC.5
By 2030, there is an increase in the area of permanent forest in the Wellington Region, maximising benefits for carbon sequestration, indigenous biodiversity, land stability, water quality, and social and economic well-being.

506. The outcome expressed by this Objective is an increase in the area of permanent forest in the Wellington Region, in accordance with the principles of ‘right tree right place’.

507. Ms Guest described the outcome sought in this way at the Hearing:²⁷⁸

...we need more trees, but let’s make sure those trees go on our erodible hill country and catchments where you might have a sediment issue, so you’re actually putting them in places where they have multiple benefits and not necessarily on productive farm land.

7.2.1 Submissions, Analysis and Evidence

508. Some submitters sought that the Objective focus on indigenous forest (for instance Rangitāne [S168.0113]). Ngāti Toa [S170.011] noted that the Objective could be powerful, but it was implemented by Policy CC.18 which is non-regulatory. Ms Guest noted in the s 42A Report, that Policy CC.6 (which is regulatory), also implements the Objective.²⁷⁹ CDC [S25.006] and SDC [S79.005] were concerned that the Wairarapa will be disproportionately affected by carbon farming. Some TAs said it was appropriate for the Objective and associated methods to only apply to

²⁷⁸ Hearing Transcript, HS3 – Climate Change, Day 1, page 83, lines 4271 – 4275.

²⁷⁹ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 261.

regional councils (eg KCDC [S16.010], HCC [S155.010] and UHCC [S34.046]).

509. The Reporting Officer, referencing advice from the Climate Change Commission, considered it appropriate that the Objective refer to both indigenous forests and exotic forests, as both are required to meet New Zealand’s climate change targets.²⁸⁰ As Ms Guest says:²⁸¹

Indigenous forest on its own will not be sufficient to achieve greenhouse gas targets due to their slower growth rate, lower carbon sequestration rate per hectare, and current higher costs for planting and pest control compared to exotics.

510. However, Ms Guest considered it appropriate to amend the Objective so it gives preference to indigenous forest. We support this amendment because of the indigenous biodiversity and carbon sequestration values stated in the Objective. As Ms Guest says, “indigenous forests can continue to sequester carbon for hundreds of years and ... they provide significant indigenous biodiversity, cultural and social values”.²⁸² Ms Guest also considered it appropriate to include the 2030 timeframe because of the urgent need to increase greenhouse gas sinks in the short-term.²⁸³ Other provisions in the climate change suite recognise that the focus is on reducing gross GHGe. Ms Guest recommends including reference to “cultural” well-being in the Objective, as requested by Rangitāne, and “health” in response to Forest and Bird’s relief relating to the importance of animal pest or browser control to ensure forests and regenerating native vegetation can thrive. The effect of this is that the Objective seeks an increase in the area and health of permanent forest to achieve the concept of ‘right tree-right place’.

511. Two expert planners participated in caucusing on Objective CC.5 together with the Reporting Officer. They did not reach agreement on drafting. Mr Rachlin for PCC considered that the Objective does not describe an

²⁸⁰ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 255.

²⁸¹ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 255.

²⁸² Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 256.

²⁸³ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 257.

outcome and instead states action (policy) that helps achieve outcomes. Mr Rachlin's preference was for the Objective to be deleted.

512. The ERP describes the role of the forestry sector in offsetting emissions, saying that local government has a role to play both as regulators and land users in implementing national direction to make sure the right trees are planted in the right place, for the right purpose.²⁸⁴ The NAP also contains actions on forestry planning and a Hill Country Erosion Programme to contribute to afforestation and reduce the impacts of erosion and sediment deposition and contribute to a resilient natural environment.²⁸⁵
513. We agree with the Officer's recommendations on amendments to Objective CC.5. We agree the Objective has a resource management purpose and states an outcome – an increase in permanent forest which provides a range of benefits.

7.2.2 Finding

514. We agree with the Reporting Officer's recommendations on Objective CC.5 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

7.2.3 Recommendation

Objective CC.5:


By 2030, there is an increase in the area and health of permanent forest, preferably indigenous forest, in the Wellington Region, maximising benefits for carbon sequestration, indigenous biodiversity, land stability, water quality, and social, cultural and economic well-being.

²⁸⁴ Aotearoa New Zealand's First Emissions Reduction Plan, Ministry for the Environment, May 2022, page 290.

²⁸⁵ Actions 3.13 and 6.12, Aotearoa New Zealand's First National Adaptation Plan, Ministry for the Environment, August 2022, page 111.

7.3 Policy CC.6: Increasing regional forest cover and avoiding plantation forestry on highly erodible land – regional plans

515. The notified proposed Policy stated:

<u>Policy CC.6: Increasing regional forest cover and avoiding plantation forestry on highly erodible land – regional plans</u>	
<p><u>Regional plans shall include objectives, policies, rules and/or methods that support an increase in the area of permanent forest in the region to contribute to achieving net-zero greenhouse gas emissions by 2050, while:</u></p> <p>(a) <u>promoting and incentivising the planting or regeneration of permanent indigenous forest over exotic species, particularly on highly erodible land and in catchments where water quality targets for sediment are not reached, and</u></p> <p>(b) <u>avoiding plantation forestry on highly erodible land, particularly in catchments where water quality targets for sediment are not reached.</u></p> <p><u>Explanation</u></p> <p><u>This policy recognises that, while there is a need for increased forest extent across the Wellington Region to help achieve net zero emissions by 2050, offsetting through carbon sequestration is only a short-term solution and that there are significant risks associated with unfettered afforestation across the region. The policy directs regional plans to develop provisions that will support “right tree-right place”, seeking to ensure that an increase in forest extent for its sequestration</u></p>	
<p><u>benefits will be implemented in a way that maximises the co-benefits for indigenous biodiversity and aquatic ecosystem health, and provide for social and economic well-being as directed by Objective CC.5.</u></p> <p><u>Clause (b) responds to the high risk of harvesting forest in areas that are highly erodible and in catchments where waterways already have high sediment loads. The National Environmental Standards for Plantation Forestry enables regional plans to regulate plantation forestry for the purpose of protecting freshwater quality.</u></p>	

516. The Policy directs regional plans to include provisions that support increasing forest cover to reduce GHGe.

7.3.1 Submissions, Evidence and Analysis

517. Ms McGruddy on behalf of WFF requested that clause (b) be deleted as it essentially amounted to a blanket prohibition on plantation forestry by directing that this forestry be avoided on highly erodible land, particularly in catchments where water quality targets for sediment are not reached.

518. The Reporting Officer did not agree with this view and said that even a coarse scale map of highly erodible land shows there are many parts of

the Region that are not highly erodible and also waterbodies where sediment is not an issue.²⁸⁶ The Natural Resources Plan (NRP) will identify waterbodies that require management and also any provisions to control plantation forestry and other land uses that contribute sediment.

519. PCC supported the intent of the Policy but requested that it provide clear direction and that the reference to contributing to achieving net zero emissions be deleted. We agree with the Officer that Policy CC.6 provides direction on increasing the area of forest in the Region to implement Objective CC.5. We agree with the Officer’s recommendation to amend the Policy to reflect that it can be achieved through non-regulatory methods as well as through objectives, policies and rules in regional plans.

7.3.2 Finding

520. We agree with the Reporting Officer’s recommendations on Policy CC.6 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.3.3 Recommendation

Policy CC.6: Increasing regional forest cover and avoiding plantation forestry on highly erodible land – regional plans

Regional plans shall include objectives, policies, rules and/or non-regulatory methods that support an increase in the area and health of permanent forest in the region, maximising the benefits for carbon sequestration, indigenous biodiversity, land stability, water quality, and social, cultural and economic well-being, to contribute to achieving net-zero greenhouse gas emissions by 2050, while:

- a. promoting and incentivising the planting or regeneration of permanent indigenous forest representative of the natural type expected in the area over exotic species, particularly on highly erodible land and in catchments where water quality targets for sediment are not reached, and-
- b. avoiding plantation forestry on highly erodible land, particularly in catchments where water quality targets for sediment are not reached-, and
- c. promoting and supporting the control of browsing pest animals in priority areas.

Explanation

This policy recognises that, while there is a need for increased forest extent across the Wellington Region to help achieve net zero emissions by 2050, offsetting through carbon sequestration is only a short-term solution and that there are significant risks associated with unfettered afforestation across the region. The policy directs regional plans to develop provisions that will support “right tree-right place”, seeking to ensure that an

²⁸⁶ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 83.


increase in forest extent for its sequestration benefits will be implemented in a way that maximises the co-benefits for *indigenous biodiversity* and aquatic ecosystem health, and provide for social and economic wellbeing as directed by Objective CC.5.

Clause (a) recognises the significant values of *indigenous forest*, along with the need for incentives to support their planting and natural regeneration.

Clause (b) responds to the high risk of harvesting forest in areas that are *highly erodible* and in catchments where waterways already have high sediment loads. The National Environmental Standards for Plantation Forestry enables *regional plans* to regulate *plantation forestry* for the purpose of protecting *freshwater* quality. Clause (c) recognises the importance of controlling browsing pest animals to ensure that forests are healthy and can therefore provide maximum benefits.

7.4 Policy CC.7: Protecting, restoring and enhancing ecosystems and habitats that provide nature-based solutions to climate change- district and regional plans

521. The notified proposed Policy stated:

<u>Policy CC.7: Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate change – district and regional plans</u>	
<u>District and regional plans shall include objectives, policies, rules and/or methods that provide for <i>nature-based solutions</i> to climate change to be part of development and infrastructure planning and design.</u>	
Explanation <u>Development and infrastructure planning and design should include <i>nature-based solutions</i> as standard practice, including green infrastructure, green spaces, and environmentally friendly design elements, to manage issues such as improving water quality and natural hazard protection. <i>Nature-based solutions</i> can perform the roles of traditional infrastructure, while also building resilience to the impacts of climate change and providing benefits for indigenous biodiversity and community well-being.</u>	

522. In the s 42A Report, the Officer explains that the intent of the Policy is for nature-based solutions to become an integral part of development and infrastructure planning and design, recognising that they can often perform the roles of traditional infrastructure while also building resilience to the impacts of climate change and providing benefits for indigenous biodiversity and community well-being.²⁸⁷

7.4.1 Submissions, Evidence and Analysis

523. There were approximately 21 original and 16 further submissions on the notified Policy. Some submitters requested the Policy be non-regulatory only and others said it was outside the scope of TA functions.

524. The Officer recommended quite substantial amendments to the Policy and these are supported in the evidence of WIAL, WFF and PCC. Among other things, the Officer recommends the Policy be amended to be a non-regulatory Policy that is integrated with the Policy CC.4 suite (part of the FPI) and it include reference to sustainable management. The Officer also recommends the focus in the Policy shift to working with and supporting landowners, mana whenua / tangata whenua, and other key stakeholders

²⁸⁷ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 199.

to protect, restore, or enhance ecosystems that provide nature-based solutions to climate change. Given this shift to a broader focus, the Officer recommend the Policy be assessed as part of the P1S1 process.

525. The Officer considered that the direction in the Policy was justified on the basis of local authority functions in the RMA and also the NAP which provides direction to prioritise the use of nature-based solutions to provide climate-resilience. We agree with the Officer’s recommendations, and also note that the expert planners attending caucusing agreed that, in light of the amendments recommended in the Officer’s Rebuttal Evidence, there were no matters in contention for them regarding the Policy.²⁸⁸

7.4.2 Finding

526. We agree with the Reporting Officer’s recommendations on Policy CC.7 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.4.3 Recommendation

Policy CC.7: Protecting, restoring, and enhancing and sustainably managing ecosystems and habitats that provide nature-based solutions to climate change – district and regional plans non-regulatory

District and regional plans shall include objectives, policies, rules and/or methods that provide for nature-based solutions to climate change to be part of development and infrastructure planning and design.

Work with and support landowners, mana whenua/tangata whenua, and other key stakeholders to protect, restore, or enhance or sustainably manage ecosystems that provide nature-based solutions to climate change.

Explanation


Development and infrastructure planning and design should include nature-based solutions as standard practice, including green infrastructure, green spaces, and environmentally friendly design elements, to manage issues such as improving water quality and natural hazard protection. Nature-based solutions can perform the roles of traditional infrastructure, while also building resilience to the impacts of climate change and providing benefits for indigenous biodiversity and community well-being.

Policy CC.7 recognises the value that natural ecosystems can provide as nature-based solutions for climate change. This policy recognises the critical importance of working with and supporting landowners and other key stakeholders to improve the health and functioning of ecosystems that provide benefits for nature and the wider community. Methods CC.6 and CC.9 will support the implementation of this policy.

²⁸⁸ Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 15.

7.5 Policy CC.18: Increasing regional forest cover to support climate change mitigation -non regulatory

527. As notified, the proposed Policy read:

<u>Policy CC.18: Increasing regional forest cover to support climate change mitigation: “right tree-right place” – non-regulatory</u>	
<p><u>Promote and support the planting and natural regeneration of forest to maximise the benefits for carbon sequestration, indigenous biodiversity, erosion control, freshwater and coastal ecosystems, and the social and economic well-being of local communities. Priority should be given to promoting and incentivising the planting and regeneration of permanent indigenous forest in preference to exotic species, particularly on highly erodible land and in catchments where water quality targets for sediment are not reached.</u></p>	
<p><u>Explanation</u></p> <p><u>Policy CC.18 promotes the planting of trees to contribute to achieving net zero emissions by 2050 while seeking an increase in forest extent that maximises the co-benefits for indigenous biodiversity, land stability, aquatic ecosystem health, and social and economic well-being, as directed by Objective CC.5.</u></p>	

7.5.1 Submissions, Evidence and Analysis

422. Policy CC.18 is a non-regulatory Policy that applies to regional and territorial authorities. There was broad iwi support for the Policy and requests for the Council to take a partnership approach with mana whenua to develop regional forest plans. Rangitāne [S168.0134] sought that indigenous forest be prioritised and cultural well-being be included as a benefit. This relief is supported by the Officer. CDC [S25.045] and MDC [S166.055] support the ‘right tree-right place’ concept but raise concerns about the Wairarapa becoming an incidental carbon sink for the Region. CDC seeks that Policy CC.18 be amended to reflect that forestry should be permanent, not plantation. The Officer recommends amendments to clarify that the Policy is directed at permanent forests.
423. Mr Rachlin for PCC was concerned that Policy CC.18 was too prescriptive and overreached its direction to territorial authorities. He sought that clauses (a) and (b) are deleted and that the Policy only require the planting of permanent forest to be “supported” rather than “promoted and supported”. The Officer does not agree with Mr Rachlin’s request on the basis of TAs responsibilities to achieve integrated management, and also

because the Policy is mainly implemented through Method CC.4 which provides discretion for TAs to be involved or not.²⁸⁹

7.5.2 Finding

528. We agree with the Reporting Officer’s recommendations on Policy CC.18 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.5.3 Recommendation

Policy CC.18: Increasing regional forest cover to support *climate change mitigation*: “right tree-right place” – non-regulatory

Promote and support the planting and natural regeneration of *permanent forest* to maximise the benefits for carbon sequestration, *indigenous biodiversity*, erosion control, freshwater and coastal ecosystems, and the social, *cultural*, and economic well-being of local communities, *including by:*

- (a) ~~Priority should be given identifying where to promoteing and incentiviseing the planting and regeneration of permanent *indigenous* forest representative of the natural type expected in the area in preference to exotic species, and~~
- (b) ~~prioritising planting and regeneration of permanent *indigenous* forest and associated browsing pest animal control particularly on highly erodible land and in catchments where water quality targets for sediment are not reached and in areas where it will support significant *indigenous biodiversity* values.~~


Explanation

Policy CC.18 promotes the planting of trees to contribute to achieving net zero emissions by 2050, while seeking an increase in forest extent that maximises the co-benefits for *indigenous biodiversity*, land stability, *aquatic ecosystem health*, and social and economic well-being, as directed by Objective CC.5

²⁸⁹ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 86.

7.6 Method CC.4: Prepare a regional forest spatial plan

529. As notified, the proposed Method read:

<u>Method CC.4: Prepare a regional forest spatial plan</u>	
<u>Using a partnership approach, identify where to promote and support planting and natural regeneration of forest, including how to address water quality targets for sediment, to inform the requirements of Policy CC.6.</u>	
<u>Implementation: Wellington Regional Council* and city and district councils</u>	

7.6.1 Submissions, Evidence and Analysis

530. The notified Method refers to a partnership approach for the identification of areas to promote and support planting. Forest and Bird [S165.0111] recommended the Method refer to indigenous vegetation as well and also require the actual preparation of a regional forest plan (as signalled in the heading). Several iwi submitters sought specific reference to mana whenua partnership and some urban-based TAs did not want the Method applying to their districts.

531. The s 42A Reporting Officer recommended the implementation of the Method is discretionary for territorial authorities. As Ms Guest explained at the Hearing:²⁹⁰

We have given discretion to District Councils to be involved or not. The Wairarapa Council very certainly wanted to be front and centre in that method, but I acknowledge that may not be of interest to the Councils such as Wellington City or Porirua – they may not find it of interest.

532. Ms McGruddy for WFF requested a clause be added to the Method to achieve higher resolution mapping to support the forest spatial plan. We agree with the Officer's recommendations to the Method, including the express partnership approach with mana whenua / tangata whenua and also other stakeholders as appropriate.

533. Ms Craig for Rangitāne expressed the problems that can occur from her perspective if a right-tree-right-place approach is not taken:²⁹¹

²⁹⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 80, lines 4093 – 4098.

²⁹¹ Hearing Transcript, HS3 – Climate Change, Day 4, page 39, lines 1974 – 1997.

We have large corporations, I would say, green washing by paying corporations to come and buy land over in the Wairarapa and plant it out in pine. It's a massive issue, especially in the South Wairarapa. Although that was Masterton, we're seeing it in Carterton up the Mangatarere Valley. There is a lot of forestry heading up to the Tararua Ranges. South Wairarapa is seeing it around the Aorangi Ranges. We are also seeing though, and this is partly why we wanted to say that forests plans should be in collaboration with mana whenua, because we are not seeing any of those plans; and then who is holding them to account? Because it's our whānau who drive past these places every day and see the destruction of our awa and ephemeral streams where people think that because it's dried up they don't have to look after the river beds. With the felling of them too, the destruction of our waterways with more sediment going into our awa and coming especially down the ... Valley, because that's up the top near the source of where our awa comes from. It then puts all the sediment down further into the stream. It's massively concerning. It's on the list of stuff that keeps us up at night.

534. The planners that participated in caucusing on this Method confirmed they supported the amendments proposed in Ms Guest's Rebuttal Evidence and no matters remained in contention for them.²⁹²

7.6.2 Finding

535. We agree with the Reporting Officer's recommendations on Method CC.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

7.6.3 Recommendation

Method CC.4 Prepare a regional forest spatial plan

By December 2024, prepare a regional forest spatial plan, using a partnership approach with mana whenua/tangata whenua and other key stakeholders, as appropriate, to identify where to promote and support planting and natural regeneration of permanent forest and associated browsing pest animal control; including how to give effect to Objective CC.5 and address contribute to achieving water quality targets for sediment, to inform the requirements of Policy CC.6.

This plan to include:

- a. **a target for an increase in permanent forest extent in the Wellington Region to support achieving Objective CC.5,**


²⁹² Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 47.

- b. evaluation of the potential impacts of increased afforestation on rural production and social well-being, and development of an approach that will maximise the environmental, social, and economic benefits,
 - c. ways to implement and support capability for increasing the area of indigenous forest, including the provision of incentives.
 - d. identification of the types of indigenous forest to prioritise for re-afforestation, including links to the strategic indigenous biodiversity targets and priorities identified through Policy IE.3 and Method IE.3, and
 - e. use of high-resolution spatial data to support identification of areas appropriate for permanent forest or plantation forestry, site-appropriate indigenous forests and other planting types.
- ~~(e)~~(f) a process to monitor and report on changes in the extent and health of permanent forest.

Implementation: Wellington Regional Council, city and district councils at their discretion*

7.7 Method CC.9: Support and funding for protecting, enhancing and restoring indigenous ecosystems and nature-based solutions

536. As notified, the proposed Method stated:

<u>Method CC.9: Support and funding for protecting, enhancing, and restoring indigenous ecosystems and nature-based solutions</u>	
<u>Provide support, and seek new sources of funding, for programmes that protect, enhance or restore the priority ecosystems identified by Methods IE.2 and CC.7 for their biodiversity values and/or their contribution as <i>nature-based solutions</i> to climate change.</u>	
<u><i>Implementation: Wellington Regional Council</i></u>	

7.7.1 Submissions, Evidence and Analysis

537. Iwi submitters supported the Method generally but sought amendments to correct the cross-reference to Method CC.6, reference “indigenous biodiversity” and for programmes to be “implemented” including mana whenua / tangata whenua led programmes. The Officer agreed with the majority of these recommendations.

538. We agree with the Officer’s recommendations, and also note that the expert planners attending caucusing agreed there were no matters in contention for them regarding the Method.²⁹³

7.7.2 Finding

539. We agree with the Reporting Officer’s recommendations on Method CC.9 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.7.3 Recommendation

Method CC.9: Support and funding for protecting, *enhancing*, and restoring indigenous ecosystems and *nature-based solutions*

Provide support, and seek new sources of funding, ~~for to incentivise or implement~~ programmes, ~~including mana whenua/tangata whenua-led programmes~~, that protect, *enhance* or *restore* the priority ecosystems identified by Methods IE.~~23~~ and CC.~~76~~ for their *indigenous biodiversity* values and/or their contribution as *nature-based solutions* to climate change.

²⁹³ Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 15.


Implementation: Wellington Regional Council

7.8 Definitions: Climate-Resilience and Nature Based Solutions subtopic

540. The definitions associated with the Climate Change: Climate Resilience and Nature-Based Solutions topic that are addressed in this report are for highly erodible land, permanent forest, and plantation forestry. The planning experts who attended caucusing agreed that these definitions were not in contention.²⁹⁴
541. The other definitions associated with this topic are addressed in the FPI Part C report, being for nature-based solutions, climate-resilience, water sensitive urban design, climate change adaptation, and climate change mitigation.

7.8.1 *Highly erodible land*

542. The notified definition stated:


Highly erodible land	
<u>Means land at risk of severe erosion (landslide, earthflow, and gully) if it does not have a protective cover of deep-rooted woody vegetation. Land classified as very high (red) according to the erosion susceptibility classification in the National Environmental Standards for Plantation Forestry 2017.</u>	

543. Some submitters said “deep-rooted woody vegetation” was not clear and raised concerns about the “red zone” which they said relied on crude and low-resolution mapping. In response the Regional Council [S137.013] recommended the second sentence be deleted.
544. The Officer recommended the reference to red zone land be deleted and reference added to mass-movement.

7.8.2 *Permanent Forest*

545. The notified definition stated:

Insert a new definition of permanent forest as follows:

Permanent forest	
<u>For the purpose of the RPS permanent forest is a forest established for long term forest cover and is not intended to be harvested.</u>	

²⁹⁴ Joint Witness Statement of Planning Experts Climate Resilience, Nature-Based Solutions and Natural Hazards, 16 October 2023, para 15.

546. Some submitters opposed the definition but the Officer considered it important to retain it to support the interpretation of Objective CC.5. The Officer agreed with WFF’s concern that the notified definition has potential to restrict beneficial forest management that could contribute to achieving Objective CC.5.²⁹⁵ The Officer recommended the definition focus on continuous canopy cover forest that is actively managed, for example to create light wells for growth.

7.8.3 Plantation Forestry

547. The notified definition stated:

Plantation forestry	
A forest deliberately established for commercial harvest purposes.	

548. Some submitters sought that the definition align with the definition in the National Environmental Standards for Plantation Forestry 2017 (NES-PF). The Officer agreed that this would be useful to provide consistency and avoid confusion.

549. In Reply Evidence, the Officer noted that new National Environmental Standards for Commercial Forestry which amend the NES-PF, came into force on 3 November 2023. These include a minor amendment to the chapeau of the definition for plantation forestry, which the Officer also recommended be included in Change 1 for consistency. We agree with this recommendation.

7.8.4 Finding

550. We agree with the Reporting Officer’s recommendations on the definitions coded to the Climate-Resilience and Nature-based solutions subtopic (the P1S1 definitions) for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.8.5 Recommendations

Highly erodible land

Means tLand at risk of severe **mass-movement** erosion (landslide, earthflow, and gully) if it does not have a protective cover of deep-rooted woody vegetation. **Land classified as very high (red) according to the erosion susceptibility classification in the National Environmental Standards for Plantation Forestry 2017.**

²⁹⁵ Section 42A Hearing Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 299.

Permanent forest

~~For the purpose of the RPS permanent forest is a forest established for long term forest cover and is not intended to be harvested.—Forest actively managed to maintain continuous canopy cover.~~

Plantation forestry

A forest deliberately established for commercial **harvest** purposes, being:

- ~~(a) at least 1 ha of continuous forest cover of forest species that has been planted and has or will be harvested or replanted; and~~
- ~~(b) includes all associated forestry infrastructure; but~~
- ~~(c) does not include—~~
 - ~~(i) a shelter belt of forest species, where the tree crown cover has, or is likely to have, an average width of less than 30 m; or~~
 - ~~(ii) forest species in urban areas; or~~
 - ~~(iii) nurseries and seed orchards; or~~
 - ~~(iv) trees grown for fruit or nuts; or~~
 - ~~(v) long-term ecological *restoration* planting of forest species; or~~
 - ~~(vi) willows and poplars space planted for soil conservation purposes.~~

Climate Change: Subtopic 6 – Natural Hazards

7.9 Overview

551. The provisions in this subtopic are:
- a. Introduction;
 - b. Issues 1 – 3;
 - c. Objective 19;
 - d. Objective 20;
 - e. Objective 21;
 - f. Objective CC.6;
 - g. Policy 29: Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans;
 - h. Policy 51: Minimising the risks and consequences of natural hazards – consideration;
 - i. Policy 52: Minimising adverse effects of hazard mitigation measures – consideration;
 - j. Policy CC.16: Climate change adaptation strategies, plans and implementation programmes – non regulatory;
 - k. Policy CC.17: Iwi climate change adaptation plans – non regulatory;
 - l. Method 14: Information about natural hazard and climate change effects;
 - m. Method 22: Integrated hazard risk management and climate change adaptation planning;
 - n. Method 23;
 - o. AERs; and
 - p. Definitions.
552. There were approximately 224 original submissions and 185 further submissions on this subtopic.
553. All of the provisions were notified under P1S1 other than Issue 3, Objective 20, Policy 52 and the definition of “minimise” which were notified as part of the FPI. As we discussed in Part A, in the Panels’ view, all of the provisions other than the definition of “minimise” are more appropriately assessed as part of the P1S1 planning process.
554. The key issues raised were:
- a. Clarity of wording and terminology in Policy 29;
 - b. Application of the risk-based approach to hazard planning;
 - c. Hazard mapping;

- d. Functional use in high hazard areas;
- e. The role of resource management and planning in increasing resilience to the effects of climate change;
- f. Increased recognition of areas of significance to mana whenua / tangata whenua; and
- g. Implementation of the NZCPS.

555. Facilitated caucusing of planning experts was held on this subtopic on 16 October 2023. The aim of the session was to set out the matters that are not in contention, matters that are agreed during conferencing and matters that remain in contention.

556. The Joint Witness Statement recorded that the experts attending agreed that the following provisions were not in contention:


- a. Policy CC.17; and
- b. Methods 14 and 23.

Provision by Provision Analysis

7.10 Chapter 3.8 - Natural Hazards Introduction text and Issues

1 - 3

557. The notified amendments to the Introduction read:

Chapter introduction	
<p>A natural hazard is defined in the Resource Management Act as any atmospheric, earth or water related occurrence (including earthquake, tsunami, erosion, volcanic, and</p>	
<p>geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) which may adversely affect human life, property, or other aspects of the environment. On their own, natural processes do not constitute a hazard. Natural events become hazardous when they may adversely affect human lives.</p>	
<p>The Wellington region has one of the most physically diverse environments in New Zealand. It is also one of the most populous regions and, consequently, our communities are affected by a wide range of natural hazards. With the exception of geothermal activity, the region is subject to all types of natural hazard events. Commonly, there are two or more hazards associated with a given event. For example, a rainstorm may cause flooding and landslips.</p>	
<p>The three most potentially damaging and costly natural hazards events that can occur in the region are:</p>	
<ul style="list-style-type: none">• Earthquake: High magnitude earthquake (7.0+) from the rupture of a local fault (especially the Wellington Fault) affecting Wellington city, Hutt valley, Porirua, Kāpiti Coast and towns in the Wairarapa District• Flooding: Major river flooding in the Hutt valley, Kāpiti Coast and the central Wairarapa plains. Flooding is the most frequently occurring hazard event in the region• Tsunami: Large tsunami (particularly one that is locally generated) affecting low-lying areas around Wellington Harbour and the southern bays, settlements along the southern and eastern Wairarapa coast, Porirua Harbour and the Kāpiti Coast	
<p>Other natural hazards have more localised impacts but occur more frequently. These include:</p>	
<ul style="list-style-type: none">• Localised flooding and inundation from streams and stormwater overflow. This can occur throughout the region in low-lying areas – such as Porirua – around tributary streams of the larger rivers – such as the Hutt River – and in areas that have short steep catchments – such as Paekākāriki.• Coastal erosion and inundation, often associated with storm surge, affects some seafront and low lying coastal developments in the region. Some sections of the coastline are in long term retreat – such as Paekākāriki and Te Kopi. Other areas have episodes of erosion that form part of a cycle of erosion and deposition – such as Paraparaumu or Riversdale. <u>Due to climate change induced sea level rise, it is expected that the areas impacted by coastal erosion and inundation will increase with time, and that this hazard will occur on a more frequent basis.</u>• Landslips in the hill suburbs of Wellington city, the Hutt valley, Eastbourne, Wainuiomata, Porirua, Paekākāriki and in the Wairarapa hill country.• Drought, especially in central Wairarapa and the coastal hills between Flat Point and Castlepoint.• Wildfire, particularly in hill suburbs on urban fringes near heavily vegetated slopes, including western and southern Wellington suburbs, Eastbourne, Wainuiomata, Hutt valley and Porirua, and farmland in the eastern Wairarapa hill country.	

- High winds that can occur throughout the region and cause widespread damage to buildings, infrastructure and forestry.
- Sedimentation and erosion of rivers and streams, river mouths and tidal inlets, that can exacerbate the flood risk by raising *bed* levels and undermining banks.

People's actions, including mitigation measures and ongoing development in areas at high risk from **natural hazards**, can cause or increase the risk from **natural hazards**. Examples include seawalls or groynes that can cause localised erosion of the adjacent shoreline, and building on landslip prone slopes. Stopbanks and seawalls can also create a sense of security and encourage further development, increasing the extent and value of the assets at risk.

In the medium to long term, climate change effects ~~have the potential to~~ will increase both the frequency and magnitude of natural hazard events that already occur in the region.

A major consequence of climate change is sea level rise. ~~The sea level is expected to rise over half a meter by 2100.~~ [‡] Based on the Intergovernmental Panel on Climate Change 6th assessment report, and measurements of vertical land movement, NZ SeaRise - Te Tai Pari O Aotearoa projects relative sea level in the Wellington region to rise between 0.8 – 1.3 m by 2100 but, 2.0 m of sea level rise by the end of the century cannot be ruled out.^[1]

Climate change will increase the frequency and magnitude **natural hazards** that already occur in the region and exacerbate the impacts and consequences from these events. For example, 30 cm of sea level rise on top of what has already occurred over the past 120 years, will mean that a 1 percent AEP (1:100 yr) coastal flooding event has the potential to occur every one to two years.

The main **natural hazards** associated with a rise in sea levels are coastal erosion and inundation. Sea level rise will also put increasing pressure on the coastal margin. As the shoreline adjusts, sediment will be redistributed around the coast and may cause shorelines to form new orientations. Beaches that are currently stable may begin to erode as the shoreline adjusts to a higher water level, while those that are currently eroding may experience an increased rate of retreat.

Climate change ~~is expected to~~ will increase the intensity and duration of westerly weather systems and reduce easterly conditions. This will exacerbate differences in the regional climate, by bringing higher rainfall to the west and reducing coastal rains in the east. It will also bring longer periods of northerly gales to the entire region, particularly in the spring months. Western and southern areas of the region may also have higher rainfall in the winter, increasing the landslide risk during wet winters, particularly in extreme rainfall events. This will put pressure on stormwater systems and flood protection works. Higher rainfall may also result in higher rates of sedimentation at river mouths and in estuaries, increasing the flood risk in those areas by raising the base level of the river *bed*.

It is also expected that central and eastern Wairarapa will become drier over the next 100 years. Droughts will occur more frequently and persist for longer periods. Research suggests that winter rainfall will decline in the long term, which may lead to a reduction in

groundwater recharge rates and pressure on water resources. Dry conditions also result in a heightened risk of wildfire.

The regionally significant issues and the issues of significance to the Wellington region's iwi authorities for **natural hazards** are:

1. ~~Effects of Risks from~~ **natural hazards**

Natural hazard events in the Wellington region have an adverse impact on people and communities, businesses, property and infrastructure.

2. Human actions can increase risk and consequences from **natural hazards**

People's actions including mitigation measures and ongoing development in areas at risk from **natural hazards** can cause, or increase, the risk and consequences from **natural hazards**.

3. Climate change will increase ~~both the likelihood and consequences~~ the likelihood and consequences ~~magnitude and frequency of~~ risks from natural hazard events



Climate change will increase the likelihood and consequences risks from natural hazard events that already occur within the region, particularly:

- (a) sea level rise, exacerbating the effects of coastal erosion and inundation, and river, pluvial and stormwater flooding in low lying areas, especially during storm surge tide events
- (b) increased frequency and intensity of storm events, adding to the risk from floods, landslides, severe wind, storm surge, coastal erosion and inundation
- (c) increased frequency of drought, placing pressure on water resources and increasing the wildfire risk

¹ Intergovernmental Panel on Climate Change (IPCC) (2007), *Climate Change 2007: The Physical Science Basis. Summary for Policymakers. Contribution of working group I to the fourth assessment report of the IPCC*, 18pp.

[1] IPCC, 2021: *Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*, 31pp.

558. Change 1 proposed amendments to the Operative Introduction to include updated information on predicted sea level and coastal flooding risk for the Region due to climate change.

7.10.1 Submissions, Evidence and Analysis

559. KCDC [S16.068] supported the amendments in part but sought additional text regarding local authority roles and responsibilities for hazard management. Others sought the Introduction be retained as notified (eg HCC [S115.020 and Forest and Bird [S165.026]), and others sought amendments (eg Taranaki Whānui [S167.043]) describing the impacts of natural hazards on mana whenua and their areas of significance.

560. The s 42A Reporting Officer, Dr Dawe, has proposed amendments including relating to local authorities' responsibilities regarding natural hazard management, and acknowledgment that the impacts from natural hazards and climate change will not be felt equitably.²⁹⁶ We agree with these amendments for the reasons Dr Dawe provides in the s 42A Report.
561. Ātiawa [S131.034] supported Issue 1 but sought that “natural environment” was included in the list of places/matters affected. The Officer agreed with this change because “human activities and actions have the ability to exacerbate natural hazards and impacts on the natural environment, most notably through anthropogenic global warming and climate change, that is exacerbating natural hazard events that occur in the region”.²⁹⁷
562. HortNZ [S128.009] requested that “food production and food security” be included in the list of activities affected by natural hazards. The Officer agreed with this relief in part by adding in “the local economy” into Issue 1. We agree with the Officer that this amendment places this matter at a level that is appropriate for an issue statement and would cover the agri-economy sector and others.²⁹⁸
563. We agree with the Officer’s reasoning for rejecting the submission by Robert Anker [S31.015] seeking to amend Issue 2 to add that human actions can “decrease” as well as increase risk and consequences from natural hazards. We agree this is not a resource management issue that needs to be addressed by the Change 1 provisions.²⁹⁹
564. Taranaki Whānui [S167.045] submitted in support of Issue 3 and asked for it to be retained as notified. SWDC [S79.012] supported the Issue in part and sought that it be amended to reflect that not all natural hazard events are impacted by the effects of climate change. The Officer agreed with this amendment, noting that fault rupture and amplified ground shaking in an earthquake are two hazards that occur in the Region that climate

²⁹⁶ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, paras 101 – 108.

²⁹⁷ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 114.

²⁹⁸ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 115.

²⁹⁹ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, paras 119 – 120.

change is unlikely to affect.³⁰⁰ The Officer recommends adding the word “most” before “natural hazard events”. We have no issues with this suggestion. We also agree with the Officer’s reasons for not separating out natural hazards caused or exacerbated by climate change as sought by Dom Harris [S4.003]. As the Reporting Officer states:³⁰¹

Despite the fact they may have different annual recurrence intervals and present different levels of risk, these events affect our communities every year and planning for them must occur in an integrated manner over the short, medium and long term. This doesn’t preclude prioritising how different hazards are managed in response to the level of risk they present to the community.

7.10.2 Finding

565. We agree with the Reporting Officer’s recommendations on the Natural Hazard Introduction and Issues for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.10.3 Recommendation

3.8 Natural Hazards

A natural hazard is defined in the Resource Management Act as any atmospheric, earth or water related occurrence (including earthquake, tsunami, erosion, volcanic, and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) which may adversely affect human life, property, or other aspects of the environment. On their own, natural processes do not constitute a hazard. Natural events become hazardous when they may adversely affect human lives.

Regional, city and district councils all have responsibilities under the Resource Management Act to manage the significant risks from these natural hazards as a matter of national importance. Additionally, particular regard must be given to the effects of climate change when achieving the sustainable management purpose of the Act.

The Wellington Region has one of the most physically diverse environments in New Zealand. It is also one of the most populous regions and, consequently, our communities and the areas that we value are affected by a wide range of natural hazards. The hazard exposure of people and communities, the natural environment, businesses and the

³⁰⁰ Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 132.

³⁰¹ Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 127.

economy, food production (including mahinga kai), water security, property and infrastructure is increasing because of climate change. The impacts and costs of responding to natural hazards and climate change is not felt equitably. Some communities have no, or only limited, resources to enable mitigation and adaptation and will bear a greater burden than others.

With the exception of geothermal activity, the region is subject to all types of natural hazard events. Commonly, there are two or more hazards associated with a given event. For example, a rainstorm may cause flooding and landslips.

The three most potentially damaging and costly natural hazards events that can occur in the region are:

- Earthquake: High magnitude earthquake (7.0+) from the rupture of a local fault (especially the Wellington Fault) affecting [Te Whanganui-a-Tara](#)/Wellington city, [Te Awa Kairangi](#)/Hutt valley, Porirua, Kāpiti Coast and towns in the Wairarapa District.
- Flooding: Major river flooding in the Hutt valley, Kāpiti Coast and the central Wairarapa plains. Flooding is the most frequently occurring hazard event in the region.
- Tsunami: Large tsunami (particularly one that is locally generated) affecting low-lying areas around [Te Whanganui-a-Tara](#)/Wellington Harbour and the southern bays, settlements along the southern and eastern Wairarapa coast, [Te Awarua-o-Porirua](#) Harbour and the Kāpiti Coast.

Other natural hazards have more localised impacts but occur more frequently. These include:

- Localised flooding and inundation from streams and stormwater overflow. This can occur throughout the region in low-lying areas – such as Porirua – around tributary streams of the larger rivers – such as [the Te Awa Kairangi](#)/Hutt River – and in areas that have short steep catchments – such as Paekākāriki.
- Coastal erosion and inundation, often associated with storm surge, affects some seafront and low-lying coastal developments in the region. Some sections of the coastline are in long term retreat – such as Paekākāriki and Te Kopi. Other areas have episodes of erosion that form part of a cycle of erosion and deposition – such as Paraparaumu or Riversdale. Due to climate change induced sea level rise, it is expected that the areas impacted by coastal erosion and inundation will increase with time, and that this hazard will occur on a more frequent basis.
- Landslips in the hill suburbs of [Te Whanganui-a-Tara](#)/Wellington city, [the Te Awa Kairangi](#)/Hutt valley, Eastbourne, Wainuiomata, [Porirua](#), Paekākāriki and in the Wairarapa hill country.
- Drought, especially in central Wairarapa and the coastal hills between Flat Point and Castlepoint.
- Wildfire, particularly in hill suburbs on urban fringes near heavily vegetated slopes, including western and southern [Te Whanganui-a-Tara](#)/Wellington suburbs, Eastbourne, Wainuiomata, [Te Awa Kairangi](#)/Hutt valley and Porirua, and farmland in the eastern Wairarapa hill country.
- High winds that can occur throughout the region and cause widespread damage to buildings, infrastructure and forestry.

- Sedimentation and erosion of rivers and streams, river mouths and tidal inlets, that can exacerbate the flood risk by raising *bed* levels and undermining banks.

People's actions, including mitigation measures and ongoing development in areas at high risk from natural hazards, can cause or increase the risk from natural hazards. Examples include seawalls or groynes that can cause localised erosion of the adjacent shoreline and building on landslip prone slopes. Stopbanks and seawalls can also create a sense of security and encourage further development, increasing the extent and value of the assets at risk.

In the medium to long term, climate change effects ~~have the potential to~~ will increase both the frequency and magnitude of natural hazard events that already occur in the region.

A major consequence of climate change is sea level rise. ~~The sea level is expected to rise over half a meter by 2100.~~[†] Based on the Intergovernmental Panel on Climate Change 6th assessment report, and measurements of vertical land movement, NZ SeaRise - Te Tai Pari O Aotearoa projects relative sea level in the Wellington region to rise between 0.8 – 1.3 m by 2100 but, 2.0 m of sea level rise by the end of the century cannot be ruled out.^[1]

Climate change will increase the frequency and magnitude natural hazards that already occur in the region and exacerbate the impacts and consequences from these events. For example, 30 cm of sea level rise on top of what has already occurred over the past 120 years, will mean that a 1 percent AEP (1:100 yr) coastal flooding event has the potential to occur every one to two years.

The main natural hazards associated with a rise in sea levels are coastal erosion and inundation. Sea level rise will also put increasing pressure on the coastal margin. As the shoreline adjusts, sediment will be redistributed around the coast and may cause shorelines to form new orientations. Beaches that are currently stable may begin to erode as the shoreline adjusts to a higher water level, while those that are currently eroding may experience an increased rate of retreat.

Climate change ~~is expected to~~ will increase the intensity and duration of westerly weather systems and reduce easterly conditions. This will exacerbate differences in the regional climate, by bringing higher rainfall to the west and reducing coastal rains in the east. It will also bring longer periods of northerly gales to the entire region, particularly in the spring months. Western and southern areas of the region may also have higher rainfall in the winter, increasing the landslide risk during wet winters, particularly in extreme rainfall events. This will put pressure on stormwater systems and flood protection works. Higher rainfall may also result in higher rates of sedimentation at river mouths and in estuaries, increasing the flood risk in those areas by raising the base level of the river *bed*.

It is also expected that central and eastern Wairarapa will become drier over the next 100 years. Droughts will occur more frequently and persist for longer periods. Research suggests that winter rainfall will decline in the long term, which may lead to a reduction in groundwater recharge rates and pressure on water resources. Dry conditions also result in a heightened risk of wildfire.

The regionally significant issues and the issues of significance to the Wellington region's iwi authorities for natural hazards are:

1. ~~Effects of~~ Risks from natural hazards

Natural hazard events in the Wellington region have an adverse impact on people and communities, the natural environment, businesses and the local economy, property and infrastructure.

2. Human actions can increase risk and consequences from natural hazards

People's actions, including mitigation measures and ongoing development in areas at risk from natural hazards, can cause, or increase, the risk and consequences from natural hazards.

3. Climate change will increase ~~both the likelihood and consequences~~ magnitude and frequency of ~~from~~ natural hazard events

Climate change will increase the likelihood and consequences ~~risks~~ from most natural hazard events that already occur within the region, particularly:

- (a) sea level rise, exacerbating the effects of coastal erosion and inundation, ~~and~~ river, pluvial and stormwater flooding in low lying areas, especially during storm surge tide events
- (b) increased frequency and intensity of storm events, adding to the risk from floods, landslides, severe wind, storm surge, coastal erosion and inundation
- (c) increased frequency of drought, placing pressure on water resources and increasing the wildfire risk.

~~1 Intergovernmental Panel on Climate Change (IPCC) (2007), *Climate Change 2007: The Physical Science Basis*. Summary for Policymakers. Contribution of working group I to the fourth assessment report of the IPCC, 18pp.~~

~~[1] IPCC, 2021: Summary for Policymakers. In: *Climate Change 2021: The Physical Science Basis*. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, 31pp.~~

7.11 Objective 19

566. As notified, the proposed amendments to Objective 19 stated:

Objective 19

The risks and consequences to people, communities, ~~their businesses, property, and infrastructure~~ and the environment from natural hazards and the effects of climate change ~~effects~~ are minimised.

7.11.1 Submissions, Evidence and Analysis

567. Submitters requested, among other things, a definition of “minimise” (WIAL [S148.044]), removal of duplication with Objective 20 (PCC [S30.017]), inclusion of food security (Hort NZ [S128.010] and natural environment (Rangitāne [FS2.8]), and deletion of Objective 19 (WFF [S163.036]).
568. We agree with the Officer that deleting the Objective would leave an important gap in RPS direction in terms of s 6(h) of the RMA and the NZCPS, and this could have significant consequences for natural hazard management in the Region.
569. In the s 42A Report, the Officer recommends removing the words “consequences” and “the environment” from Objective 19 to remove duplication with Objective 20 which is about mitigation measures and adaptation activities. The Officer also recommends using the Natural Resources Plan definition of “minimise” so the word can be used in the RPS natural hazard provisions without confusion. The NRP defines minimise as: “Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.” This definition is recommended in the FPI (through the *Nature-Based Solutions* provisions).
570. We agree with these amendments and note that Powerco [S134.005] had proposed the NRP definition of “minimise” be included as part of its

alternative relief on Objective 20,³⁰² and Wellington Water also supported this definition in relation to Objective 20 [S113.007].

571. The Officer recommended the addition of the word “avoided” in Objective 19, so that it reads “The risks ... from natural hazards and the effects of climate change are avoided or minimised”. Relying in part on relief sought by PCC [S30.017] and the further submission of PPFL [FS25.050], the Officer Mr Beban also explained in the Hearing that the words “minimise and avoid” are terms that are “generally considered to be more consistent with natural hazard risk management, or risk management as a whole ...”.³⁰³ In our view, the addition of “avoid” gives appropriate effect to the NZCPS, including Policy 25(a) and (b) which require that the risk of social, environmental and economic harm from coastal hazards in certain areas, and redevelopment or changes in land use that would increase the risk of adverse effects from coastal hazards, is avoided.
572. Caucusing was held on Objective 19.³⁰⁴ Ms Landers for HortNZ sought that “food security” be included in the Objective. In her written evidence, Ms Landers said that:³⁰⁵
- The most fertile soils are often located in areas subject to natural hazard risk, and in land use planning, primary production activities are generally provided for (as compared to activities such as residential development) in areas with an increased risk profile.
573. Ms Landers said primary production activities need not be subject to more stringent controls due to the inherently lower risk to human life in a natural hazard event.
574. The Officer did not support including “food security” in Objective 19 largely on the basis that food is produced in the Region in high-hazard or high-risk (flood prone) areas and the amendment HortNZ seeks to the Objective could have a perverse planning response and could also create a conflict

³⁰² Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 166.

³⁰³ Hearing Transcript, HS3 – Climate Change, Day 1, page 88, lines 4469 – 4471.

³⁰⁴ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, paras 48 – 50.

³⁰⁵ Statement of Evidence by Jordyn Landers for Horticulture New Zealand (Planning), 14 August 2023, para 14.

with direction in the NPS-HPL.³⁰⁶ Ms Landers sets out reasons in her written evidence as to why recognising food security in the Objective would not imply the situation noted by the Reporting Officer.³⁰⁷ The Officer supports other amendments recognising food security in the climate change provisions, namely Climate Change Issue 3, Policies CC.15 and CC.16 (Explanation text). We also note that the provision of food is referenced in the notified version of Climate Change Issue 2.

575. We agree with the Officer’s reasoning and do not think a reference to “food production” or “food security” is appropriate in Objective 19 given the strong direction to “avoid or minimise” and the planning response this might create in lower order planning instruments for food produced on flood-risk land. We consider the issue is one that is best addressed through a comprehensive change that implements the NPS-HPL.

7.11.2 Finding

576. We agree with the Reporting Officer’s recommendations on Objective 19 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.11.3 Recommendation

Objective 19

The risks ~~and consequences~~ to people, communities, ~~their~~ businesses, property, and infrastructure ~~and the environment~~ from natural hazards and the effects of climate change ~~effects~~ are ~~reduced~~ avoided or minimised.

³⁰⁶ Statement of Rebuttal Evidence of Dr Iain Dawe and James Beban on behalf of Wellington Regional Council, HS3 – Natural Hazards, 22 August 2023, paras 32 – 36; s 42A Hearing Report, Climate Change – Natural Hazards, para 146.

³⁰⁷ Statement of Evidence by Jordyn Landers for Horticulture New Zealand (Planning), 14 August 2023, para 22.

7.12 Objective 20

577. The proposed amendments to Objective 20 stated:

Objective 20

Natural hazard and climate change mitigation and adaptation activities minimise the risks from natural hazards and impacts on Te Mana o te Wai, Te Rito o te Harakeke, natural processes, indigenous ecosystems and biodiversity.

~~Hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events.~~

578. Mr Beban, the s 42A Officer assessing this provision, states that the focus of the Objective is to ensure that where mitigation measures, climate change and adaptation measures are considered necessary to avoid or minimise risk as directed by Objective 19, that the effects of these measures and activities themselves are minimised.³⁰⁸

7.12.1 Submissions, Evidence and Analysis

579. Various submitters sought a ‘weakening’ of the direction in the Objective to read, for instance, “do not increase” risks, rather than “minimise” them (Kāinga Ora [S158.010], or “do not compromise” or “do not have an adverse effects on” Te Mana o te Wai, Te Rito o te Harakeke, natural processes, indigenous ecosystems and biodiversity (PCC [S30.017]). Other submitters sought differing approaches to levels of risk and for the risks from significant natural hazards to “be avoided”, and the risks from other natural hazards to be “mitigated” (KCDC [S16.070]). The Officer did not support this relief as the focus in the Objective is for the effects of mitigation measures and adaptation activities themselves to be minimised.³⁰⁹ The Officer did not agree with PCC’s relief as the Change 1 direction to “minimise” was stronger.

³⁰⁸ Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 168.

³⁰⁹ Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, paras 168 – 169.

580. Ātiawa sought that “areas associated with mana whenua values” be included in the Objective [S131.036]. The Officer has recommended including “sites of significance to mana whenua / tangata whenua” in the Objective to support amendments recommended to Policy 52(f).³¹⁰ The Officer also recommended some drafting amendments to clarify that minimise applies to both mitigation measures and adaptation activities.
581. Caucusing was held on Objective 20 (Topic 7 in the JWS).³¹¹ The planning experts who attended reached general agreement on the drafting of the Objective which is reflected in the Officer’s Reply Evidence. The experts agreed that “taonga species” should replace “*Te Rito o te Harakeke*” in the Objective and also in Policies 52 and CC.16.

7.12.2 Finding

582. We agree with the Reporting Officer’s recommendations on Objective 20 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.12.3 Recommendation

Objective 20

Natural hazard mitigation measures and climate change mitigation and adaptation activities minimise the risks from natural hazards, and impacts on, *Te Mana o te Wai*, *Te Rito o te Harakeke* taonga species, sites of significance to mana whenua/tangata whenua, natural processes, indigenous ecosystems and biodiversity.

³¹⁰ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 173.

³¹¹ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-based Solutions and Natural Hazards, 16 October 2023, paras 51 – 52.

7.13 Objective 21

583. As notified, the proposed amendments to the Objective read:

Objective 21

The resilience of our communities are more resilient to natural hazards, including the impacts and the natural environment to the short, medium, and long-term effects of climate change, and sea level rise is strengthened, and people are better prepared for the consequences of natural hazard events.

584. The notified amendments to this Objective seek to ensure that the short-, medium- and long-term impacts of climate change, including sea level rise, are more directly considered.

7.13.1 Submissions, Evidence and Analysis

585. There was general support for the Objective as notified but requests for clarification of how it would work in practice. HortNZ [S128.012] sought reference to food production and food security, and WIAL [S148.046] to regionally significant infrastructure. The Reporting Officer recommended amendments in his Rebuttal Evidence to first, replace “strengthen” with “improve” which he said is more commonly used within objective and policy wording, second, to ensure the Objective applies to all hazards and not only climate change and sea level rise,³¹² and third to acknowledge infrastructure within the Objective. We agree with the Officer’s recommendations. We note that including reference to “infrastructure” is consistent with Objective CC.6 and recognises that resilient infrastructure can support people to be better prepared for the consequences of natural hazard events. WIAL [S148.046] sought that the term “regionally significant infrastructure” is used in Objective 21. In our view, at this objective level, it is appropriate to refer more generally to “infrastructure” which aligns with Objective CC.6.

³¹² Statement of Rebuttal Evidence of Dr Iain Dawe and James Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, paras 45 – 46.

586. In caucusing, the planning experts expressed general support for the amendments in the Officer’s Rebuttal Evidence.³¹³ There was some discussion about the meaning of the phrase “short, medium and long-term effects of climate change”. Dr Dawe for the Regional Council said that for the purposes of resource management planning, the meaning is generally recognised as (+/-5 years).³¹⁴

- a. a) short-term: <25 years;
- b. b) medium-term: 25-75 years; and
- c. c) long-term: 75-100+ years.

587. Dr Dawe proposed clarifying this intention through a new clause (d) to Method 22. The experts participating on this matter agreed that this would be an appropriate way to ensure interpretation is clear and consistent across the Region. On this basis, they supported the changes to Objective 21 as set out in the Council’s rebuttal evidence.

7.13.2 Finding

588. We agree with the Reporting Officer’s recommendations on Objective 21 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

7.13.3 Recommendation

Objective 21

The resilience of our ~~€~~ communities, ~~infrastructure are more resilient to natural hazards, including the impacts and the natural environment to natural hazards is strengthened~~ ~~improved, including~~ to the short, medium, and long-term effects of climate change; and ~~sea level rise is strengthened~~, and people are better prepared for the consequences of natural hazard events.

³¹³ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-based Solutions and Natural Hazards, 16 October 2023, para 53.

³¹⁴ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-based Solutions and Natural Hazards, 16 October 2023, para 55.

7.14 Objective CC.6

589. The notified Objective stated:

Objective CC.6

Resource management and adaptation planning increase the resilience of communities and the natural environment to the short, medium, and long-term effects of climate change.

590. The s 32 Report says that Objective CC.6:³¹⁵

addresses the need for strategic adaptation planning with respect to the way in which we use and manage our natural and physical resources, to plan and implement actions that will help people and natural systems to adjust to the current and predicted effects of climate change.

7.14.1 Submissions, Evidence and Analysis

591. Various submitters supported the new Objective but some requested stronger wording such as “recognise and provide for” land use planning (Ngāti Toa [S170.010]. The Fuel Companies [S157.006], WIAL [S148.019], Meridian [S100.006] and others requested the Objective recognise infrastructure, including regionally significant infrastructure in resilience planning. SWDC [S79.006] asked for the Objective to include reference to natural hazards and Kāinga Ora [S158.008] said the Objective was too broad and should include measurable outcomes to define what an increase of the community’s resilience is over the short, medium and long term. PCC [S30.009] opposed the Objective on the basis that it included methods to achieve resilience (ie resource management and adaptation planning) and this was not needed in an objective. DairyNZ [S136.013] and BLNZ [FS30.319] opposed the Objective including on the basis of insufficient engagement and inadequate analysis.

592. The Officer said the Objective responds to national direction and also Part 2 of the RMA and the NAP, and it is consistent with the latest

³¹⁵ Section 32 Report, page 73.

understanding and experiences of climate change, sea level rise and how this will exacerbate natural hazards that occur in the Region.³¹⁶

593. The Officer accepted the submissions of infrastructure organisations and recommended that infrastructure be included in the Objective given its importance in adaptation planning. The Officer considered that RSI was a sub-component of infrastructure and did not need to be specifically referenced. The Officer considered that because the Objective links to Policy CC.16 which highlights the importance of plan provisions to address land use management in areas impacted by climate change and sea level rise, it was not necessary to refer in the Objective to land use planning being able to respond with appropriate tools and practices to manage climate change effects. The Officer also considered that other relief requested by some submitters was already provided for Objectives 19 and 21 where specific connections are made between climate change and natural hazards.
594. In response to Kāinga Ora’s relief the Officer said that the framework including the associated policies, methods and AERs set the expectation of the measurable outcomes that are to be delivered, therefore the Officer did not consider any amendments were needed to make the Objective more measurable. As the Officers state in their Rebuttal Evidence, Policy CC.16 that follows from Objective CC.6, “encourages and outlines approaches for climate change adaptation strategies, plans and implementation programmes and is designed specifically for long-term strategic planning.”³¹⁷
595. We agree with the Officer’s analysis and consider there to be strong recognition in the relevant regulatory framework, including the ERP and NAP of the importance of adaptation planning and resource management in increasing resilience to the effects of climate change. Adapting to climate change requires, as the Officer states, a holistic approach that involves a number of different mechanisms and instruments, including

³¹⁶ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 209.

³¹⁷ Statement of Rebuttal Evidence of Dr Dawe and James Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 93.

resource management planning undertaken by councils in conjunction with the community.³¹⁸

596. Objective CC.6 was not discussed at planners' caucusing.

7.14.2 Finding

597. We agree with the Reporting Officer's recommendations on Objective CC.6 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

7.14.3 Recommendation

Objective CC.6

Resource management and adaptation planning increases the resilience of communities, infrastructure and the natural environment to the short, medium, and long-term effects of climate change.

³¹⁸ Statement of Rebuttal Evidence of Dr Dawe and James Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 105.

7.15 Policy 29: Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans

598. As notified, the proposed amendments to the Operative Policy stated:

Policy 29: ~~Avoiding inappropriate~~ Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans

Regional and district plans shall:

- (a) identify areas affected by natural hazards; and
- (b) use a risk-based approach to assess the consequences to subdivision, use and development from natural hazard and climate change impacts over a 100 year planning horizon;
- (c) include objectives, polices and rules to manage subdivision, use and development in those areas where the hazards and risks are assessed as low to moderate; and
- (d) include objectives, polices and rules to avoid subdivision, use or development and *hazard sensitive activities* where the hazards and risks are assessed as high to extreme.

Explanation

Policy 29 establishes a framework to:

- 1. identify natural hazards that may affect the region or district; and then
- 2. apply a risk-based approach for assessing the potential consequences to new or existing subdivision, use and development in those areas; and then
- 3. develop provisions to manage subdivision, use and development in those areas.

The factors listed in Policies 51 and 52 should be considered when implementing Policy 29 and when writing policies and rules to manage subdivision, use and development in areas identified as being affected by natural hazards.

Explanation

~~The process of identifying ‘areas at high risk’ from natural hazards must consider the potential natural hazard events that may affect an area and the vulnerability of existing and/ or foreseeable subdivision or development. An area should be considered high risk if there is the potential for moderate to high levels of damage to the subdivision or development, including the buildings, infrastructure, or land on which it is situated. The assessment of areas at high risk should factor in the potential for climate change and sea level rise and any consequential effect that this may have on the frequency or magnitude of related hazard events.~~

~~Examples of the types of natural hazards or hazard events that may cause an area or subdivision or development to be considered high risk include – but are not limited to – fault rupture zones, beaches that experience cyclical or long term erosion, failure prone hill slopes, or areas that are subject to serious flooding.~~

~~The factors listed in policies 51 and 52 should be considered when implementing policy 29 and writing policies and rules to avoid inappropriate subdivision and development in areas at high risk.~~

Most forms of residential, industrial or commercial development would not be considered appropriate and should be avoided in areas at high risk from natural hazards, unless it is shown that the effects, including residual risk, will be managed appropriately.

Hazard mitigation works can reduce the risk from natural hazards in high hazard areas.

To give effect to this policy, district and regional plans should require assessments of the risks and consequential effects associated with any extensive structural or hard engineering mitigation works that are proposed. For a subdivision or development to be considered appropriate in areas at high risk of natural hazards, any hazard mitigation works should not:

- Adversely modify natural processes to a more than minor extent,
- Cause or exacerbate hazards in adjacent areas to a more than minor extent,
- Generally result in significant alteration of the natural character of the landscape,
- Have unaffordable establishment and maintenance costs to the community,
- Leave a more than minor residual risk, and/or
- Result in more than minor permanent or irreversible adverse effects.

Examples of how this may be applied to identified high hazard areas include: fault rupture avoidance zones 20 metres either side of a fault trace; setback distances from an eroding coastline; design standards for floodplains; or, requirements for a geotechnical investigation before development proceeds on a hill slope identified as prone to failure.

This policy promotes a precautionary, risk based approach, taking into consideration the characteristics of the natural hazard, its magnitude and frequency, potential impacts and the vulnerability of development.

Guidance documents that could be used to assist in the process include:

- Risk Management Standard AS/NZS 4360:2004
- Guidelines for assessing planning policy and consent requirements for landslide prone land, GNS Science (2008)
- Planning for development of land on or close to active faults, Ministry for the Environment (2003)
- Coastal Hazards and Climate Change: A Guidance Manual for Local Government in New Zealand, Ministry for the Environment (2008)
- Other regional documents relating to the management of natural hazards.

This policy also recognises and supports the Civil Defence Emergency Management principles – risk reduction, readiness, response and recovery – in order to encourage more resilient communities that are better prepared for natural hazards, including climate change impacts.

Policy 29 will act to reduce risk associated with natural hazards. The risks are to people and communities, including businesses, utilities and civic infrastructure.

This policy and the Civil Defence Emergency Management framework recognise the need to involve communities in preparing for natural hazards. If people are prepared and able to cope, the impacts from a natural hazard event are effectively reduced.

599. The notified amendments to this Policy provide more specific direction on how to undertake a risk-based approach to natural hazards in regional and district planning. The amendments broaden the Policy to all natural hazards – not just those considered to be high risk, and take a risk-based planning approach of ‘management’ of subdivision, use and development in low to medium risk areas, and ‘avoidance’ in high risk areas (including of hazard sensitive activities). The impacts of climate change are required to be considered over at least a 100-year planning horizon.

600. Mr Beban explained the Policy in these terms at the hearing:³¹⁹

...the general approach that’s been applied is that in your high hazard areas, essentially any new development is avoided. Porirua City, Hutt City, Upper Hutt City and Lower Hutt City has taken that approach. You have an avoidance of whether it’s subdivision or additional residential unit. Basically, the test drops to a functional and operational need only. Then in your moderate to low areas ... you can undertake development providing you’re mitigating or addressing the risks that are associated with that development, and you’re basically minimising the risks as far as possible. Again, that’s a consistent approach that has flowed through at Territorial Authority [level].

601. Mr Beban also explained that “high hazard areas” are, for instance, stream corridors, places impacted by coastal inundation currently, the Wellington Faultline, fault rupture zones, and tsunami hazards with a return period of 1 percent recurrence intervals.³²⁰

7.15.1 Submissions, Evidence and Analysis

602. KCDC [S16.071] opposed the Policy as “managing subdivision, use and development” was not consistent with the avoidance and mitigation requirements of ss 30 and 31 of the RMA. UHCC [S34.049] also sought more consistency with higher level direction and Forest and Bird [S165.058] opposed the deletion of “avoid”. GWRC [S137.026] sought reference to hazard overlays in the Policy on the basis that the mapping of hazards as district plan overlays is considered to be best practice and provides certainty and clarity for the process and approach to hazard

³¹⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 92, lines 4680 – 4689.

³²⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 92, lines 4693 – 4700.

management. SWDC [S79.036] generally supported the Policy but requested additional measures to support consistent implementation of risk assessment and provision/communication of natural hazards and associated risks.

603. PCC [S30.050] supported the risk-based approach to hazard management but suggested that the qualifier “at least” be added to the 100-year planning timeframe as well as the low, medium or high categorisation of hazard risk. EQC [S132.007] supported an avoid directive in high-risk areas and management in areas of lower risk. This relief was opposed by Kāinga Ora who said only “inappropriate” subdivision, use and development needed to be managed. WIAL [S148.047] said the Policy did not appropriately provide for RSI or its functional operational need to locate in high hazard areas. Further amendments to recognise infrastructure were also sought by the Telecommunication Companies [S49.003], Wellington Water [S113.027], Powerco [S134.012] and the Fuel Companies [S157.015].
604. The DGC [S32.020] said the amendments to Policy 29 failed to give effect to Policy 25 of the NZCPS which require avoiding increasing risk. The DGC sought amendments to ensure subdivision, use or development within the coastal environment that would increase the risk of adverse effects from coastal hazards be avoided.
605. In the s 42A Report, the Officer agreed with much of this relief including incorporating low, medium and high hazard levels, mandatory hazard overlays, reference to “new or existing” subdivision, use and development, and reference to a planning horizon of “at least 100-years” to recognise that some natural hazards have a longer return period than 100 years. The Officer also recommended amending clause (d) to recognise functional or operational need to locate in high hazard areas and including additional guidance in the Explanation.
606. The Officer did not consider there to be any issue with ‘managing’ natural hazard risk and said that the process to achieve this based on a risk framework was set out clearly in the Policy in a way that is consistent with the RMA. The Officer said that the approach in the Policy recognises that the scale of development is commensurate with the risk, and provided that hazards are properly assessed and identified, it is acceptable to allow certain types of development in areas subject to natural hazards as this

balanced the need for development with pragmatic hazard management.³²¹

- 607. The Officer did not support the DGC’s relief on the basis that the Policy has an ‘all hazards’ focus and the concept of avoiding increasing risk (including from coastal hazards) was already provided for in the Policy.
- 608. Policy 29 was discussed in expert planners’ caucusing but no consensus was reached.
- 609. The following sections summarise four key themes in evidence relating to hazard overlays, ‘new vs existing’ activities, the NZCPS, and telecommunications infrastructure.

7.15.1.1 Hazard overlays and dynamic hazard mapping

- 610. In her planning evidence, Ms Woodbridge for Kāinga Ora did not support including hazard overlays in district plans (Policy 29(c)). Ms Woodbridge said that because flood maps are updated regularly, they should sit outside the plan to allow a more flexible, adaptive approach as to how information about hazards is provided.³²²
- 611. Kāinga Ora provided further information during the Hearing on ‘out of plan’ hazard identification and mapping, which Mr Liggett said would more appropriately and responsively manage the risk of natural hazards.³²³ Kāinga Ora’s Counsel Mr Whittington, described the approach as more “efficient and effective” than the Schedule 1 approach as in his experience, Councils were reluctant to undertake plan changes if they can possibly avoid it³²⁴ and this meant flood hazard mapping became out of date quickly, especially given the length of time needed to complete a Schedule 1 process.³²⁵ Mr Whittington explained that under Kāinga Ora’s approach, the District Plan rule framework (settled through a Schedule 1 process) would continue to apply, but the information as to whether an area had low, medium, or high hazard risks would change through a GIS

³²¹ Section 42A Hearing Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 262.

³²² Ms Woodbridge’s evidence statement; Also Hearing Transcript, HS3 – Climate Change, Day 1, page 91, lines 4628 - 4632.

³²³ Hearing Transcript, HS3 – Climate Change, Day 4, pages 9 and 14, lines 425 - 431; 667 - 669.

³²⁴ Hearing Transcript, HS3 – Climate Change, Day 4, page 3, lines 131 – 150.

³²⁵ Hearing Transcript, HS3 – Climate Change, Day 4, page 9, lines 391 – 401.

layer within the Council’s E-Plan that still allowed for some public engagement but could adapt more quickly to changes in the catchment.³²⁶

612. In his Rebuttal Evidence, Dr Dawe said that the general position in the Region was for natural hazard overlays to be included in the district plan, and he set out his reasons for why this was appropriate, noting, among other things, that if flood hazard maps were removed from district plans, this would mean some hazard mapping (such as fault rupture, sea level risk and tsunami) would sit in the plan and others (ie flood hazard maps) would sit outside and this could create confusion for plan users and unnecessary complications in the interpretation and application of the plans.³²⁷
613. In caucusing, Ms Woodbridge said that Policy 29(a) provides sufficient ability to identify areas affected by hazards and it was not necessary for the Policy to require regulatory mapping.
614. After hearing submitters on this issue, the Officers preferred to retain the direction for overlays so this can be tested through the Schedule 1 process, provide certainty and prevent natural justice issues arising (given the potential impact on property rights without the ability to comment/submit).³²⁸ The Officers described at a high level during the Hearing, the modelling and science that sits behind many of the hazard overlays being incorporated into district plans in the region.³²⁹ Dr Dawe said that “[a]fter they have gone through that Schedule 1 process they’re a robust indication of where the hazards are and how we should be managing them in those areas.”³³⁰
615. We agree with the Reporting Officer that the benefits of requiring hazard overlays in plans outweighs the costs, and the direction should be retained in Policy 29. Although not at all determinative of the matter, we note Counsel for PCC, Ms Viskovic also commented during the Hearing that including hazard mapping within the plan has some advantages, such as ensuring a consistent approach is taken to the application of hazard

³²⁶ Hearing Transcript, HS3 – Climate Change, Day 4, page 5, lines 216 – 253 per Mr Whittington.

³²⁷ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 40.

³²⁸ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, paras 39 – 40; Hearing Transcript, HS3 – Climate Change, Day 1, page 91, lines 4634 – 4643.

³²⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 91, lines 4659 – 4661.

³³⁰ Hearing Transcript, HS3 – Climate Change, Day 1, page 91, lines 4661 – 4663.

provisions at the consenting stage, and avoiding creating issues relating to natural justice that could arise with dynamic hazard mapping that sits outside the plan.³³¹

7.15.1.2 Managing subdivision, use and development and new vs existing activities

616. Ms Rushmere for UHCC sought that Policy 29 refer to “avoid inappropriate subdivision, use and development” rather than “manage subdivision, use and development” as the latter phrase was ambiguous in this context. During caucusing Ms Rushmere acknowledged that district plans could implement a framework that gave effect to the Policy and this flexibility could mitigate some of the concerns she raised about ambiguity.³³² We consider there is sufficient scope and flexibility for district and regional plans through the implementation of the Policy and we agree with the wording proposed by the Council officer.
617. At the Hearing, we questioned the Officer on how “existing” subdivision and development would be impacted through the Policy (clause (b)). Mr Beban explained that there are vacant properties in the Region that have been created by subdivision and where they are in hazard areas, this provision would bring in the ability to consider what mitigation or consideration of hazards should be factored in.³³³ Mr Beban confirmed that in terms of a development, part of the response could be nature-based solutions or setback distances.
618. We support the amendments in Mr Beban’s Reply evidence to clarify the application of the Policy to new and existing subdivision, use and development, with an ‘avoid’ direction in high-risk areas applying only to new activities.
619. As noted above, SWDC sought consistent and standardised terminology to support consistent implementation of risk assessment and (as stated by SWDC) consistent “provision/communication of natural hazards and associated risks”. Transpower [S10.003] had also sought clarification of the wording in the Policy relating to hazards and risks.
620. We consider that the risk-based approach to hazard management described in the Policy requires an assessment of risks and

³³¹ Hearing Transcript, HS3 – Climate Change, Day 3, page 954, lines 2711 – 2716.

³³² Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, para 70.

³³³ Hearing Transcript, HS3 – Climate Change, Day 1, page 90, lines 4582 - 4595.

consequences, and then classification on a risk-based assessment (ie as low, medium or high risk). We consider it would aid clarity of interpretation and policy intent for Policy 29 to refer to “hazards or risks” consistently rather than the different references currently in the Officer’s Reply version (ie “hazards and risks”, “hazards or risks” and (only) “hazards”. SWDC sought consistent application of terms in the Policy and we consider this provides scope for this amendment which we recommend below.

7.15.1.3NZCPS

621. All planners participating in caucusing supported the pathway in clause (d) for activities with a functional or operational need to locate in high hazard areas, except Mr Brass and Ms Heppelthwaite who both considered that the clause did not give appropriate effect to Policy 25 of the NZCPS although for different reasons.
622. Ms Heppelthwaite’s view was that the clause as Mr Beban sought to amend it, would require *all developments* to be avoided or to comply with a functional and operational need test, when Policy 25 of the NZCPS only required activities to be avoided where they increased the risk of harm or adverse effects.³³⁴ As Ms Heppelthwaite explained, “if an activity located in a high risk hazard area in a way which does not increase risk of harm/adverse effects, then it should be able to locate there and meet NZCPS Policy 25”.³³⁵ Ms Heppelthwaite thought that the approach the Reporting Officer supported was too restrictive in terms of the direction in Policy 25 of the NZCPS.³³⁶ She said there is an avoid framework in Policy 25 but it relates to avoiding increasing the risk of harm from coastal hazards (Policy 25(a)), and avoiding increasing the risk of adverse effects (Policy 25(b)) but “Mr Beban’s Policy 29 precludes development outright”.³³⁷
623. Mr Brass for the DGC was concerned that Policy 29, as Mr Beban supported it, would let district and regional plans allow risk from hazards

³³⁴ Summary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 on the Wellington Regional Policy Statement, 31 August 2023, para 4.7.

³³⁵ Summary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 on the Wellington Regional Policy Statement, 31 August 2023, para 4.4.

³³⁶ Hearing Transcript, HS3 – Climate Change, Day 4, page 62, lines 3141 – 3144.

³³⁷ Hearing Transcript, HS3 – Climate Change, Day 4, page 62, lines 3157 – 3160.

to increase in a manner inconsistent with the NZCPS³³⁸ as Policy 25 of that national instrument requires increasing risk in the coastal environment to be avoided and the CMA foreshore is defined as ‘high risk’, and ‘low and moderate risk’ on land (the terrestrial coastal environment, although some parts of the terrestrial coast may also be assessed as high risk).³³⁹ Mr Brass said that a requirement to ‘manage subdivision, use and development’ in low and moderate risk areas is inconsistent with the NZCPS which requires the risk of increasing harm and adverse effects be avoided in even low to medium hazard risk areas in the coastal environment.³⁴⁰

624. Mr Brass suggested that either the amendment to Policy 29 in the Director-General’s submission would resolve the concern, or, the amendment could occur in Policy 51 (which was Mr Brass’ preference).³⁴¹ He considered this would be appropriate because it would have a similar effect to the DGC’s submission points on Policies 29 and 52 and was therefore in scope, it would give effect to the NZCPS, achieve Objectives 19 and 21 of Proposed Change 1, give useful direction for Policy 52, and apply directly to all decisions rather than addressing the issue indirectly through a requirement for inclusion in future plans (ie if it occurred through Policy 29).³⁴² Mr Brass also sought that only infrastructure with an operational or functional need be able to be located in high hazard areas as this was supported by the NZCPS and also because, in his experience, the operational and functional needs test has been used to advance residential and industrial activity.
625. The Reporting Officer did not support these amendments as the Policy “already contains an ‘avoid’ approach and is structured in such a way to implement a risk-based approach that manages development in low to medium hazard areas and avoids development in high hazard areas,

³³⁸ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS3 – Climate Change, 14 August 2023, para 17.

³³⁹ Hearing Transcript, HS3 – Climate Change, Day 4, pages 68 - 69, lines 3537 – 3541; page 70, lines 3583 – 3584; page 71, lines 3615 – 3617.

³⁴⁰ Hearing Transcript, HS3 – Climate Change, Day 4, page 70, lines 3584 – 3586.

³⁴¹ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS3 – Climate Change, 14 August 2023, paras 19 – 20.

³⁴² Evidence of Murray Brass on behalf of the Director-General of Conservation, HS3 – Climate Change, 14 August 2023, para 20.

unless there is a functional or operational need for it to be located in that area”.³⁴³ The Officer said that in his view, Policy 29 of Change 1:³⁴⁴

strikes the balance between allowing development where it is appropriate and avoiding it where it is not considered viable and ... this balance achieves the purpose of the NZCPS. In this way, the Policy considers what the NZCPS is trying to achieve as a whole.

626. The Officer was also concerned about whether the amendments Mr Brass and Ms Heppelthwaite supported would prevent boat clubs, jetties, marinas and sports fields from locating in the coastal environment. The Officer also said that when councils undertake plan changes or reviews, they would need to give effect to the NZCPS in any event.³⁴⁵
627. We agree with the views of both Mr Brass and Ms Heppelthwaite, and consider that the most appropriate option is to grant the DGC’s relief and include a specific clause for coastal hazards to give effect to Policy 25 of the NZCPS. It is appropriate in our view that this provision apply to areas of the coastal environment potentially affected by coastal hazards. We accept Ms Heppelthwaite’s and Mr Brass’ position that although Policy 29 of proposed Change 1 requires (among other things) that some activities be avoided in the coastal environment, the intent of the NZCPS is to avoid increasing risk and adverse effects which is an important difference. Mr Brass’ view was that if policies 29 and 51 were amended as he proposed, a sports field for instance, could locate in the coast, even within a high hazard area, if it could establish it would not increase the risk of social, environmental and economic harm or other adverse effects from coastal hazards.³⁴⁶ Mr Brass gave other examples of activities that could potentially satisfy the policy where they did not increase the risk.³⁴⁷
628. We recommend a ‘coast-specific’ provision be included in both Policies 29 and 51, and the functional or operational need pathway applies only to infrastructure, to give effect to Policy 25(d) of the NZCPS. This ‘bespoke’

³⁴³ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 14.

³⁴⁴ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 16.

³⁴⁵ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, paras 15 and 18.

³⁴⁶ Hearing Transcript, HS3 – Climate Change, Day 4, pages 72 - 73, lines 3688 – 3697.

³⁴⁷ Hearing Transcript, HS3 – Climate Change, Day 4, pages 73, lines 3707 – 3715.

provision for the coast would also, in our view, address the Officer's concern that Mr Brass' amendment would apply to a much wider extent than that which would be captured by Policy 25 of the NZCPS and coastal hazard management.³⁴⁸ We note the Officer's comment that duplicating the requirements of Policy 25 of the NZCPS does not provide any further planning benefit when councils undertake plan reviews. However, we do not agree that Policy 29(c) and (d) as supported by the Officer, is a nuanced approach to the NZCPS that is still consistent with it.³⁴⁹

629. We agree with Ms Heppelthwaite and Mr Brass that a pathway for infrastructure is appropriate and justified by the NZCPS. Mr Brass explained the issue in this way:³⁵⁰

NZCPS [Policy] 25(d) still encourages the location of infrastructure away from areas of hazard risk. So, if you like, if it doesn't have a need to be there then you should be encouraging it to be elsewhere; but if it does have a need to be there, then I'm comfortable that [Policy] 25(d) does allow for infrastructure to occur within areas of hazard risk.

630. We recommend a new clause be included in Policy 29 as set out below.

7.15.1.4 Telecommunications infrastructure

631. The central issue here is whether Policy 29 should explicitly recognise that telecommunications infrastructure, being critical, lifeline utility infrastructure, may need to locate in areas subject to natural hazards.
632. Mr Anderson presented planning evidence for the telecommunication service providers and network utility operators Chorus NZ Limited, Spark NZ Trading Limited and Vodafone NZ Limited (collectively, the Telcos). Their submission was that there was no need for regional or district plans to regulate the resilience of Telcos infrastructure where it is located in natural hazard areas. Telcos have obligations to provide resilient infrastructure under the Civil Defence Emergency Management Act 2002

³⁴⁸ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 17.

³⁴⁹ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, paras 18 – 19.

³⁵⁰ Hearing Transcript, HS3 – Climate Change, Day 4, pages 75, lines 3836 – 3840.

and adding another layer of regulation of resilience through regional and district plans was not necessary.³⁵¹

633. The Telcos' submission, and Mr Anderson's evidence, stated that Regulation 57 of the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NES-TF) provides that a territorial authority cannot make a natural hazard rule that applies to activities regulated under the NES-TF (such as telecommunication cabinets, new antennas and poles in legal road (and outside of legal road in rural zones), small cell units and new telecommunication lines.³⁵² A "natural hazard rule" means a district rule that prescribes measures to mitigate the effect of natural hazards in an area identified in the district plan as being subject to 1 or more natural hazards".³⁵³
634. Mr Anderson explained that the reason for this (as set out in MfE's NES User Guide) is that resilience is already factored into industry practice, and Telcos will either avoid hazard areas or engineer structures to be resilient to the natural hazard. Mr McCarrison for the Telcos also explained that Spark's engineers structurally design sites taking into account local hazards and in order to fulfil requirements under the Civil Defence Emergency Management Act 2002.³⁵⁴ He explained that this approach to structural design and integrity is taken regardless of whether or not a resource consent is required.³⁵⁵
635. Mr Anderson said in his written evidence statement that the wording recommended by the Officer to Policy 29 in the s 42A Report is workable, but was a 'doubling up' of regulation³⁵⁶, could lead to inefficiencies in process,³⁵⁷ and he would prefer the exclusion of telecommunications

³⁵¹ Submission of Telcos on Proposed Change 1, 14 October 2023, Policy 29.

³⁵² A "regulated activity" means an activity that is declared by regulations 19, 26, 28, 30, 32, 34, 36, 38, 39, 41, or 43 of the NES-TF to be a regulated activity (Regulation 4, NES-TF). See also the Statement of Evidence of Tom Anderson on behalf of Chorus NZ Limited, Spark NZ Trading Limited and One New Zealand Group Limited, 14 August 2023, para 20.

³⁵³ Regulation 57(3), NES-TF.

³⁵⁴ Statement of Evidence of Graeme McCarrison for Spark Trading NZ Ltd, 14 August, para 1.8.

³⁵⁵ Statement of Evidence of Graeme McCarrison for Spark Trading NZ Ltd, 14 August, para 1.8.

³⁵⁶ Hearing Transcript, HS3 – Climate Change, Day 2, page 84, lines 4357 – 4358.

³⁵⁷ Hearing Transcript, HS3 – Climate Change, Day 2, page 84, lines 4382 – 4383.

infrastructure from the Policy.³⁵⁸ He also said he would support including the MfE User Guide in the list of guidance documents in the Explanation text.³⁵⁹

636. We agree that:

- a. Telco infrastructure, being linear and spread throughout the region, may not be able to avoid locating in natural hazard areas;
- b. “Regulated activities” of telco companies are exempted from having to comply with District Plan rules about natural hazards;
- c. Section 43B of the RMA says that a rule in a plan cannot be more stringent than a NES regulation unless expressly allowed by the NES;
- d. Regulations 56 and 57 of the NES-TF do not preclude regional rules relating to natural hazard management being more stringent than the NES;
- e. It is appropriate for planning documents to be consistent with national direction; and
- f. It may not be appropriate for all other infrastructure to locate in areas impacted by natural hazards (a concern expressed by the Council officers³⁶⁰).

637. We are persuaded by Mr Anderson’s statement³⁶¹ that if it is not appropriate to regulate the resilience of Telco infrastructure in natural hazard areas at a national level, then it is not appropriate at ‘subordinate planning level’ (our words). However, the exemption applies only to district plan rules for “regulated activities”. In our view, this should be the extent of the exemption, and there should not be a blanket exemption from Policy 29 for all Telco infrastructure. If infrastructure needs to locate in the CMA, the bed of a lake or river, or other areas regulated by the NRP, it is important that any such development in those areas is assessed against

³⁵⁸ Statement of Evidence of Tom Anderson on behalf of Chorus NZ Limited, Spark NZ Trading Limited and One New Zealand Group Limited, 14 August 2023, paras 12 and 17; and Hearing Transcript, HS3 – Climate Change, Day 2, page 84, line 4389.

³⁵⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 90, lines 4665 – 4666.

³⁶⁰ See for instance, Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 7.

³⁶¹ Tom Anderson Speaking Notes, 29 August 2023, para 10.

the provisions in the regional plan. We recommend wording to reflect this below. Given the limited exemption merely restates the position in Regulation 57 of the NES-TF, it is appropriate in our view for it to be expressed in the explanatory text to Policy 29. We also support including the MfE User Guide in the list of guidance documents in the Explanation.

638. We also acknowledged Mr Anderson’s evidence that it is appropriate for potential effects on third parties from infrastructure locating in hazard areas, to be managed under Policy 51.³⁶² We agree even though, at least in the context of a discussion in the Hearing about flooding impacts from cyclones, Mr McCarrison said that telco infrastructure has not been known to cause flooding or other issues for third party properties.³⁶³
639. We consider an exclusion from Policy 29 for regulated activities in the NES-TF is appropriate given the national direction preventing district plan regulation of these activities in natural hazard areas identified in district plans. It is because of this national direction that we consider the exclusion is justified for telecommunications infrastructure, and not other infrastructure, other than the exemptions in clause (d) where there is functional or operational need.

7.15.2 Finding and s 32AA Evaluation

640. We largely agree with the Reporting Officer’s recommendations on Policy 29 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend amendments to:
- (a) Refer consistently to “hazards or risks” in the Policy;
 - (b) Add the words “in areas” into clause (d) to improve readability;
 - (c) Include a new clause relating to coastal hazards to give effect to Policy 25 of the NZCPS and recognising the functional or operational needs of infrastructure;
 - (d) Include a specific exemption for telecommunications infrastructure that is a regulated activity under the NES-TF; and
 - (e) Minor amendments to the Explanation to note relevant direction in the NZCPS and to update the Landslide Guidelines to the more

³⁶² Hearing Transcript, HS3 – Climate Change, Day 2, page 83, lines 4299 – 4308.

³⁶³ Hearing Transcript, HS3 – Climate Change, Day 2, page 83, lines 4399 – 4343.

recent version also produced by GNS Science, and also refer to the MfE NES-TF Guidelines which were referenced in Mr Anderson's evidence.

641. These amendments use consistent wording in the Policy which will aid interpretation and application of the Policy, align with higher order national direction (the NZCPS and NES-TF) and update the Explanation which will also assist with consistent and efficient interpretation of the Policy. The amendments are considered to be the more appropriate way of achieving Objectives 19 and 21 and the sustainable management purpose of the RMA.

7.15.3 Recommendation

Policy 29: ~~Avoiding inappropriate~~ Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans

Regional and district plans shall manage subdivision, use and development in areas at risk from natural hazards as follows:

- (a) identify areas potentially affected by natural hazards; and
- (b) use a risk-based approach to assess the consequences to new or existing subdivision, use and development from natural hazard and climate change impacts over at least a 100 year planning horizon which identifies the hazards or risks as being low, medium or high;
- (c) include hazard overlays, objectives, polices and rules to manage new and existing subdivision, use and development in those areas where the hazards ~~and or~~ risks are assessed as low to medium ~~moderate~~ in order to minimise or not increase the risks from natural hazards; and
- (d) include hazard overlays, objectives, polices and rules to avoid new and manage minimise or not increase the risks to existing subdivision, use ~~and or~~ development and hazard sensitive activities in areas where the hazards ~~and or~~ risks are assessed as high ~~to extreme~~, unless there is a functional or operational need to be located in these areas.
- (e) In the coastal environment, objectives, policies and rules shall ensure that any increased risk shall be avoided in areas likely to be potentially affected by coastal hazards, except where there is a functional or operational need for infrastructure to locate there.

The Policy does not apply to telecommunications infrastructure that is a “regulated activity” under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016.

Explanation

Policy 29 establishes a framework to:

1. [identify and assess the likelihood of natural hazards that may affect the region or district over at least a 100 year period; and then](#)
2. [apply a risk-based approach for assessing the potential consequences to new or existing subdivision, use and development in those areas; and then](#)
3. [develop provisions to manage new and existing subdivision, use and development in those areas in order to avoid, minimise or not increase the risks from natural hazards.](#)

The factors listed in Policies 51 and 52 should be considered when implementing Policy 29 and when writing policies and rules to manage subdivision, use and development in areas identified as being affected by natural hazards.

[In the coastal environment, the requirements of the NZCPS must be applied.](#)

[Other than in relation to relevant regional rules, the Policy does not apply to regulated activities under the Resource Management \(National Environmental Standards for Telecommunication Facilities\) Regulations 2016.](#)

[Guidance documents that can be used to assist in incorporating a risk-based approach to hazard risk management and planning include:](#)

- [Risk Tolerance Methodology: A risk tolerance methodology for central, regional, and local government agencies who manage natural hazard risks. Toka Tū Ake | EQC \(2023\);](#)
- [Planning for natural hazards in the Wellington region under the National Policy Statement on Urban Development, GNS Science Misc. Series 140 \(2020\);](#)
- [NZCPS guidance note: Coastal Hazards, Department of Conservation \(2017\);](#)
- [Coastal Hazards and Climate Change: Guidance for Local Government, Ministry for the Environment \(2017\);](#)
- [Risk Based Approach to Natural Hazards under the RMA, Prepared for MfE by Tonkin & Taylor \(2016\);](#)
- [Planning for Risk: Incorporating risk-based land use planning into a district plan, GNS Science \(2013\);](#)
- [Preparing for future flooding: a guide for local government in New Zealand, MfE \(2010\);](#)
- ~~[Guidelines for assessing planning policy and consent requirements for landslide prone land, GNS Science \(2008\);](#)~~
- [Landslide Planning Guidance: Reducing Landslide Risk through Land-Use Planning, GNS Science, \(2024\);](#)

- [Planning for development of land on or close to active faults, Ministry for the Environment \(2003\) and;](#)
- [Resource Management \(National Environmental Standards for Telecommunication Facilities\) Regulations 2016, User's Guide, Ministry for the Environment, 2018.](#)
- [Other regional documents and strategies relating to the management of natural hazards.](#)

The process of identifying 'areas at high risk' from natural hazards must consider the potential natural hazard events that may affect an area and the vulnerability of existing and/or foreseeable subdivision or development. An area should be considered high risk if there is the potential for moderate to high levels of damage to the subdivision or development, including the buildings, infrastructure, or land on which it is situated. The assessment of areas at high risk should factor in the potential for climate change and sea level rise and any consequential effect that this may have on the frequency or magnitude of related hazard events:

Examples of the types of natural hazards or hazard events that may cause an area or subdivision or development to be considered high risk include – but are not limited to – fault rupture zones, beaches that experience cyclical or long-term erosion, failure prone hill slopes, or areas that are subject to serious flooding:

The factors listed in policies 51 and 52 should be considered when implementing policy 29 and writing policies and rules to avoid inappropriate subdivision and development in areas at high risk:

Most forms of residential, industrial or commercial development would not be considered appropriate and should be avoided in areas at high risk from natural hazards, unless it is shown that the effects, including residual risk, will be managed appropriately:

Hazard mitigation works can reduce the risk from natural hazards in high hazard areas:

To give effect to this policy, district and regional plans should require assessments of the risks and consequential effects associated with any extensive structural or hard engineering mitigation works that are proposed. For a subdivision or development to be considered appropriate in areas at high risk of natural hazards, any hazard mitigation works should not:

- Adversely modify natural processes to a more than minor extent;
- Cause or exacerbate hazards in adjacent areas to a more than minor extent;
- Generally result in significant alteration of the natural character of the landscape;
- Have unaffordable establishment and maintenance costs to the community;
- Leave a more than minor residual risk, and/or
- Result in more than minor permanent or irreversible adverse effects:

Examples of how this may be applied to identified high hazard areas include: fault rupture avoidance zones 20 metres either side of a fault trace; setback distances from an eroding coastline; design standards for floodplains; or,

requirements for a geotechnical investigation before development proceeds on a hill slope identified as prone to failure:

This policy promotes a precautionary, risk-based approach, taking into consideration the characteristics of the natural hazard, its magnitude and frequency, potential impacts and the vulnerability of development:

Guidance documents that could be used to assist in the process include:

- Risk Management Standard AS/NZS 4360:2004
- Guidelines for assessing planning policy and consent requirements for landslide prone land, GNS Science (2008)
- Planning for development of land on or close to active faults, Ministry for the Environment (2003)
- Coastal Hazards and Climate Change: A Guidance Manual for Local Government in New Zealand, Ministry for the Environment (2008)
- Other regional documents relating to the management of natural hazards.

This policy also recognises and supports the Civil Defence Emergency Management principles – risk reduction, readiness, response and recovery – in order to encourage more resilient communities that are better prepared for natural hazards, including climate change impacts:

Policy 29 will act to reduce risk associated with natural hazards. The risks are to people and communities, including businesses, utilities and civic infrastructure:

This policy and the Civil Defence Emergency Management framework recognise the need to involve communities in preparing for natural hazards. If people are prepared and able to cope, the impacts from a natural hazard event are effectively reduced:

7.16 Policy 51 – *Minimising* the risks and consequences of natural hazards – consideration

642. As notified, the proposed amendments to the Policy read:

Policy 51: <i>Minimising</i> the risks and consequences of natural hazards – consideration	
	<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review to a district or regional plan, the risk and consequences of natural hazards on people, communities, their property and infrastructure shall be minimised, and/or in determining whether an activity is inappropriate particular regard shall be given to:</p> <ul style="list-style-type: none">(a) the frequency and magnitude <u>likelihood and consequences</u> of the range of natural hazards that may adversely affect the proposal or development <u>subdivision, use or development, including residual risk</u> those that may be exacerbated by climate change and sea level rise;(b) the potential for climate change and sea level rise to increase in the frequency or magnitude of a hazard event;(c) whether the location of the <u>subdivision, use or development</u> will foreseeably require hazard mitigation works in the future;(d) the potential for injury or loss of life, social <u>and economic</u> disruption and civil defence emergency management implications – such as access routes to and from the site;(e) <u>whether the subdivision, use or development causes any change in the risk and consequences from natural hazards in areas</u> beyond the application site;(f) <u>minimising effects on the impact</u> of the proposed <u>subdivision, use or development</u> on any natural features that <u>may act as a buffer to or reduce the impacts of a</u> from natural hazards <u>event; and where development should not interfere with their ability to reduce the risks of natural hazards;</u>(g) avoiding inappropriate <u>subdivision, use or development and hazard sensitive activities</u> where the hazards and risks are assessed as high to extreme; <u>in areas at high risk from natural hazards;</u>(h) <u>appropriate hazard risk management and/or adaptation and/or mitigation measures for subdivision, use or development in areas where the hazards and risks are assessed as low to moderate hazard areas, including an assessment of residual risk;</u> and(i) <u>the allowance for floodwater conveyancing in identified overland flow paths and stream corridors; and</u>(j) the need to locate habitable <u>floor areas levels of habitable buildings and buildings used as places of employment</u> above the <u>1% AEP (1:100 year)</u> flood level, in identified flood hazard areas. <p>Explanation Policy 51 aims to minimise the risk and consequences of natural hazards events through sound preparation, investigation and planning prior to development. This policy reflects a need to employ a precautionary, risk-based approach, taking into consideration the likelihood of the hazard and the vulnerability of the development.</p>

7.16.1 Submissions, Evidence and Analysis

643. Submitters sought a range of relief on Policy 51 including KCDC [S16.072] who requested stronger language in the Policy (ie avoiding or mitigating) as well as reference to “consideration” rather than “particular regard” given the Policy is a consideration policy. HCC [S115.073] sought that the Policy does not apply to resource consents once the relevant plan has given effect to Policy 51; the Telcos [S49.005] said that avoiding a natural hazard area may not be possible for technical or operational reasons. Wellington Water [S113.042] and Powerco [S134.017] among others also sought recognition of RSI. HortNZ [S128.046] sought that the Policy avoid “inappropriate” subdivision, use and development and Ātiawa [S131.097] sought recognition of mana whenua values and relationship with traditions, ancestral lands, water, sites, wāhi tapu and other taonga, as well as a new policy regarding partnering with mana whenua in decision-making and management processes for natural hazards.
644. In the s 42A Report, the Officer supports using “avoid” or minimise which he says is more consistent with natural hazard risk management terminology.³⁶⁴ The Officer thought the words “particular regard shall be given” were appropriate and simply emphasised the importance of the matters and did not change the regulatory status of the Policy. The Officer did not support the Policy being a transitional policy that falls away once Policy 29 is given effect to on the basis that it applies to a range of circumstances, is an important backstop and provides guidance and policy intent for hearings. The Officer agreed with infrastructure providers that the Policy should recognise the need that RSI may have to locate in high hazard areas. The Officer did not support the Policy referring to “inappropriate” subdivision, use and development and instead preferred that an assessment be made of risk and where risks are high, then subdivision, use or development and *hazard sensitive activities* would need to be avoided.
645. The Policy was discussed in caucusing. A consensus view was not reached.
646. Ātiawa [S131.097] sought the addition of a clause regarding consideration of mana whenua values including the relationship of mana whenua with their traditions, ancestral lands, water, sites, wāhi tapu and other taonga,

³⁶⁴ Hearing Transcript, HS3 – Climate Change, Day 1, page 89, lines 4525 – 4527.

and a new Policy regarding partnering with mana whenua in decision-making and management processes for natural hazards.

647. The Reporting Officer did not support this relief in the s 42A Report on the basis that Change 1 includes a number of changes to the natural hazard provisions to incorporate Te Ao Māori, Te Mana o te Wai and Te Mana o te Taiao and to recognise the importance of protecting sites and values of significance to mana whenua/tangata whenua, and depending on the situation, this will require involvement of mana whenua/tangata whenua.
648. The Officer said the relief was also incorporated into other policies and methods in the Operative RPS including Method 32.³⁶⁵
649. At the Hearing, Ms Gibb for Ātiawa gave examples of instances when Ātiawa have not been involved as partners in regional planning processes, and where time pressures did not allow for adequate engagement with mana whakahaere.³⁶⁶ Ms Gibb stated:³⁶⁷

None of these approaches benefit the people involved and most importantly they do not benefit te taiao, te awa and mahinga kai. Resource management decisions that have been made to date have a big impact on Ātiawa and their way of life. As mana whakahaere within their rohe, Ātiawa seek to partner in decision-making and seek that this is clearly articulated within the Regional Policy Statement.

650. Later, Ms Gibb said:³⁶⁸

Complexities mount the longer the Council wait to bring us into the process, which is why partnership is so important, because it signals that it needs to happen from the beginning.

651. We also note that at the hearing, Dr Aroha Spinks, shared views received at a community wānanga from beach residents, who said, among other things, that they wanted to see “climate mitigation and future planning that includes our cultural identity and heritage”.³⁶⁹ At the same wānanga, retreat was discussed, and it was mentioned that ancestors moved for practical reasons and following traditional practices, and that “retreat is

³⁶⁵ Section 42A Report, Climate Change – Natural Hazards, para 297.

³⁶⁶ Hearing Transcript, HS3 – Climate Change, Day 3, page 73, lines 3730 – 3737.

³⁶⁷ Hearing Transcript, HS3 – Climate Change, Day 3, pages 73 - 74, lines 3739 – 3744.

³⁶⁸ Hearing Transcript, HS3 – Climate Change, Day 3, page 79, lines 4024 – 4026.

³⁶⁹ Hearing Transcript, HS3 – Climate Change, Day 3, page 25, lines 1222 – 1223.

mana enhancing ... deciding to work and move together, and .. what forms ... we take and what we do as adaptation strategies, is mana enhancing...
“³⁷⁰

652. Ms Hapeta from Ngā Hapū also talked about coastal inundation impacts on mana whenua and said, in response to a question from the Panel, that it would be desirable to be involved with hazard identification because it is their whakapapa telling them about inundation and seawater in the urupā.³⁷¹

653. Ms Craig of Rangitāne also said:³⁷²

Our way of dealing with risk is also utilising tikanga and kawa. I would suggest as well that our knowledge of risk management far exceeds what you write down in a register. We have intergenerational knowledge that is passed down to us, through mōteatea, toi, manuscripts and waiata, telling us of the thousand year floods, of the thousand year earthquakes of what to do.

654. Ms Craig also said:³⁷³

I would welcome anyone to spend a week in our shoes. A snapshot into the life of our kaumātua who are still fighting to be treated as equals at the table that was not built for them; that I my lifetime ... my Uncle ...has never had a resource consent or project come to him and asked to include mātauranga Māori from the beginning. We are not even talking about tino rangatiratanga at this stage. This is the bare minimum that Greater Wellington Regional Council should be doing. Who is the best people to know or experience this? We are.

655. Ms Burns providing planning evidence for Rangitāne said she disagreed with Dr Dawe’s statement in his Rebuttal Evidence that use of mātauranga is implicitly used in planning processes and she considered that explicit reference is still necessary.³⁷⁴

³⁷⁰ Hearing Transcript, HS3 – Climate Change, Day 4, page 25, lines 1227 – 1229.

³⁷¹ Hearing Transcript, HS3 – Climate Change, Day 4, page 31, lines 1559 – 1568.

³⁷² Hearing Transcript, HS3 – Climate Change, Day 4, page 33, lines 1667 – 1671.

³⁷³ Hearing Transcript, HS3 – Climate Change, Day 4, pages 33 - 34, lines 1680 – 1687.

³⁷⁴ Hearing Transcript, HS3 – Climate Change, Day 4, page 34, lines 1730 – 1733.

656. Having heard evidence from mana whenua / tangata whenua, we consider it appropriate to amend Policy 51 to include reference to Te Ao Māori and mātauranga Māori, in partnership with mana whenua / tangata whenua.
657. In our view, this amendment is appropriate in terms of s 6(e) of the RMA as it recognises the special relationship and whakapapa mana whenua / tangata whenua have with their whenua. We also understand from what we heard from the Council Officers across various hearing streams, that a partnership approach is acknowledged, supported and is being resourced.³⁷⁵ Ms Gibb raised concerns with inconsistencies in implementing this approach in her evidence, and therefore we consider the amendment we recommend to Policy 51 is appropriate to achieve Objective CC.8. As Ms Gibb said during the Hearing, the intent with that Objective should be to empower mana whenua and mana whakahaere as part of the decision-making for their rohe. We share Ms Gibb's view that to achieve this requires improve the ability of mana whenua / tangata whenua to engage³⁷⁶ which requires partnership and the sharing of information. In addition to the amendment to the Policy, we also recommend corresponding amendments to the Explanation text.
658. Mr Brass for the Director-General of Conservation maintained that additional changes were required to give effect to Policy 25 of the NZCPS. Mr Brass supported a limited exception in the coastal environment for infrastructure which has a functional or operational need to locate in this area.
659. As noted in the discussion above under Policy 29, we agree that a new clause for coastal hazard management is appropriate and mandated by Policy 25 of the NZCPS. Our recommended amendments are below, and our reasons are as set out above for Policy 29.
660. We found Mr Beban's explanation of why Policy 51 should not have only transitional effect helpful. He said at the hearing:³⁷⁷

Policy 51 applies ... to those situations where there may not be hazard provisions in play yet, because you might be going through a plan change process, or Council is giving effect to the RPS. Or, conversely, not every council when they have done

³⁷⁵ Section 42A Report, Climate Change – Natural Hazards, para 401.

³⁷⁶ Hearing Transcript, HS3 – Climate Change, Day 3, page 75, lines 3813 – 3815.

³⁷⁷ Hearing Transcript, HS3 – Climate Change, Day 1, pages 95 - 96, lines 4875 – 4887; 4950 – 4956.

their plan reviews have covered off all hazards. There's a range of factors for that. There's been budget constraints, political decisions or hazards that weren't seen to be important that now are in a classic example of a hazard that's been elevated and it's stated recently as "slope failure". So, following what happened up in Auckland and around the country recently, two to three years ago it was considered with it just through earthwork provisions, and now there's been a movement in the hazard community to actually it's a specific hazard that you map, deal and address in different ways. But a lot of the earlier plan reviews have not picked that hazard up. So, Policy 51 would then come in play....

Hazard mapping is very, very expensive. You're spending hundreds of thousands of dollars each time you create a hazard map. There's a natural limitation to what hazards you are mapping. Often Councils are kind of picking the worst. That doesn't mean they're not getting them all, but they're getting the most significant ones. But, there are still residual hazards or hazards that still need a response and that Policy 51 allows for that capture still to occur through the consenting process.

661. Dr Dawe also provided useful comments on this issue:³⁷⁸

I think it's important to maintain these [ie consideration directions for district plans], because as we grow in our understanding of the impacts from natural hazards and the sort of hazards that can impact on us, it may be that an overlay in a plan has not accounted for some new understanding. For example, the big Hikurangi subduction zone just off the coast there. There might be some new understanding about the tsunami risk or some impact from earthquake hazards which isn't captured within the overlays, because as we know the research is ongoing. It just captures situations where there might be gaps in a District Plan.

662. At the Hearing, Mr Beban noted the importance of clauses (i) and (j) which recognise that overland flow paths and stream corridors need the ability to convey floodwaters for flood hazard management.³⁷⁹ We agree that these are important clauses in the Policy.

³⁷⁸ Hearing Transcript, HS3 – Climate Change, Day 1, pages 97, lines 4935 – 4942.

³⁷⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 89, lines 4529 – 4533.

7.16.2 Finding and s 32AA Evaluation

663. We largely agree with the Reporting Officer's recommendations on Policy 51 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend amendments to include reference to Te Ao Māori and mātauranga Māori in partnership with mana whenua/tangata whenua. These amendments are supported by Part 2 of the Act, the s 32 Report,³⁸⁰ and operative and proposed provisions in the RPS including Policy CC.16 and to implement Objective CC.8 and ensure mana whenua / tangata whenua are empowered to achieve climate resilience in their communities. If the Council agrees with this recommendation, we note we have no specific views on the appropriate location within the Policy of the clause.
664. We also recommend a reference to the proposed Policy 29(e) we recommend, to give effect to the NZCPS by ensuring increased risks are avoided in areas affected by coastal hazards except where there is a functional or operational need for infrastructure. This amendment is consistent with the direction in Policy 29 and gives appropriate effect to Policy 25 of the NZCPS.

7.16.3 Recommendation

Policy 51: ~~Avoiding or Minimising~~ the risks and consequences of natural hazards – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review to a district or regional plan, the risk and consequences of natural hazards on people, communities, their property and infrastructure shall be ~~avoided or minimised~~, and/or in determining whether an activity is inappropriate particular regard shall be given to:

- (a) ~~the frequency and magnitude likelihood and consequences of the range of natural hazards that may adversely affect the proposal or development subdivision, use or development, including residual risk those that may be exacerbated by climate change and sea level rise;~~
- (b) ~~the potential for climate change and sea level rise to increase in the frequency or magnitude of a hazard event;~~
- (c) whether the location of the ~~subdivision, use or development~~ will foreseeably require hazard mitigation works in the future;

³⁸⁰ Section 32A Report, Proposed Change 1, including paras 264 – 265; para 73 regarding Objective CC.8.

- (d) the potential for injury or loss of life, social and economic disruption and civil defence emergency management implications – such as access routes to and from the site;
- (e) whether the subdivision, use or development causes any change in the risk and consequences from natural hazards in areas beyond the application site;
- (f) minimising effects on the impact of the proposed subdivision, use or development on any natural features that may act as a buffer to or reduce the impacts of a from natural hazards event; and where development should not interfere with their ability to reduce the risks of natural hazards;
- (g) avoiding inappropriate subdivision, use or development and hazard sensitive activities where the hazards and risks are assessed as high to extreme in areas at high risk from natural hazards, unless there is a functional or operational need to be located in these areas;
- (h) appropriate hazard risk management and/or adaptation and/or mitigation measures for subdivision, use or development in areas where the hazards and risks are assessed as low to moderate hazard areas, including an assessment of residual risk;
- (i) the allowance for floodwater conveyancing in identified overland flow paths and stream corridors;
- (j) the need to locate habitable floor areas levels of habitable buildings and buildings used as places of employment above the 1% AEP (1:100 year) flood level, in identified flood hazard areas; and
- (k) whether Te Ao Māori or mātauranga Māori provides a broader understanding of the hazards and risk management options.

Specific consideration will be needed for any development in the coastal environment to ensure that the requirements of Policy 29(e) are achieved.

Explanation

Policy 51 aims to minimise the risk and consequences of natural hazard events through sound preparation, investigation and planning prior to development and in partnership with mana whenua / tangata whenua. This policy reflects a need to employ a precautionary, risk-based approach, taking into consideration the likelihood of the hazards and the vulnerability of the development and Te Ao Māori and mātauranga Māori perspectives.

- ~~Typical natural hazards in the region include, but are not limited to:~~
- ~~Flooding and inundation (river, stormwater, coastal)~~
- ~~Earthquake (groundshaking, amplification, liquefaction, ground displacement)~~
- ~~Coastal hazards (erosion, storm surge, tsunami)~~
- ~~Mass movement (landslip, rockfall)~~

Other site specific hazards may become apparent during the course of an assessment for a proposal or development; however, those above are the most serious hazards to consider.

Policy 51 refers to residual risk, which is the risk that remains after protection works are put in place. Stopbanks, seawalls and revetments and other engineered protection works can create a sense of security and encourage further development. In turn, this increases the extent and value of assets that could be damaged if the protection works fail or an extreme event exceeds the structural design parameters.

Policy 51(g) will cease to have effect once policy 29 has been given effect to in the relevant district plan.

The term areas at high risk refers to those areas potentially affected by natural hazard events that are likely to cause moderate to high levels of damage to the subdivision or development, including the land on which it is situated. It applies to areas that face a credible probability of experiencing significant adverse impacts in a hazard event – such as such as fault rupture zones, beaches that experience cyclical or long term erosion, failure prone hill slopes, or areas that are subject to repeated flooding.

Policy 51(i) requires that particular regard to be given, in identified flood hazard areas, to the need to locate floor levels above the expected level of a 1 in 100 year flood or 1% annual exceedance probability (AEP), to minimise damages. It also recognises that access routes should be located above this level, to allow evacuation or emergency services access to and from a site. The clause uses the 1% annual exceedance probability as a minimum standard, allowing for the possibility that it may need to be higher in certain areas, depending on the level of risk.


To promote more resilient communities that are better prepared for natural hazards, including climate change impacts, there is a need to support the Civil Defence Emergency Management principles of hazards and/or risk reduction, readiness, response and recovery.

Reduction is concerned with minimising the adverse impacts from natural hazards through sound planning and management. Readiness is about preparing for hazard events before they occur and involves local authorities, civil defence emergency management and the community. An important way to achieve this is through public education and by providing information and advice in order to raise awareness of natural hazard issues. Response and recovery are the important functions carried out by local authorities and civil defence emergency management during and after a civil defence emergency.

The policy recognises the need to involve the community in preparing for natural hazards. If people are prepared and able to cope, the impacts from a natural hazard event are effectively reduced.

7.17 Policy 52 – Minimising adverse effects of hazard mitigation measures – consideration

665. As notified, the proposed amendments to the Policy read:

Policy 52: Minimising adverse effects of hazard mitigation measures – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:</p> <ul style="list-style-type: none"> (a) the need for structural protection works or hard engineering methods; (b) <u>whether non-structural, soft engineering, <i>green infrastructure</i>, room for the river or Mātauranga Māori options provide a more appropriate or suitably innovative solution;</u> (c) <u>avoiding structural protection works or hard engineering methods unless it is necessary to protect existing development, <i>regionally significant infrastructure</i> or property from unacceptable risk and the works form part of a long-term hazard management strategy that represents the best practicable option for the future;</u> (d) <u>the long-term viability of maintaining the structural protection works with particular regard to how climate change may increase the risk over time;</u> (e) <u>adverse effects on <i>Te Mana o te Wai</i>, mahinga kai, <i>Te Rito o te Harakeke</i>, natural processes, or the local indigenous ecosystem and biodiversity;</u> (f) <u>sites of significance to mana/tangata whenua identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a city, district or regional plan;</u> (g) <u>a no more than minor increase in risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;</u> (h) the cumulative effects of isolated structural protection works; (i) <u>any residual risk remaining after mitigation works are in place,</u> <p>so that they minimise <u>reduce and do not increase the risks from</u> of natural hazards.</p> <p>Explanation <u>Policy 52 recognises that the effects of hard protection structures can have adverse effects on the environment, increase the risks from natural hazards over time and transfer the risks to nearby areas. It provides direction to consider lower impact methods of hazard mitigation such as non-structural, soft engineering, <i>green infrastructure</i>, room for the river or Mātauranga Māori options, that may be more appropriate providing they can suitably mitigate the hazard.</u></p> <p>Objective 19 seeks to reduce the risks and consequences from natural hazards, while Objective 20 aims to ensure activities, including hazard mitigation measures, do not</p>	

increase the risk and consequences from natural hazards. Policy 52 promotes these objectives.

Having established there is a need for protection works, non-structural and soft engineering methods should be the first option for hazard mitigation. Soft engineering methods may include, for example; hazard avoidance or controlled activity zones; setback or buffer distances; managed retreat or land retirement; a 'do nothing' policy; restoration projects for wetlands, dunes or hillslopes prone to flooding, slipping or erosion.

Activities such as river bed gravel extraction which may assist in the avoidance or mitigation of natural hazards are also a consideration under this policy.

Structural measures or hard engineering methods can have significant environmental effects and should be considered as the least desirable option for natural hazard control. Where there is an unacceptable risk to development or property, there may be a place for structural measures or hard engineering methods, if they are part of a long term hazard management strategy that includes other measures. Policy 51 will need to be considered alongside policy 52(c) when deciding whether a development faces an unacceptable risk or not.

The risk that remains after protection works are put in place is known as the residual risk. Stopbanks, seawalls, and revetments and other engineered protection works can create a sense of security and encourage further development. In turn, this increases the extent and value of assets that could be damaged if the protection works fail or an extreme event exceeds the structural design parameters.

666. The proposed amendments to the Policy provide direction on the effects that need to be considered and minimised when assessing hazard mitigation measures.³⁸¹

7.17.1 Submissions, Evidence and Analysis

667. UHCC [S34.051] sought consistency of terms and said it was not clear what 'room for the river' meant or what an acceptable level of minimisation meant in this context. The DGC [S32.029] sought an amendment to give effect to the NZCPS, Ātiawa [S131.098] sought additional clauses relating to adverse effects on Māori freshwater values and mana whenua relationships, and other submitters sought references to stopbanks and flood retention structures. Fish and Game [S147.071] supported amendments recognising the habitats of indigenous freshwater species, trout and salmon and protection of natural inland wetlands or

³⁸¹ Hearing Transcript, HS3 – Climate Change, Day 1, page 89, lines 4537 – 4539.

river extent, and Rangitāne [S168.0127] asked that soft engineering solutions be given priority over hard engineering solutions.

668. The Officer recommended replacing some terms in the Policy with “nature-based solutions” but that the Policy should not prioritise soft engineering solutions as there would be situations where hard structures are the only viable option and cannot be avoided.
669. The Policy was discussed in planners’ caucusing but no consensus was reached. Ms Landers for HortNZ sought that Policy 52(c) be amended to include “highly productive land with food security values”. The Reporting Officer did not support this relief because if food security was included in the Policy, that could create a significant barrier to the implementation of hazard mitigation structures on hazard-prone land which could be required to protect significant areas of investment and infrastructure.³⁸² In the s 42A Report, the Officer also noted that this relief and other proposed amendments regarding food security and highly productive land would be better addressed in a future RPS change or variation.³⁸³ At the hearing, when explaining the intent of the change sought to Policy 52, Ms Landers said HortNZ’s relief was about enabling a pathway for considering highly productive land with food security values and that that was “speaking to the NPS-HPL and what that seeks”.³⁸⁴
670. Later, Ms Landers said that the amendment sought to Policy 52 would be complementary and consistent with the NPS-HPL but at a more specific regional level.³⁸⁵ In our view, it seems that while there may not be an issue of scope, there may be risks with part – or -piecemeal implementation of the NPS-HPL, without the full suite of national direction. The Change 1 amendments we do recommend the Council adopts, do make some provision for recognising and providing for food security, and while we appreciate the changes do not go as far as HortNZ would like, the interim protection in the NPS-HPL is available to some extent and the Council is required to introduce a change in due course to implement the NPS.

³⁸² Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 35.

³⁸³ Section 42A Report, Hearing Stream 3: Climate Change – Natural Hazards, 14 August 2023, para 336.

³⁸⁴ Hearing Transcript, HS3 – Climate Change, Day 4, page 49, lines 2460 – 2461.

³⁸⁵ Hearing Transcript, HS3 – Climate Change, Day 4, page 49, lines 2460 – 2488 – 2490.

671. Mr Brass for the DGC did not support clause (i) on the basis that having the option to ‘not increase’ the risks from natural hazards rather than ‘minimising them’, was inconsistent with Policy 25 of the NZCPS. Mr Beban for the Council said that the concepts of minimisation and not increasing risk “cannot be conjunctively achieved”³⁸⁶ and he preferred the word “or” rather than “and” which was a different approach from that the Officer supported in the s 42A Report. Mr Brass said that the Officer’s new recommended wording would essentially allow a consent applicant to choose whether it was going to “avoid increasing risk or just minimise it” and this was inconsistent with the NZCPS. Mr Brass described his concern in this way:³⁸⁷

Again, going back to early mention of sea-walls ... the example of a private sea-wall to protect private property which is going to have end effects on a neighbouring property, my reading of the NZCPS is that increasing the effects on your neighbour is not something that would be approved under the NZCPS. That change from ‘and’ to an ‘or’, would allow an applicant to say, “I am not going to avoid increasing risk to my neighbour, but I am going to fettle the design of the sea-wall ... and put a rebate and some planting and minimise how much worse I’m going to make it for my neighbour,” and I can’t see that as being consistent with the NZCPS.

672. In caucusing, Ms O’Sullivan for WIAL agreed with Ms Hunter’s written evidence that clause (d) should be deleted as it was unnecessary and unclear. Other planners supported Dr Dawe’s amendments to clause (d). At the Hearing, Ms Hunter said it was uncertain whether “long-term viability” referred to an assessment of the structural design or the cost of maintenance (in which case, that was something that the infrastructure owner would have to manage).³⁸⁸

673. In his Rebuttal Evidence, Dr Dawe said he did not see clause (d) being problematic or causing uncertainty. He said it recognised “that in some instances it may no longer be viable to protect areas with structural protection works due to on-going damage, economic viability, or engineering limitations. It provides a matter to consider when assessing

³⁸⁶ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-based Solutions and Natural Hazards, 16 October 2023, para 83.

³⁸⁷ Hearing Transcript, HS3 – Climate Change, Day 4, page 76, lines 3882 – 3892.

³⁸⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 34, lines 1735 – 1739; and Statement of Evidence by Claire Hunter, HS3, 14 August 2023, para 99.

hazard mitigation works in terms of their viability over time, with particular respect to climate change, that is changing the nature of natural hazard impacts.”³⁸⁹

674. In his Reply Evidence, Dr Dawe clarified the meaning of “long-term viability” in the clause:³⁹⁰

...the term ... refers to the way in which climate change may increase the intensity and frequency of hazard events and disasters, that in turn impact on the built environment. Thus, it refers to the viability of maintaining hard engineering approaches in the face of these changes.

675. We share some of Ms Hunter’s and Ms O’Sullivan’s concerns regarding the scope of the assessment envisaged under clause (d) and whether the intent is accurately reflected in the drafting.³⁹¹ We recommend some drafting amendments below.

676. Ātiawa [S131.098] sought the inclusion of additional clauses in Policy 52 to require particular regard be given to adverse effects on Māori freshwater values, including mahinga kai, and adverse effects on the relationship of mana whenua with their culture, land, water, sites, wāhi tapu and other taonga. The Officer considered that this relief was largely reflected in Policy 52(e).³⁹²

677. At the hearing Ms Gibb talked about how hard structures were a “western approach” that could have a significant impact on Ātiawa values. Ms Gibb said:³⁹³

... mahinga kai ... That’s a whole economic system for Ātiawa, so are we actually taking into account the impact of that hard structure on that whole economic system when we are making the decision? Or, do the parameters that are set by the decision-makers simply focus on ensuring that that property on the other side of that hard structure is maintained and protected. There’s a lot to contribute. Mātauranga wouldn’t

³⁸⁹ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 77.

³⁹⁰ Right of Reply Evidence of Dr Iain Dawe and James Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 13 November 2023, para 25.

³⁹¹ Hearing Transcript, HS3 – Climate Change, Day 2, page 34, line 1759.

³⁹² Section 42A Hearing Report, Climate Change – Natural Hazards, para 337.

³⁹³ Hearing Transcript, HS3 – Climate Change, Day 3, page 80, lines 4054 – 4064.

necessarily say it's not a hazard. If a hazard has been identified by western science, mātauranga may not say it's not a hazard, but it's more how do we engage with that hazard that really comes into question?

678. Dr Spinks for Ngā Hapū o Ōtāki also said (reflecting views from a community wānanga):³⁹⁴

In doing our adaptation strategies: do no more damage to our taiao. Build resilience and work with taiao, work with the atua, work with nature.

679. These statements were a compelling explanation of the tensions and issues that can arise. We have recommended amendments to Policies 29 and 51 where we saw a gap in terms of partnership and consideration of Te Ao Māori and mātauranga Māori. However, we consider that Policy 52 as sought to be amended by the Officer, appropriately incorporates these values and considerations and we recommend no further changes in light of Ms Gibb's evidence. The Officer recommended in Reply Evidence that "structural protection works" is replaced with "hard engineering" to standardise terminology. We agree with these amendments and also the amendments agreed in caucusing to replace "Te Rito o te Harakeke" with "taonga species".
680. Policy 27(3) of the NZCPS says that where hard protection structures are considered necessary, the form and location of the structures must be designed to minimise adverse effects on the coastal environment. Policy 25 says hard protection structures are to be discouraged and the use of alternatives promoted. We consider that to give full effect to these provisions in the NZCPS, an amendment is required to Policy 52(i) to require hard protection structures to minimise adverse effects in the coastal environment. We also note that Policies 25(e) and 26 of the NZCPS recognise natural defences against coastal hazards and promote them as alternatives to hard protection structures. While nature-based solutions are referenced in Policy 52, we consider that further amendments are appropriate to implement Policies 25(e) and 26. We consider there is scope to do so from the Forest and Bird's submission [S165.076] which sought amendments to Policy 52 to ensure consistency with (among other things), Policies 25, 26 and 27 of the NZCPS.

³⁹⁴ Hearing Transcript, HS3 – Climate Change, Day 4, page 24, lines 1214 – 1215.

7.17.2 Finding and s 32AA Evaluation

681. We largely agree with the Reporting Officer's recommendations on Policy 52 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend drafting amendments in clause (d) to improve readability and clarity of policy intent. We also recommend a minor change in clause (g) to amend the words "the change in natural hazard risks" to "any change" as we consider this more clearly conveys the policy intent without changing the meaning. Finally, we recommend amendments to give effect to Policies 25, 26 and 27 of the NZCPS, and corresponding changes in the Explanation, in line with our recommendation in Policy 29.

7.17.3 Recommendation

Policy 52: Avoiding or Minimising adverse effects of hazard mitigation measures – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, for hazard mitigation measures, particular regard shall be given to:

- (a) ~~the need for structural protection works or hard engineering methods;~~
- (b) whether ~~non-structural nature-based solutions, green infrastructure, room for the river or~~ Mātauranga Māori, ~~or~~ soft engineering options, ~~or, in the coastal environment, natural defences provide~~ a more appropriate ~~or suitably innovative~~ solution;
- (c) avoiding ~~structural protection works or~~ hard engineering methods unless it is necessary to protect existing development, *regionally significant infrastructure* or property from unacceptable risk and the works form part of a ~~long-term~~ hazard management strategy ~~agreed to by relevant authorities~~ that represents the best practicable option for the future;
- (d) the long-term viability of maintaining ~~the structural protection works a hard engineering approach~~ with particular regard to ~~changing risks from natural hazards over time due to climate change;~~
- (e) adverse effects on *Te Mana o te Wai*, mahinga kai, ~~Te Rito o te Harakeke~~, taonga species, natural processes, and the ~~local~~ indigenous ecosystems and biodiversity;
- (f) sites of significance to mana ~~whenua~~/tangata whenua, ~~including those~~ identified in a planning document recognised by an iwi authority and lodged with a local authority or scheduled in a ~~city~~ district or regional plan;
- (g) ~~a no more than minor increase in the~~ any change in natural hazard risk to nearby areas as a result of changes to natural processes from the hazard mitigation works;
- (h) the cumulative effects of isolated ~~hard engineering structural protection~~ works;
- (i) any residual risk remaining after mitigation works are in place, so that they ~~minimise~~ ~~reduce~~ ~~and/or~~ ~~do not increase~~ the risks ~~from~~ of natural hazards, ~~and, in the coastal environment, any risks from the use of hard engineering methods are avoided or minimised.~~

In the coastal environment, objectives, policies and rules shall ensure that any increased risk shall be avoided in areas likely to be potentially affected by coastal hazards, except where there is a functional or operational need for infrastructure to locate there.

Explanation

Policy 52 recognises that *hard engineering* protection structures can have adverse effects on the environment, increase the risks from natural hazards over time and transfer the risks to nearby areas. It provides direction to consider lower impact methods of hazard mitigation such as *non-structural, soft engineering, nature-based solutions green infrastructure, room for the river* or Mātauranga Māori options, that may be more appropriate, providing they can suitably mitigate the hazard.

In the coastal environment, the requirements of the NZCPS must be applied.

Objective 19 seeks to reduce the risks and consequences from natural hazards, while Objective 20 aims to ensure activities, including hazard mitigation measures, do not increase the risk and consequences from natural hazards. Policy 52 promotes these objectives:

~~Having established there is a need for protection works, non-structural and soft engineering methods should be the first option for hazard mitigation. Soft engineering methods may include, for example, hazard avoidance or controlled activity zones, setback or buffer distances, managed retreat or land retirement, a ‘do nothing’ policy, restoration projects for wetlands, dunes or hillslopes prone to flooding, slipping or erosion.~~

~~Activities such as river bed gravel extraction which may assist in the avoidance or mitigation of natural hazards are also a consideration under this policy.~~

~~Structural measures or hard engineering methods can have significant environmental effects and should be considered as the least desirable option for natural hazard control. Where there is an unacceptable risk to development or property, there may be a place for structural measures or hard engineering methods, if they are part of a long-term hazard management strategy that includes other measures. Policy 51 will need to be considered alongside policy 52(c) when deciding whether a development faces an unacceptable risk or not.~~

~~The risk that remains after protection works are put in place is known as the residual risk. Stopbanks, seawalls, and revetments and other engineered protection works can create a sense of security and encourage further development. In turn, this increases the extent and value of assets that could be damaged if the protection works fail or an extreme event exceeds the structural design parameters.~~

7.18 Policy CC.16: Climate change adaptation strategies, plans and implementation programmes – non regulatory

682. As notified, the proposed new Policy stated:

<u>Policy CC.16: Climate change adaptation strategies, plans and implementation programmes – non-regulatory</u>	
<u>Regional, city and district councils should, under the Local Government Act 2002, partner with mana whenua / tangata whenua and engage local communities in a decision-making process to develop and implement strategic climate change adaptation plans that map out management options over short, medium and long term timeframes, using a range of tools and methods including, but not limited to:</u>	
(a)	<u>Te Ao Māori and Mātauranga Māori approaches;</u>
(b)	<u>Dynamic adaptive planning pathways or similar adaptive planning approaches;</u>
(c)	<u>City, district or regional plan objectives, policies and rules that address subdivision, use and development for areas impacted by climate change and sea level rise;</u>
(d)	<u>Options for managed retreat or relocation;</u>
(e)	<u>A consideration of Te Mana o te Wai and Te Rito o te Harakeke;</u>
(f)	<u>Hazard mitigation options including soft engineering, green infrastructure or room for the river, and methods to reduce the risks from natural hazards exacerbated by climate change and sea level rise; and</u>
(g)	<u>Equitable funding options required to implement the programme.</u>
<u>Explanation</u>	
<u>Policy CC.16 provides a range of options for development and implementation of adaptation strategies or plans to suit a particular programme or local circumstances. In some instances, the outcomes may require implementation as objectives, policies, and rules in regional or district plans, but this is not expected to be a requirement.</u>	

7.18.1 Submissions, Evidence and Analysis

683. Various submitters supported the Policy and others sought clarity regarding its intent and regulatory status.

684. The planning experts who discussed this Policy at caucusing agreed that it was appropriate to amend the chapeau to refer to a range of tools and methods “that may include” but are not limited to the matters listed in the clauses.³⁹⁵ In his Reply Evidence, Dr Dawe proposed deleting the

³⁹⁵ Recommended amendments provided by Ms Rushmere, UHCC, provided at the hearing, Policy CC.8.

reference to “Te Rito o te Harakeke”.³⁹⁶ In the Reply for HS7 in response to a question posed in Minute 23, the Reporting Officer recommends including the phrase “the relationship of mana whenua/tangata whenua with indigenous biodiversity” as a replacement to “Te Rito o te Harakeke” and to cover consideration of effects on indigenous biodiversity.³⁹⁷ Dr Dawe said that this amendment “provides a useful adjunct to the concept of Te Mana o te Wai for the terrestrial environment.” We agree, and have included this amendment in the recommended amendments below.

685. Dr Dawe also proposed in his Rebuttal Evidence that the Explanation be amended to draw connections with other relevant policies in the RPS focused on rural climates and water security. We agree with these amendments.
686. We note that some submitters sought the deletion of clause (c) as it appears to require a regulatory response even though the Policy is non-regulatory.
687. Dr Dawe explained the rationale for clause (c) in this way:³⁹⁸

... there will be in some instances a requirement if you're doing adaptation planning to use instruments within District or Regional Plans to implement such policies that may be required through your adaptation planning. For example, it might be managed retreat which you're not going to implement through voluntary processes. Therefore, it's important that remains within the policy, highlighting that as a particular tool that can be used. But it's not requiring that that be done; it's just highlighting that as one possible instrument that can be used.

7.18.2 Finding and s 32AA Evaluation

688. We agree with the Reporting Officer's recommendations on Policy CC.16 for the reasons above, and otherwise as set out in the Officer's s Report, or the Officer's Rebuttal and Reply Evidence. We recommend including the Officer's recommended replacement phrase for “Te Rito o te Harakeke” in

³⁹⁶ Right of Reply Evidence of Dr Iain Dawe and James Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 13 November 2023, para 22.

³⁹⁷ Response to Request for Information in Minute 23, Paragraph 6(b) (Use of Te Rito o te Harakeke), Iain Dawe and Pamela Guest, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1, para 17.

³⁹⁸ Hearing Transcript, HS3 – Climate Change, Day 1, page 86, lines 4376 - 4383.

clause (e). This amendment was recommended by the Officer through Hearing Stream 7.

7.18.3 Recommendation

Policy CC.16: Climate change adaptation strategies, plans and implementation programmes – non-regulatory

Regional, city and district councils should ~~under the Local Government Act 2002~~, partner with mana whenua / tangata whenua and engage local communities in a decision-making process to develop and implement strategic *climate change adaptation* plans that map out management options over short, medium and long term timeframes, using a range of tools and methods ~~that may include including~~, but are not limited to:

- (a) Te Ao Māori and Mātauranga Māori approaches;
- (b) Dynamic adaptive planning pathways or similar adaptive planning approaches;
- (c) ~~City, d~~District or regional plan objectives, policies and rules that address subdivision, use and development for areas impacted by climate change and sea level rise;
- (d) Options for managed retreat or relocation;
- (e) A consideration of *Te Mana o te Wai* and the relationship of mana whenua/tangata whenua with indigenous biodiversity ~~and Te Rito o te Harakeke~~;
- (f) Hazard mitigation options including soft engineering, ~~green infrastructure or room for the river~~ *nature-based solutions* and methods to reduce the risks from natural hazards exacerbated by climate change and sea level rise; and
- (g) Equitable funding options required to implement the programme.


Explanation

Policy CC.16 provides a range of options for development and implementation of adaptation strategies or plans to suit a particular programme or local circumstances. In some instances, the outcomes may require implementation as objectives, policies, and rules in regional or district plans, but this is not expected to be a requirement.

[This policy should be read in conjunction with Policy CC.15 and Method CC.8 that address rural resilience to climate change, food and water security.](#)

7.19 Policy CC.17: Iwi climate change adaptation plans – non regulatory

689. The notified Policy stated:

<u>Policy CC.17: Iwi climate change adaptation plans – non-regulatory</u>	
<u>Regional council will assist mana whenua / tangata whenua in the development of iwi climate change adaptation plans to manage impacts that may affect Māori relationships with their whenua, tikanga and kaupapa Māori, sites of significance, wai Māori and wai tai values, mahinga kai, wāhi tapu and other taonga.</u>	
Explanation <u>Policy CC.17 recognises that climate change will disproportionately affect Māori, especially as a lot of Māori land is located in hazard prone areas near rivers and the coast. This policy directs the regional council to assist mana whenua / tangata whenua, where appropriate, with the development of iwi-led climate change adaptation plans.</u>	

7.19.1 Submissions, Evidence and Analysis

690. Most submitters supported the Policy and recommended it be retained. Te Tumu Paeroa [S102.029] requested that the Policy be a consideration policy rather than non-regulatory. The Officer did not agree with this as the Policy could be applied flexibly in the development of iwi adaptation plans and this was appropriate, rather than having its implementation tied up Part 1, Schedule 1 RMA processes.

691. The planners who attending caucusing agreed that Policy CC.17 was not in contention for them.³⁹⁹

7.19.2 Finding

692. We agree with the Reporting Officer's recommendations on Policy CC.17 for the reasons above, and otherwise as set out in the Officer's Report, or the Officer's Rebuttal and Reply Evidence.

7.19.3 Recommendation

Policy CC.17: Iwi climate change adaptation plans – non- regulatory

Regional council will assist mana whenua/tangata whenua in the development of iwi climate change adaptation plans to manage impacts that may affect Māori relationships with their whenua, tikanga and kaupapa Māori, sites of significance, wai Māori and wai tai values, mahinga kai, wāhi tapu and other taonga.

³⁹⁹ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-based Solutions and Natural Hazards, 16 October 2023, para 15.

Explanation

Policy CC.17 recognises that climate change will disproportionately affect Māori, especially as a lot of Māori land is located in hazard prone areas near rivers and the coast. This policy directs the regional council to assist mana whenua/tangata whenua, where appropriate, with the development of iwi-led *climate change adaptation* plans.

7.20 Method 14 – Information ~~about~~ on natural hazards and climate change ~~effects~~

693. As notified, the proposed amendments to the Policy stated:

Method 14: Information about <u>on</u> natural hazards and climate change effects
<p><u>Undertake research</u>, prepare and disseminate information about natural hazards and climate change effects in order to:</p> <ul style="list-style-type: none">(a) guide local authority <u>planning and</u> decision-making; and(b) raise awareness and understanding of natural hazards <p><i>Implementation: Wellington Regional Council*, city and district councils and Civil Defence Emergency Management Group</i></p>

694. The notified amendments state that research will be undertaken and information prepared and disseminated about natural hazards and climate change to guide planning and decision making and raise awareness.

7.20.1 Submissions, Evidence and Analysis

695. UHCC [S34.017] opposed the Method to the extent it applies to territorial authorities undertaking research (which presented resourcing issues). Ātiawa [S131.0121] said mana whenua are particularly vulnerable to climate change and natural hazard impacts and should be actively involved in the Method in partnership with Council, and should be adequately funded and resourced to do. Rangitāne sought changes to include mātauranga Māori research methods and monitoring.

696. The Officer noted that the Method is in the Operative RPS and has always required implementation by both TAs and the Regional Council. The Method is now clarifying that the preparation and dissemination of natural hazards information needs to be robust and may require research. The Officer considered this be to appropriate, as research into natural hazards is required for implementation of hazard provisions in regional and district plans as directed by Policy 29, and Council has co-funded and supported territorial authorities in the production of hazards research and information and has been involved in disseminating and educating people

about natural hazards, often in support or cooperation with territorial authorities.⁴⁰⁰

697. The Officer also notes that while he appreciates that funding research into natural hazards presents resourcing issues, hazards research was recently undertaken by UHCC for its review of the natural hazards chapter of its district plan, and a regional climate change impact assessment is currently being undertaken in cooperation with, and co-funded by, all local authorities in the Region, including UHCC and the Regional Council.⁴⁰¹

698. In response to concerns by Ātiawa and Rangitāne, the Officer acknowledged the intent of the submissions but said the relief has been partially accepted through Policies CC.16, CC.17 and Method 22 which direct a partnership approach to research and adaptation plans which would include Te Ao Māori and mātauranga Māori approaches as part of the process.⁴⁰² Dr Dawe said that Method 14 links to Policies 29, 51 and 52 and the word “research” in the Method is not limited to a western science model.

699. Dr Dawe states:⁴⁰³

The Council acknowledges its role as a partner to the mana whenua and tangata whenua of the Wellington region. Since the notification of Change 1, funding for work programmes where the Council and mana whenua/tangata whenua are working as partners is supplied through kaupapa funding agreements. These agreements provide resourcing for mana whenua/tangata whenua, enabling them to work with the Council.

700. Ms Gibb, presenting planning evidence for Ātiawa expressed a strong preference for partnership with mana whenua / tangata whenua to be included in the Method. Ms Gibb gave examples of instances when Ātiawa have not been involved as partners in regional planning processes, and

⁴⁰⁰ Section 42A Hearing Report, Hearing Stream 3, Climate Change – Natural Hazards, 14 August 2023, para 400.

⁴⁰¹ Section 42A Hearing Report, Hearing Stream 3, Climate Change – Natural Hazards, 14 August 2023, para 400.

⁴⁰² Section 42A Hearing Report, Hearing Stream 3, Climate Change – Natural Hazards, 14 August 2023, paras 401 – 402.

⁴⁰³ Section 42A Hearing Report, Hearing Stream 3, Climate Change – Natural Hazards, 14 August 2023, para 401.

where time pressures did not allow for adequate engagement with mana whakahaere.⁴⁰⁴ Ms Gibb stated:⁴⁰⁵

None of these approaches benefit the people involved and most importantly they do not benefit te taiao, te awa and mahinga kai. Resource management decisions that have been made to date have a big impact on Ātiawa and their way of life. As mana whakahaere within their rohe, Ātiawa seek to partner in decision- making and seek that this is clearly articulated within the Regional Policy Statement.

701. Dr Aroha Spinks provided us with feedback received from a community wānanga where mana whenua said they valued and encouraged being informed, being educated and growing awareness “so that whānau could make decisions themselves and the wider community as well”.⁴⁰⁶
702. Ms Hapeta from Ngā Hapū acknowledged that the Regional Council team work hard to keep them informed and abreast of new developments that are coming up and to ensure they are involved.⁴⁰⁷ She also said that dialogue with the Council in the last two years had been substantially higher and more frequent.⁴⁰⁸
703. The planners who attend caucusing agreed that Method 14 was not in contention.
704. We recommend Method 14 is amended to incorporate Ātiawa’s relief in part for a partnership approach for research, preparation and sharing of information about natural hazards and climate change. We understand from the evidence we read and heard that the Council is committed to a partnership approach and has entered into kaupapa funding arrangements to support this. These Agreements provide resourcing for mana whenua/tangata whenua, enabling them to work with Council as requested by these submitters.⁴⁰⁹ Council will have various funding arrangements in place and so we do not consider that specific reference needs to be made in the Method to funding and resourcing for mana whenua / tangata whenua.

⁴⁰⁴ Hearing Transcript, HS3 – Climate Change, Day 3, page 73, lines 3730 – 3737.

⁴⁰⁵ Hearing Transcript, HS3 – Climate Change, Day 3, pages 73 - 74, lines 3739 – 3744.

⁴⁰⁶ Hearing Transcript, HS3 – Climate Change, Day 4, page 25, lines 1242 – 1244.

⁴⁰⁷ Hearing Transcript, HS3 – Climate Change, Day 4, page 31, lines 1552 – 1554.

⁴⁰⁸ Hearing Transcript, HS3 – Climate Change, Day 4, page 31, lines 1566 – 1568.

⁴⁰⁹ Section 42A Hearing Report, Climate Change – General, para 284.

705. The Panel’s view is that the relief sought by Ātiawa is appropriate to adopt in part given the evidence Ms Gibb presented on lack of upfront engagement in some instances, and Dr Spinks presented on the value places on education and information for mana whenua / tangata whenua.

7.20.2 Finding and s 32AA Evaluation

706. We largely agree with the Reporting Officer’s recommendations on Method 14 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend the Method is amendment to refer to the research and sharing of information being undertaken in partnership with mana whenua / tangata whenua. We consider this amendment is the most appropriate way to implement Policies 29, 51 and 52, it aligns with the partnership approach in Policies CC.16 and CC.17, and also Method 22, and also will help to achieve Objective CC.8. We recommend a consequential amendment is made to Table 1A to include “Method 14” as a Method that implements (in part) Policy 29. We note that Table 1A has been coded to HS6 and we discuss it further in that chapter.

7.20.3 Recommendation

Method 14: Information ~~about~~ on natural hazards and climate change effects

1. Undertake research, prepare and disseminate information about natural hazards and climate change effects in order to:

- a. guide local authority planning and decision-making; and
- b. raise awareness and understanding of natural hazards and climate change

2. In partnership with mana whenua/tangata whenua, research Te Ao Māori and Mātauranga Māori understanding of natural hazards and risk management approaches in order to broaden hazard risk management awareness, planning and decision making.

Implementation: Wellington Regional Council; city and district councils and Civil Defence Emergency Management Group*

Consequential amendment to Table 1A – We recommend Council include Method 14 in the column “Method titles”, in the row for Objective CC.6 and Policy 29.

7.21 Method 22: Integrated hazard risk management and climate change adaptation planning

707. As notified, the proposed amendments to the Method read:

<u>Method 22: Integrated hazard risk management and climate change adaptation planning</u> <u>Information about areas at high risk from natural hazards</u>	
<u>Integrate hazard risk management and climate change adaptation planning in the Wellington region by:</u>	
(a)	<u>developing non-statutory strategies, where appropriate, for integrating hazard risk management and climate change adaptation approaches between local authorities in the region;</u>
(b)	<u>developing consistency in natural hazard provisions in city, district and regional plans;</u>
(c)	<u>assisting mana/tangata whenua in the development of iwi climate change adaptation plans.</u>
Prepare and disseminate information about how to identify areas at high risk from natural hazards, as relevant to the development of hazard management strategies to guide decision making.	
<i>Implementation: Wellington Regional Council* and city and district councils</i>	

7.21.1 Submissions, Evidence and Analysis

708. UHCC [S34.080] supported the Method in part but raised some concern that it seemed to require a regulatory response. UHCC sought that either the operative Method is retained or that clause (b) is deleted. HCC [S115.0101] did not support the inclusion of non-regulatory policies and methods applying to TAs and WCC [S140.0104] raised a similar concern. EQC [S132.012] asked that the operative wording be reinstated regarding the preparation and dissemination of information about how to identify areas at high risk from natural hazards as relevant to the development of hazard management strategies. Taranaki Whānui [S167.0154] requested that clause (c) refer to a partnership approach where practicable, rather than only “assistance”.

709. The Officer did not agree with UHCC’s relief on the basis that the Method does not require councils to undertake a plan change or a regulatory response to ensure consistency across the region.⁴¹⁰ Instead, clause (b)

⁴¹⁰ Statement of Rebuttal Evidence of Dr Dawe and Mr Beban on behalf of Wellington Regional Council, Hearing Stream 3 – Natural Hazards, 22 August 2023, para 64.

aims to encourage consistency in hazard provisions across the Region. The Officer also said the Method implements non-regulatory Policies CC.16 and CC.17 and appropriately guides integrated hazard risk management in the Region. The Officer did not agree with EQC's relief at first on the basis that it was provided for in other provisions, as were the amendments proposed by Taranaki Whānui.

710. In planning evidence, Ms Woodbridge for Kāinga Ora suggested including a new clause in the Method to help provide consistency and improve understanding on how to classify hazard risks as low, medium or high, as per the approach in Policy 29. The Officer agreed with this suggestion.
711. Ms McGruddy for WFF sought an amendment to provide for assistance to catchment groups and water user groups in the development of adaptation plans. The Officer recommended that this amendment was better placed in Method CC.8.
712. Method 22 was discussed at expert planners' caucusing. It was agreed to retain the reference to district and regional plans in clause (b) but with some drafting amendments to reflect that these were options rather than mandatory requirements. The planners also agreed with some minor drafting amendments to new clause (d).
713. We agree with the drafting agreed at caucusing and with the Officer's final recommendations on Method 22.

7.21.2 Finding

714. We agree with the Reporting Officer's recommendations on Method 22 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

7.21.3 Recommendation

Method 22: Integrated hazard risk management and climate change adaptation planning information about areas at high risk from natural hazards

Integrate hazard risk management and *climate change adaptation* planning in the Wellington region by:

- (a) developing non-statutory strategies, where appropriate, for integrating hazard risk management and *climate change adaptation* approaches between local authorities in the region;
- (b) supporting the development of ~~developing~~ consistency in natural hazard provisions in ~~city~~-district and regional plans;
- (c) assisting mana ~~whenua~~/tangata whenua in the development of iwi *climate change adaptation* plans; and

- (d) ~~Prepare and disseminate~~ Preparing and disseminating information about classifying risks from natural hazards as low, medium and high to ensure regional consistency.

Implementation: Wellington Regional Council and city and district councils*

7.22 Method 23

715. Proposed Change 1 proposed to delete Method 23:

Method 23: Information about natural features to protect property from natural hazards

Prepare and disseminate information about how to identify features in the natural environment that can offer natural protection to property from the effects of erosion and inundation.

*Implementation: Wellington Regional Council * and city and district councils*

716. Everyone submitting on the Method agreed with its proposed deletion. The Officer recommended that the Method be deleted as notified.

7.22.1 Finding

717. We agree with the Reporting Officer's recommendations on Method 23 for the reasons above, and otherwise as set out in the Officer's s 42A Report.

7.22.2 Recommendation

Method 23: Information about natural features to protect property from natural hazards

Prepare and disseminate information about how to identify features in the natural environment that can offer natural protection to property from the effects of erosion and inundation.

*Implementation: Wellington Regional Council * and city and district councils*

7.23 Anticipated Environmental Results

718. The notified AERs stated:

Topic	Objectives	Anticipated environmental results (AER)
Natural hazards	<p>Objective 19 The risks and consequences to people, communities, their businesses, property, and infrastructure <u>and the environment</u> from natural hazards and <u>the effects of climate change effects</u> are <u>minimised</u>.</p>	<p>1. Regional and district plans: (a) identify areas at high risk from natural hazards; and (b) contain policies and rules to avoid subdivision and inappropriate development in those areas.</p> <p>2. There is no new subdivision and inappropriate development in areas at high risk from natural hazards</p>
	<p>Objective 20 <u>Natural hazard and climate change mitigation and adaptation activities minimise the risks from natural hazards and impacts on Te Mana o te Wai, Te Rito o te Harakeke, natural processes, indigenous ecosystems and biodiversity.</u> Hazard mitigation measures, structural works and other activities do not increase the risk and consequences of natural hazard events.</p>	<p>1. There is no increase in the risk from natural hazards as a result of subdivision, use or development (including mitigation works).</p> <p>2. Where hazard mitigation <u>and climate change</u> measures are employed, there is a greater number and range of soft engineered measures used, <u>that achieve integrated management and broad environmental outcomes.</u></p>
	<p>Objective 21 <u>The resilience of our</u> Communities are more resilient to natural hazards, including the impacts and the natural environment to the short, medium, and long-term effects of climate change, and sea level rise is strengthened, and people are better prepared for the consequences of natural hazard events.</p>	<p>1. Over 75 per cent of the community surveyed has an understanding of the consequences from local natural hazards.</p> <p>2. Over 75 per cent of the community surveyed is prepared for natural hazard events.</p>

7.23.1 Submissions, Evidence and Analysis

719. Some iwi submitters supported the AERs in part but requested amendments to recognise the partnership approach with mana whenua to management of natural hazards. The Officer stated that the provisions in the subtopic direct councils partner with mana whenua / tangata whenua and the relief sought was not an environmental outcome.

720. The Officer did recommend consequential changes to the AERs as a result of submissions made on Policies 29 and 52, including incorporating a risk-based approach to assessing hazards and risks and hazard overlays. We

agree with these amendments but request some minor drafting changes to reflect the amendments we recommended in Policies 29 and 52.

7.23.2 Finding and s 32AA Evaluation

721. We largely agree with the Reporting Officer’s recommendations on the AERs for the reasons above, and otherwise as set out in the Officer’s s 42A Report or the Officer’s Rebuttal and Reply Evidence. We recommend some minor drafting amendments to better reflect the amendments we recommend in Polices 29 and 52.

7.23.3 Recommendation

<p>1. Regional and district plans have:</p> <p>(a) identify areas at high risk from natural hazards; used a risk-based approach to assess hazards and risks to new or existing subdivision, use and development from natural hazard and climate change impacts over at least a 100 year planning horizon; and</p> <p>(b) contain policies and rules to avoid subdivision and inappropriate development in those areas. included hazard overlays, objectives, polices and rules to manage or avoid, minimise, or not increase the risk from natural hazards to new or manage existing subdivision, use and development in those areas.</p>
<p>2. There is no new subdivision and inappropriate development in areas at high risk from natural hazards</p>
<p>1. There is no increase in the risk from natural hazards as a result of subdivision, use or development (including mitigation works).</p>
<p>2. Where hazard mitigation and climate change mitigation measures are employed, there is a greater number and range of soft engineered measures nature-based solutions used, that achieve integrated management and broad environmental outcomes.</p>
<p>1. Over 75 per cent of the community surveyed has an understanding of the consequences from local natural hazards.</p> <p>2. Over 75 per cent of the community surveyed is prepared for natural hazard events.</p>

7.24 Definitions: Natural Hazards subtopic

7.24.1 Hazard risk management strategy

722. This definition was proposed in the Officer's Reply Evidence. The definition was discussed in planners' caucusing as a result of amendments to Policy 52 and agreement was reached. We recommend the definition is included in Proposed Change 1.

7.24.2 Hazard sensitive activity

723. HortNZ [S128.065] supported the definition of *hazard sensitive activity* in Proposed Change 1 but sought that "hazardous facilities" is deleted from the definition as they said it was not clear what scale of activity might be inadvertently captured by the term. HortNZ did say that "major hazardous facilities" is defined in regulations. The Fuel Companies [S157.046] sought that "hazardous facilities and major hazardous facilities" is deleted as it was not certain what would be captured by the term.

724. The Officer recommended deleting "hazardous facilities" from the definition of *hazard sensitive activity* but retaining "major hazard facility" and including a definition to align with the definition in the Health and Safety at Work (Major Hazard Facilities) Regulations 2016.

7.24.3 Major hazard facility

725. This definition is proposed in the s 42A Report as a consequential change to the amendment above to the definition of *hazard sensitive activity*. We recommend the definition is retained.

7.24.4 Recommendations

Hazard risk management strategy

A strategic approach for the management of the risks from natural hazards to minimise or reduce the overall risk of social, environmental and economic harm and adverse effects from natural hazards. It includes some or all of the following elements; hazard and hazard risk identification, impact assessment, potential mitigation works (costs/impacts/maintenance), assessment of environmental effects, assessment of alternate options, cost-benefit analysis, budget allocation; community engagement and implementation plan. The scale of a hazard risk management strategy should be commensurate to the size of the proposed development or activity.

Hazard sensitive activity

Means any building that contains one or more of the following activities:

- community facility

- early childhood centre
- educational facility
- emergency service facilities
- ~~hazardous facilities and~~ *major hazardous facilities*
- healthcare activity
- kōhanga reo
- marae
- residential activity
- retirement village
- research activities
- visitor accommodation

Major hazard facility

Has the same meaning as the Health and Safety at Work (Major Hazard Facilities) Regulations 2016 - means a facility that WorkSafe has designated as a lower tier major hazard facility or an upper tier major hazard facility under regulation 19 or 20.

Part B: Section 4

Hearing Stream 4 - Urban Development

1. Executive Summary

1. Proposed Change 1 implements the National Policy Statement on Urban Development (NPS-UD) and other relevant regulatory and planning documents and strategies as an integrated frame. poli
2. The provisions aim to address key issues relating to urban development in the Wellington Region, including:
 - a. poor affordability and shortages of adequate housing and infrastructure; and
 - b. inappropriate and poorly managed urban land use and activities which have damaged, and continue to jeopardise, the natural environment, degrade ecosystems and increase the exposure of communities to the impacts of climate change and other natural hazards.
3. All the provisions in Hearing Stream 4 (HS4) were considered by the P1S1 Panel. The Panel's recommendations are to be read with the corresponding submission analysis table attached and Part A (Overview).
4. Having heard submitters and considered evidence, legal submissions and hearing presentations, we recommend Council adopt the recommendations in our Report, on the submissions and provisions coded to HS4 in Proposed Change 1. In doing so, the RPS will:
 - a. Support a compact regional form that:
 - i. prioritises urban development within existing urban zones above greenfield development, and
 - ii. will enable the Council to achieve other strategic outcomes which are relevant to its integrated management function
 - b. Include a centres hierarchy that supports intensification and the viability of centres but without specifying zoning or where intensification should occur within districts or cities.

- b. Provide for greenfield development that meets certain criteria
- c. Ensure mana whenua / tangata whenua values are represented and protected
- d. Ensure development occurs on the basis of infrastructure being available
- e. Increase the focus on local and active transport to reduce infrastructure costs and reduce GHGe
- f. Better integrate land-use and transport planning in a way that aligns with the climate change transport provisions in HS3
- g. Provide for unanticipated or out-of-sequence urban development that would add significantly to development capacity and contribute to well-functioning urban environments
- h. Manage subdivision, use and development in rural areas while seeking to retain the productive capacity of these areas.

5. Officers’ views on the Urban Development provisions were modified in the course of the submissions and hearing process. We agree with the majority of the Officers’ recommendations. Our views differ from the Reporting Officers on the following provisions:

Provision	Panel’s views
Introduction	We recommend a minor change to note that the regional form, design and function chapter gives effect to relevant national direction and has regard to management plans and strategies prepared under other Acts
Issues	<p>We recommend an amendment to refer to “iwi authorities in the Wellington Region” and recommend the Council consider making this change across the Proposed Change 1 Issues as a minor amendment.</p> <p>We recommend Issue 2 is amendment to refer to the productive capacity of rural land, and Issue 4 includes reference to “maintenance” of existing infrastructure</p>

Objective 22	<p>We recommend various amendments to these clauses in the Objective:</p> <ul style="list-style-type: none"> • Drafting changes in clause (a) regarding improving housing affordability, quality and choice • Drafting changes in clause (b) including reference to “ancestral” land • A new clause (cc) stating an intensification outcome in existing urban zones where the intensification is <i>environmentally responsive</i> • Reference to <i>climate</i>-resilient in clause (d) • Reference to “integrated transport infrastructure” and “active transport” in clause (e) • A minor amendment to clause (f) to refer to “recognised” values • Including “the productive capacity of rural land” in its own clause • Drafting amendments in clause (j) including a reference to “a range” of industrial based employment locations and “enabling choice”
Policy 31	<p>We recommend a minor drafting change to the sentence structure in clause (b) and adding a reference to identified qualifying matters.</p>
Policy 55	<p>We recommend some drafting amendments to improve readability and to refer to “planned” new or upgraded transport infrastructure</p>
Policy UD.5	<p>We recommend amendments to cross refer to Policy 42 (managing effects on freshwater from urban development), and a new clause relating to coordinating development with infrastructure while prioritising, where possible, the effective and efficient use of existing infrastructure</p>

Policy 56	We recommend a minor amendment to refer to the productive “capacity” of the rural area
Policy 57	We recommend drafting amendments to the chapeau and in clauses (a) – (ba) to express the policy direction in a clearer way
Policy 58	We recommend drafting amendments to the chapeau and to express the policy direction in a clearer way. We also recommend an amendment to refer to the timing or staging of development
AER	We recommend a minor drafting amendment to AER5 to refer to “productive capacity” rather than “productivity” for consistency with wording elsewhere in Change 1 provisions.
Definition of <i>environmentally responsive</i>	We recommend an amendment to simplify the definition and refer to context, constraints and opportunities and the management of adverse environmental effects.

6. The Reporting Officer recommended that various provisions in this topic be categorised as Freshwater provisions because they relate to freshwater quality and quantity, for example, as a characteristic of well-functioning urban environments.¹
7. We disagreed with this assessment as we outlined in Part A. In our view, it is appropriate for all the provisions in this Hearing Stream to be categorised as P1S1 provisions as their connection to freshwater is too indirect and it is appropriate they be considered within the same planning process.

¹ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, para 81 and Table 5.

2. Overview

8. Hearing Stream 4 covered the following provisions:
 - a. Chapter 3.9 Introduction
 - b. Issues
 - c. Objective 22
 - d. Objective 22B
 - e. Policy 30
 - f. Policy 31
 - g. Policy 32
 - h. Policy 33
 - i. Policy UD.1
 - j. Policy UD.4
 - k. Policy 55
 - l. Policy 56
 - m. Policy 57
 - n. Policy 58
 - o. Policy UD.2
 - p. Policy UD.3
 - q. Policy UD.5
 - r. Policy 67
 - s. Method UD.1
 - t. Method UD.2
 - u. Method UD.3
 - v. Method UD.4
 - w. Methods 40 -47
 - x. AER
 - y. Definitions including *city centre zone, environmentally responsive, regional form, rural areas, tree canopy cover, urban areas, urban environment, urban zones, walkable catchment and well-functioning urban environments.*
 - z. Table 9.
9. There were some 865 submission points on this topic.
10. There were two Reporting Officers for this topic, Ms Zöllner and Mr Jeffreys.

2.1 General Submissions

11. There were many general submissions in the Urban Development topic and they are assessed in the s 42A Report.² We discuss many of the general submissions in Chapter HS1 that were recurring themes throughout Change 1 Hearing Streams including ‘consideration policies’ and the extent of direction to territorial authorities. Many iwi submitters sought stronger direction providing for mana whenua /tangata whenua values and to give effect to s 6(e) of the RMA. Much of this relief is granted in the recommendations proposed by the Officers and supported in our recommendations. There were various submissions seeking that the wording of objectives is simplified and that stronger language is used. We make some recommendations in our Report to address these submissions.
12. A key focus of Proposed Change 1 is implementing the National Policy Statement on Urban Development (NPS-UD). The Panel supports the Council’s approach in taking an integrating frame approach to the HS4 provisions. As discussed in Part A, while s 30 of the RMA requires the Council to ensure there is sufficient development capacity for housing and business land to meet the expected demands of the Region, the Council is also mandated under s 30 to take an integrated approach to regional form and the management of natural and physical resources.
13. Therefore, when considering urban development and increasing housing capacity, the Council has also attempted through the HS4 provisions to manage effects on freshwater and indigenous biodiversity, reduce gross GHGe, and enable mode shift by improving access to public transport, walking and cycling. Co-ordinating land use planning and transport infrastructure with development has been one of the more complex matters to ‘get right’ in Proposed Change 1, and requires ensuring the provisions across the HS3, HS4 and HS5 streams are aligned and integrated. We generally support the Officers’ recommendations and recommend further changes across the streams to better achieve the outcomes sought, and align with national instruments and the direction of travel in the ERP and NAP.
14. We were persuaded by evidence we heard about the benefits of compact development. It can support local centres better, make it more likely for public transport services to be feasible, provide larger rating bases to fund

² Section 42A Hearing Report, Hearing Stream 4 – Urban Development, section 3.3.

and maintain infrastructure, better support housing choice, variety and affordability, and, if designed well, generally makes it easier to achieve accessible, vibrant, climate resilient, safe and sustainable neighbourhoods.

2.2 Statutory Framework

15. The statutory framework for our recommendations is discussed at a high level in Part A including the Regional Council's functions in s 30 and the requirements for RPS'. The paragraphs below discuss particular aspects of the regulatory framework that apply to the Urban Development provisions in HS4.

16. Section 30(ba) of the RMA states that regional councils have responsibilities for:

the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region.

2.2.1 NPS-UD

17. The NPS-UD came into effect on 20 August 2020. As the s 42A Report states, the NPS-UD:³

seeks to create well-functioning urban environments by directing regional and territorial authorities to enable urban intensification in appropriate locations and it seeks to improve housing affordability by supporting competitive land and development markets. Intensification is to be directed in areas which are well-supported by public transport, provide for employment opportunities, and where there is high demand for housing or business land.

18. The NPS-UD provides differing direction for tier 1 – 3 local authorities reflecting the different scale and characteristics of urban environments in these areas. Tier 1 territorial local authorities in the Region are Porirua City Council, Wellington City Council, Upper Hutt City Council, Hutt City Council and Kāpiti Coast District Council. Wellington Regional Council is also a Tier 1 local authority, and Masterton District Council is a tier 3 local authority.

³ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, para 43.

19. As stated in the s 32 Report, the primary driver for the timing of Proposed Change 1 is the NPS-UD. Part 4 of the NPS-UD requires that RPS' (and district plans) have changes notified by 20 August 2022 to give effect to Policies 3 and 4 of the NPS-UD to enable more urban development and housing intensification. The balance of the NPS-UD must be given effect to as soon as practicable. The Council did not want urban development occurring in isolation of other important resource management issues, hence the integrating frame approach to Proposed Change 1.
20. Most of the local authorities in the Region contain part or all of an urban environment. This means they are required by the NPS-UD to provide sufficient development capacity to meet the short, medium and long-term demand for housing and business land (Policy 2, NPS-UD). The tier 1 authorities must set housing bottom lines in the RPS and District Plans (Policy 7).
21. Local authorities are also required to achieve the following through their planning decisions (including decisions on RPS', plans or resource consents):
 - Well-functioning urban environments (which are defined in Policy 1) that enable all people and communities to provide for their social, economic and cultural well-being, and for their health and safety, now and into the future (Objective 1)
 - Improve housing affordability by supporting competitive land and development markets (Objective 2)
 - Take into account the principles of Te Tiriti o Waitangi and involve hapū and iwi when preparing RMA planning documents (Objective 5 and Policy 9)
 - Enable urban intensification in appropriate locations (Objective 3, Policy 3, Policy 4)
 - Ensure decisions on urban development are integrated with infrastructure and planning decisions (Objective 6, Policy 10), and
 - Be responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments, even if the development capacity is unanticipated by RMA planning documents, or out-of-sequence with planned land release (Policy 8).

22. Objective 8 and Policy 1 of the NPS-UD acknowledge urban environments can support reductions in greenhouse gas emissions.
23. The NPS-UD requires the Regional Council and other tier 1 local authorities to prepare a Future Development Strategy (FDS) for their tier 1 environment that provides sufficient development capacity over the next 30 years and sets out how the local authority will achieve well-functioning urban environments and integrate planning decisions with infrastructure planning and funding decisions (clauses 3.12 – 3.13).

2.2.2 NPS-FM

24. The National Policy Statement for Freshwater Management (NPS-FM) requires freshwater to be managed on a whole-of-catchment basis that considers the effects of land use and development, including urban development, on freshwater and receiving environments. Clause 3.5 of the NPS-FM acknowledges the connections between development, infrastructure and freshwater.

2.2.3 NPS-HPL

25. The NPS-HPL came into force on 17 October 2022. Its purpose is to protect highly productive land from inappropriate use and development to protect land-based primary production activities from inappropriate subdivision, use and development. The NPS-HPL contains an interim framework of provisions that apply until highly productive land is mapped in RPS' and the NPS is implemented.


2.2.4 NAP and ERP

26. The National Adaptation Plan (NAP) and Emissions Reduction Plan (ERP) are discussed in Part A. Chapter 4 of the NAP recognises the role of the planning system in managing the location of climate-resilient development. The Plan specifically recognises the roles that FDS will have in managing development. Chapter 7 of the Plan also recognises that new and existing places are effectively planned to improve climate resilience, including housing development and centres development.

3. Provision by Provision Analysis

3.1 Urban Development Introduction

27. The notified amendments to the Operative Introduction read as follows:

Chapter introduction	
<p>Regional form is about the physical arrangement within and between urban and rural communities. Good urban design seeks to ensure that the design of buildings, places, spaces, and networks work well for <u>mana whenua / tangata whenua</u> and communities, and are environmentally responsive.</p> <p><u>The concept of well-functioning urban environments was introduced in the National Policy Statement on Urban Development 2020. There are a number of characteristics and qualities that contribute to forming a well-functioning urban environment. A compact and well-designed regional form Well-functioning urban environments enhances the quality of life for residents as it is easier to get around, allows for a greater supply and choice of housing close to where people work or to public transport, town centres are and provide vibrant, safe, and cohesive centres that enhance business activity. is enhanced. Energy consumption and carbon emissions are also reduced. Well-functioning urban environments enable communities and businesses are to be more resilient to the effects of climate change, and the uptake of zero and low-carbon emission modes is supported throughout the region. Well-functioning urban environments have compact urban form and are well-designed and planned through the use of spatial and development strategies and use of design guidance. Well-functioning urban environments are low impact, incorporating water sensitive urban design and managing the effects on other regionally significant values and features as identified in this RPS. oil shortages or crisis, and there is reduced pressure for new infrastructure and more efficient use of existing infrastructure.</u></p> <p>Central Wellington city contains the central business district for the region. Its continued viability, vibrancy and accessibility are important to the whole region. There are also a number of other regionally significant centres that are an important part of the region's form. These are the sub-regional city centres of Upper Hutt city centre, Lower Hutt city centre, Porirua city centre, Masterton town centre, Paraparaumu town centre, and the suburban centres in Petone, Johnsonville and Kilbirnie. These centres are significant areas of transport movement and civic and community investment. They also have the potential to support new development and increase the range and diversity of activities. Good quality high and medium density housing in and around these centres, and existing and planned rapid transit stops, would provide increased housing choice and affordability. Further medium and high density development must be enabled within the fast-growing districts of the Region, being those identified in the National Policy Statement for Urban Development as tier 1 territorial authorities. If this development occurs, it will further improve housing affordability. could increase housing choice and the use of services and public transport.</p>	

Encouraging use and development of existing centres of business activity can also lead to social and economic benefits. Additional local employment around these centres could also provide people with greater choice about where they work. The physical arrangement design of urban and rural communities/smaller centres, the region's industrial business areas, the port, the airport, the road and public transport network, and the region's open space network are fundamental to well-functioning urban environments and a compact and well-designed regional form.

The Wellington Regional Growth Framework³ provides a spatial plan that has been developed by local government, central government, and iwi partners in the Wellington-Horowhenua region. It sets out the key issues identified for urban growth and development and provides a 30-year spatial plan that sets a long-term vision for changes and urban development in the Wellington Region.

The region has a strong corridor pattern, yet is generally compact. The Wellington Regional Growth Framework identifies the three key growth corridors within the Wellington Region being the western, eastern and Let's Get Wellington Moving growth corridors. Two additional potential west-east corridors are identified. The corridors are shown in Figure 3 below.

The transport corridor pattern includes State Highway 1 and the North Island Main Trunk rail line which enters the region near Ōtaki and extends southwards through Kāpiti Coast, Pukerua Bay, Porirua and northern Wellington and through to Wellington city central business district. State Highway 1 continues through to Wellington International Airport. State Highway 2 and the Wairarapa railway line enter the region north of Masterton and extend southwest through Wairarapa, the Hutt valley and on to merge with State Highway 1 and the North Island Main Trunk rail line at Ngauranga. State Highway 58 provides a vital the current east-west link between State Highways 1 and 2.

This corridor pattern is a strength for the region. It reinforces local centres, supports passenger transport, reduces energy use and makes services more accessible.

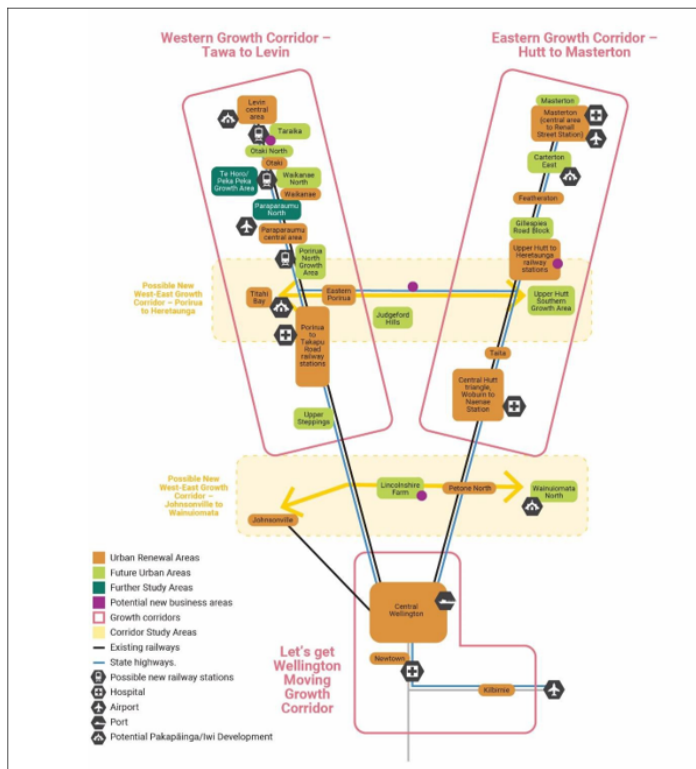


Figure 3: Wellington Regional Growth Framework corridors

The region is facing growth pressure. Based on the May 2022 Wellington Regional Housing and Business Development Capacity Assessment (HBA), the Greater Wellington urban environment is expected to grow by around 195,000 people by 2051. As of May 2022, district plans within the Greater Wellington region, does not provide sufficient development capacity for the long term with a shortfall of more than 25,000 dwellings.

In more and more areas of the region, housing is unaffordable for many people. Across the region the average rent per week increased by 24 percent between 2018 and 2021

and the average house price increased by 46 percent between 2018 and 2021⁴. The ratio of house values to annual average household income has been steadily increasing as house prices have risen without equivalent rises in incomes. For instance, the ratio for Wellington City as at March 2021 was 6.7⁵. Home ownership and access to affordable housing issues are exacerbated for Māori; 43 percent of Māori living in the Wellington region were living in owner occupied dwellings compared to 55 percent of the overall population⁶.

National direction provided through the National Policy Statement on Urban Development 2020 and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 supports increased supply of affordable housing. However, high levels of development without suitable constraints risks undermining other characteristics and qualities of a well-functioning *urban environment*. We need to recognise and provide for other regionally significant values and features, including managing freshwater, indigenous biodiversity, values of significance to mana whenua / tangata whenua and management of the *coastal environment*. Most of the region, including its existing urban areas, has significant exposure to multiple natural hazards, and there is continuing demand to build in coastal and/or natural hazard-prone areas. Development pressure can reduce transport efficiency and limit the ability of all centres to provide community services and employment. Medium and high-density development that is enabled through national direction has the potential to result in poor urban design outcomes, in the absence of sufficient design guidance.

There are, however, parts of the region where growth pressures exist and where the region's current compact form is beginning to fray at the edges, reducing transport efficiency and the ability of some centres to grow as community service and employment areas. The region also has limited east-west transport linkages, which means freight and commuter movements are focused along the north-south corridors, increasing congestion on some major routes.

In certain locations, the region's urban design has also been weakened by poorly designed developments which negatively affect the look, feel, health, safety, vitality and vibrancy of these areas.

The region's form, design and function have been examined by the region's nine local authorities, in conjunction with the region's iwi authorities, central government and business, education, research and voluntary sector interests, as part of the development of the Wellington Regional Strategy (2007), a sustainable economic growth strategy for the Wellington region. The Wellington Regional Strategy focuses on leadership and partnership, growing the region's economy and good regional form. It is recognised that

the region's form is a key component to making the Wellington region 'internationally competitive'.

3.1.1 Submissions, Evidence and Analysis

28. There were 29 original submissions and 26 further submissions on the proposed amendments to the Operative Introduction to Chapter 3.9 Regional form, design and function.
29. There were various requests to retain the Introduction as notified, or shorten, refine or clarify it, frame it in a more positive way and include subheadings. Some submitters asked for the text to be amended to emphasise that intensification should be focused around major centres and rapid transit nodes (Stride [S155.008] and Investore [S154.011]). Wellington Water [S113.008, S113.009] sought recognition of the role of regionally significant infrastructure in well-functioning urban environments. WFF [S163.039] and other submitters sought that the chapter focus on urban form, and that a new rural chapter be included in a full review of the RPS.

30. The role of the Introduction is to provide setting and context to the relevant provisions including by setting out the resource management issues facing the region and summarising the key related provisions. It is helpful in our view that this particular Introduction discusses the concepts of *Regional form*, well-functioning urban environments and areas, and gives a high level description of spatial planning in the region.
31. We discuss *Regional form* and well-functioning urban environments and areas below in our discussion about the Objectives.
32. We are generally comfortable with the version of the Introduction in the Reporting Officer’s Reply Evidence⁴ as it responds to key submitter relief seeking shorter, simpler and clearer text, provides guidance or signposting on the objective and policies in the chapter (HCC [S115.024]), discusses the role of urban areas in regional form, design and function (CDC [S25.012]), recognises the need for Māori to express their culture and traditions within regional form (Ātiawa [S131.038]) - a concept described by Taranaki Whānui as “cultural visibility” [S167.051] – restructures content under subheadings, removes the hierarchy of provisions in the notified version, presents a more balanced view of the potential benefits of development alongside its impacts, and recognises that intensification is to be focused around major centres and rapid transit zones (as requested by Stride and Investore). Ātiawa sought for stronger reference in the Introduction to the need for planning decisions to take into account the principles of Te Tiriti o Waitangi. The Officer supports this relief. We acknowledge the Officers’ efforts in responding to a range of submitter relief and providing a clearer and more concise Introduction to the Urban Development chapter.
33. Ms Horrox providing planning evidence for Wellington Water supported a development hierarchy in the Introduction but considered that the hierarchy was not clear from the drafting in the s 42A Report.⁵ Some concerns included that Policy UD.4 was not referenced, even though it is the provision that creates the hierarchy.⁶ In her Reply Evidence, Ms Zöllner

⁴ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, and Appendices.

⁵ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), Hearing Stream 4, 15 September 2023, paras 17 – 18.

⁶ Wellington Water Updated Position in response to Regional Council Rebuttal Evidence, 3 October 2023, Speaking notes: [HS4-S113-Wellington-Water-Ltd-Speaking-Notes-Handout-031023.pdf](https://www.gw.govt.nz/HS4-S113-Wellington-Water-Ltd-Speaking-Notes-Handout-031023.pdf) ([gw.govt.nz](https://www.gw.govt.nz))

recommends removing the hierarchy from the Introduction as it may lead to an interpretation that is inconsistent with Policy UD.4.⁷

34. Winstone Aggregates' planner, Ms Clarke, suggested some amendments in the Introduction regarding a "reliable local supply of aggregate to enable urban development and associated infrastructure."⁸ This relief is accepted by the Officer in her Rebuttal Evidence.
35. We do not support WFF's relief seeking to narrow the content of the Introduction to 'urban form, design and function' or 'urban form and development' [S163.039]. As the Reporting Officer explained, the chapter applies to 'regional form', that is urban and rural areas. An integrated lens is needed across the whole region, recognising that urban and rural development occurs in both urban and rural areas and the boundary between the two is constantly shifting at the peri-urban fringe.⁹
36. KCDC sought that the reference to Wellington Regional Growth Framework (WRGF) is deleted [S16.094]. We accept this relief and recommend that the paragraph about the WRGF is replaced with text regarding the Future Development Strategy (FDS), adopted in March 2024. Ms Zöllner gave information in her Reply Evidence about the development of the FDS and confirmed that once it is adopted, it will replace the WRGF.¹⁰ We provide more information on the FDS below.
37. We agree with the Officer that loss of productive land is included in the Introduction which gives partial relief to Hort NZ's submission point [S128.013].
38. We support the Officer's amendments that note the connection between a reliable local aggregate supply and urban development and associated infrastructure (Winstones [S162.041] and the evidence of Ms Clarke on behalf of Winstones.¹¹
39. We disagree with the words "balances different aspects of national direction" and recommend they are replaced with the words "gives effect

⁷ Reporting Officer's Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 52.

⁸ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, 19 September 2023 – Hearing Stream 4 – Urban Development, para 5.3.

⁹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 337.

¹⁰ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 18.

¹¹ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, Hearing Stream 4 – Urban Development, 19 September 2023, paras 5.2 – 5.3.

to” to better reflect the role of the RPS and s 62(3), RMA. We note this gives partial effect to a submission point raised by Ātiawa [FS20.001].

3.1.2.1 Wellington Regional Growth Framework and FDS

40. During the Hearing, Council staff provided the panels with a presentation on the draft Future Development Strategy, which was notified on 9 October 2023. Following a submission period and hearings, the Wellington Regional Leadership Committee (a committee of local government, iwi and central government partners) adopted the final Wairarapa-Wellington-Horowhenua FDS on 19 March 2024. This is the first FDS for the Wellington Region and meets the requirements of Subpart 4 of the NPS-UD.
41. The FDS replaces the Wellington Regional Growth Framework. The FDS is a regional spatial planning document. It describes how sufficient development capacity will be provided in the next 30 years and where and when future housing and business development will be prioritised (which in turn supports the provision of infrastructure to support growth). The FDS also identifies where development should not occur in order to limit risks to communities and infrastructure and the environment. At the Hearing, Ms Rotherham and Ms Kelly from the Wellington Regional Leadership Committee provided a presentation on the FDS (which was still in draft stage at that time). Ms Rotherham commented that the main purpose of the FDS is to “look at that bigger picture of how we want to create well-functioning urban environments” in the region (including Horowhenua).¹²
42. The FDS says that over a 30 year timeframe, the Wairarapa-Wellington-Horowhenua region needs to plan for 200,000 more people, 99,000 more homes, a greater supply of business and industrial land, new community services and amenities in accessible locations, upgraded and new infrastructure, and the region becoming more climate and natural hazard resilient.¹³ The FDS states that there is enabled capacity for over 206,000 houses, which is twice as much as needed over the next 30 years.
43. There are 5 elements of the strategic direction in the FDS:
 - Providing for affordable housing that meets our needs, and for compact well-designed towns and cities

¹² Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2251 – 2253.

¹³ Wellington Regional Leadership Committee, Future Development Strategy 2024 – 2054, page 7.

- Realising iwi and hapū values and aspirations
 - Plan development for a low-emissions future
 - Prioritising nature, climate and culture through protection and restoration
 - Providing opportunity for productive, and sustainable local employment.
44. The FDS projects that through the prioritisation of development, 82% of housing will be in existing urban areas over the 30-year horizon of the FDS, and 18% will be within new greenfield sites.
45. The FDS sets out prioritised areas for development in the following order:
- Areas of importance to iwi for development
 - Growth along strategic public transport corridors with good access to employment, education and active mode connections¹⁴
 - Priority Development Areas: Lower Hutt Central, Te Aro Growth Corridor, Trentham, Featherston, Porirua Northern Growth Area, Ōtaki and Waterloo
 - Within existing rural towns around public transport nodes and active node connections
 - Greenfield developments that are well connected to existing urban areas in our towns and cities, can be easily serviced by existing and planned infrastructure (including by public and active transport modes), and where the location and design would maximise climate and natural hazard resilience.
46. The NPS-UD requires the development of a FDS to promote long-term strategic planning to respond to housing and business demand, including the integration with infrastructure. An FDS must identify where development capacity will be provided in existing and future urban areas over the long term, how infrastructure will be provided, and any constraints on development. An FDS must also include, ‘hapū and iwi values and aspirations for urban development’. The FDS requirements in subpart 4 contribute to NPS-UD Objective 6 and Objective 7; for planning decisions on urban development to be strategic, integrated with infrastructure, responsive, and informed by robust and frequently updated information.

¹⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 47, lines 2360 - 2370.

47. Ms Rotherham advised that industrial land is a particular challenge for the region and the Wellington Regional Leadership Committee was undertaking a separate project to look at the best locations for industrial land.¹⁵ Ms Rotherham said that there is plenty of capacity in the region for housing as 99,000 homes were needed and capacity for over 206,000 homes has been enabled, but that the HBA is a “point in time document”.¹⁶ She also noted that the HBA identifies that building density outside of Wellington, Porirua and Hutt Valley is more challenging from an economic perspective, so the Regional Leadership Committee was looking at incentives and opportunities to facilitate more intensive development in those areas. Ms Rotherham pointed out that as part of creating well-functioning urban environments, all councils needed to provide community services and amenities, upgrade infrastructure to meet current needs and growing needs. She noted that the Committee would not support development that did not meet the priorities in the FDS (outlined above).¹⁷
48. Clause 3.17 of the NPS-UD states that every tier 1 and 2 local authority must have regard to the FDS when preparing or changing RMA planning documents, which includes the RPS.
49. In response to questions we asked during HS7 in Minute 27, the Reporting Officer recommended consequential changes to the Introduction in light of the approved FDS, replacing “the Wellington Regional Growth Framework 2021” with references to the FDS but with some amendments to improve readability and clarity.¹⁸ We agree with these amendments and that Figure 3 showing WRGF corridors is deleted.

3.1.2 Finding and s 32AA Evaluation

50. We largely agree with the Reporting Officer’s recommendations on the Regional form, design and function Introduction and recommend it is approved as set out in the Officer’s Reply and as amended in Appendix 1 to the Officer’s Statement in Response to Minute 27, for the reasons above, and as set out in the Officer’s s 42A Report, Rebuttal, Reply Evidence and Statement in Response to Minute 27. We recommend an amendment to delete the reference to “balances different aspects of national direction” and replace this with text that more accurately reflects

¹⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2299– 2302.

¹⁶ Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2310 – 2319.

¹⁷ Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2369 – 2370.

¹⁸ Statement in Response to Minute 27 by Mika Zöllner on behalf of Wellington Regional Council, Hearing Stream 7, 30 May 2024, paras 12 -14, and Appendix 1.

the statutory direction in s 61 of the RMA (ie give effect to NPS' and have regard to management plans and strategies). We consider this is a minor amendment that is more align with statutory requirements.

3.1.3 Recommendation

Chapter 3.9: *Regional form, design and function*

~~The Wellington Region is facing multiple pressures, including population growth and change, poor housing stock quality and increasing unaffordability and quality, degradation of ecosystems, loss of productive land, and increasing exposure to natural hazards and the impacts of climate change. It is also important to recognise the impact and adverse effects of historic patterns of urban development and growth have had ongoing impacts and adverse effects on mana whenua / tangata whenua throughout the Wellington Region, and their relationship with their culture, land, water, sites wāhi tapu and other taonga. The region is facing growth pressure. Most of the region, including its existing urban areas, has significant exposure to multiple natural hazards, and there is continuing demand to build in coastal and/or natural hazard-prone areas.~~

~~Subdivision, use and development pressure, that is poorly planned, designed, serviced and connected to existing urban areas and transport networks can reduce transport, infrastructure and land use efficiency and limit the ability of all centres to provide community services and employment. Poorly designed urban development and infrastructure constraints have affected the quality, viability and accessibility of some urban, suburban and rural areas. If not environmentally responsive and well-designed, subdivision, use and development can have significant adverse effects, including cumulative effects, on the natural environment, sites and areas of significance to Māori, the quality, viability and accessibility of urban areas, suburban and rural areas and the ability to manage, use and operate, existing infrastructure. Responding to the pressures facing the region presents opportunities to do things better.~~

Regional form is about the physical arrangement within and between urban and rural communities. Good urban design and planning seeks to ensure that the design of buildings, places, spaces, and networks works well for mana whenua / tangata whenua and communities, and that they are environmentally responsive.

~~However, high levels of development without suitable constraints risks undermining other characteristics and qualities of a well-functioning urban environment. We need to recognise and provide for other regionally significant values and features, including managing freshwater, indigenous biodiversity, values of significance to mana whenua / tangata whenua and management of the coastal environment. Medium and high-density development that is enabled through national direction has the potential to result in poor urban design outcomes, in the absence of sufficient design guidance.~~

How this chapter works

~~The Wellington Region has a strong corridor pattern, yet is generally compact. This chapter~~

seeks to maintain this compact form, and for subdivision, use and development to contribute to an accessible, *climate-resilient*, and well-designed *regional form*, which is responsive to, and enhances, the natural environment and the relationship of mana whenua / tangata whenua with their culture, land, water, sites wāhi tapu and other taonga. A holistic approach to how development occurs in the Wellington Region is necessary to achieve this, while recognising and providing for significant values and features as required by this Regional Policy Statement.

The *regional form*, design and function chapter applies to the whole region, which includes *urban environments*, smaller urban centres, and *rural areas*. It provides an strategic, integrating frame for how and where development is undertaken in the Wellington Region's *urban and rural areas*, which balances different aspects of gives effect to relevant national direction and statutory requirements, and has regard to management plans and strategies prepared under other Acts. It also emphasises the value of spatial planning to ensure that development is responsive to the local characteristics, values, location and accessibility of *land*, protects natural and cultural values, and is sequenced with the provision and maintenance of all necessary *infrastructure*.

The chapter and associated provisions include:

- a) An over-arching objective for *regional form* ~~across the whole region~~ (Objective 22). This sets out the outcomes to be achieved in *urban*, ~~peri-urban~~ and *rural areas* and how these areas are connected to each other. There is also a specific objective about meeting housing demand (Objective 22A).
- b) A policy articulating what contributing to well-functioning *urban areas* means in the Wellington Region (Policy UD.5).
- c) Policies providing direction to development to seek a strategic approach to enabling development capacity, including by integrating with *infrastructure* and transport planning and seeking that planning decisions can be responsive (Policy UD.4, Policy 31, Policy 32, Policy 33, Policy 55, Policy 56, Policy 57, Policy 58, Policy UD.3). meeting housing and business demand:
 - 1.—~~Firstly urban development within existing urban areas through intensification in and adjacent to centres with a range of commercial activities, and along existing or planned public transport corridors (Policy 31);~~
 - 2.—~~Then other intensification within existing urban areas (Policy 31);~~
 - 3.—~~Then urban development in areas identified for future urban development through appropriate growth strategies or plans (Policy 55);~~
 - 4.—~~Then other urban development where it adds significantly to development capacity (Policy UD.3), in places connected to existing urban areas;~~
 - 5.—~~Then residential development in the region's rural areas (Policy 56).~~
- d) ~~Support for objectives in other parts of the Regional Policy Statement to ensure an integrated approach is taken to development, particularly in relation to freshwater, climate change, indigenous biodiversity, mana whenua / tangata whenua values;~~

and regionally significant infrastructure.

d) Provisions to enable the expression of Māori cultural and traditional norms in use and development (Policy UD.2) and the occupation, use and development of ancestral *land* by *mana whenua / tangata whenua* (Policy UD.1).

e) Methods to achieve the policies.

Well-functioning urban environments and areas

The concept of *well-functioning urban environments* was introduced in the National Policy Statement on *Urban development 2020* (NPS-UD), which provides a minimum definition. ~~There are a number of characteristics and qualities that contribute to forming a well-functioning urban environment.~~ The Wellington Region contains several *urban environments*, as well as smaller centres that contain *urban zoning*, for example some towns in the Wairarapa. ~~Most of the direction from the NPS-UD for well-functioning urban environments, such as housing affordability and choice, is relevant to all areas in the Wellington Region that are zoned as urban.~~ The term ‘well-functioning *urban areas*’ has been used throughout this chapter where the direction applies to all *urban areas*. Well-functioning *urban areas* encapsulate *well-functioning urban environments* as defined in the NPS-UD.

~~A compact and well designed regional form~~ Well-functioning *urban areas* **environments** enhances the quality of life for residents as it is easier to get around, allows for a greater supply and choice of housing close to where people work or to public transport, **support equitable access to green and open space as well as housing**, ~~town centres are~~ and provide vibrant, safe, and cohesive centres that **are well connected by public and active transport and** enhance business activity. ~~is enhanced. Energy consumption and carbon emissions are also reduced.~~ Well-functioning *urban areas* enable Māori to express their culture and traditions, and provide for the cultural visibility of *mana whenua / tangata whenua* to be incorporated, integrated, and expressed through design guides and other opportunities. ~~The NPS-UD also requires~~ Planning decisions relating to *urban environments* ~~to~~ must take into account the principles of Te Tiriti o Waitangi as required by the NPS-UD.

Well-functioning *urban areas* ~~environments~~ enable ~~Communities and businesses are~~ to be more *resilient* to the effects of climate change, and **support** the uptake of zero and low-carbon emission modes ~~is supported~~ throughout the region. ~~Well-functioning urban environments~~ They have compact urban form; **through urban intensification**, and are well-designed and planned ~~through the use of spatial and development strategies and use of design guidance.~~ Well-functioning *urban areas* environments are to be low impact, and **give effect to Te Mana o Te Wai**, and retain productive rural *land*. ~~by incorporating water sensitive urban design and managing the effects of urban development on other regionally significant values and features, including mana whenua / tangata whenua values as required by in this Regional Policy Statement RPS.~~ Well-functioning *urban areas* are supported by interdisciplinary design guides, prepared in partnership with *mana whenua / tangata whenua*, to ensure best practice *urban design* is undertaken which supports the health and wellbeing of people and the region’s natural resources. Well-functioning *urban areas* ~~support the efficient use of existing urban-zoned land and infrastructure, and protect regionally significant infrastructure from potentially incompatible development and reverse sensitivity effects.~~ ~~The retention of productive rural land is promoted through compact urban form.~~ Well-functioning *urban areas* and they are supported by ~~They also support~~

~~the reliable local supply of aggregate to support enable urban development and associated infrastructure where necessary. By being compact they also retain productive rural land. It shortages or crisis, and there is reduced pressure for new infrastructure and more efficient use of existing infrastructure.~~

Supporting intensification in centres and along transport corridors

~~In more and more areas parts of the region, housing is unaffordable for many people. Based on the May 2022 Wellington Regional Housing and Business Development Capacity Assessment (HBA), the Greater Wellington urban environment is expected to grow by around 195,000 people by 2051. As of May 2022, district plans within the Greater Wellington Region, does not provide sufficient development capacity for the long term, with a shortfall of more than 25,000 dwellings. Across the region, the average rent per week increased by 24 percent between 2018 and 2021 and the average house price increased by 46 percent between 2018 and 2021⁴. The ratio of house values to annual average household income has been steadily increasing, as house prices have risen without equivalent rises in incomes. For instance, the ratio for Wellington City as at March 2021 was 6.7⁵. Issues associated with home ownership and access to affordable housing issues are exacerbated for Māori; 43 percent of Māori living in the Wellington region were living in owner occupied dwellings compared to 55 percent of the overall population⁶.~~

~~National direction provided through the NPS-UD and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 supports increased supply of affordable housing, which includes a range of housing typologies and sizes to assist in meeting the housing needs of the region. Both statutory documents direct urban intensification and development to occur in around urban environments, centres and existing and planned rapid transit stops, provided there are no qualifying matters limiting development. Further medium and high higher density development must be enabled within the fast-growing districts of the Wellington Region, being those identified in the NPS-UD as tier 1 territorial authorities. If this development occurs, it will further contribute to improvements in improve housing affordability.~~

Supporting the role of regional spatial planning

~~The central Wellington City contains the central business district for the region. Its continued viability, vibrancy and accessibility are important to the whole region. There are also a number of other regionally significant centres that are an important part of the region's form. These are the sub-regional city centres of Upper Hutt city centre, Lower Hutt city centre, Porirua city centre, Masterton town centre, Paraparaumu town centre, and the suburban centres in Petone, Johnsonville and Kilbirnie. These centres are significant areas of transport movement and civic and community investment. They also have the potential to support new development and increase the range and diversity of activities. Good quality high and medium density housing in and around these centres of business activity, and existing and planned rapid transit stops, would benefit the viability of centres and provide increased housing choice, quality and affordability. Enabling intensification in the right places can bring significant environmental, social and economic benefits that are necessary for achieving well-functioning urban areas. Additional local employment and educational opportunities in and around these centres could also provide people with greater choice about where they work, learn, and live. Connections between communities~~

~~and community resilience can also be fostered by more people living, commuting, and accessing services and amenities within neighbourhoods. could increase housing choice and the use of services and public transport.~~

~~Encouraging use and development of existing centres of business activity can also lead to social and economic benefits. The physical arrangement design of urban and rural communities/smaller centres, the region's industrial business areas, the port, the airport, the road and public transport network, and the region's open space network are fundamental to well-functioning urban environments and a compact and well designed regional form.~~

~~Collaborative spatial planning supports well-functioning urban areas and a compact, well-designed regional form. It takes by taking a strategic approach to determining how development capacity is enabled and delivered housing and business demand is met, by so that it responding to the characteristics, location, values, capability, and limitations of land, and is coordinated with land release sequencing, infrastructure provision, and maintenance.~~

~~The Wellington Regional Growth Framework³ Future Development Strategy provides a 30-year regional spatial plan that has been developed by local government, central government, and iwi partners in the Wellington-Horowhenua region. It sets out the key issues identified for urban growth and development and provides a 30-year spatial plan that sets a long-term vision for changes and urban development in the Wellington Region. The Wellington Regional Growth Framework identifies the three key growth corridors within the Wellington Region being the western, eastern and Let's Get Wellington Moving growth corridors. Two additional potential west-east corridors are identified. The corridors are shown in Figure 3 below. Territorial authorities may also have their own local frameworks or strategies about where and how future urban development should occur in that district.~~

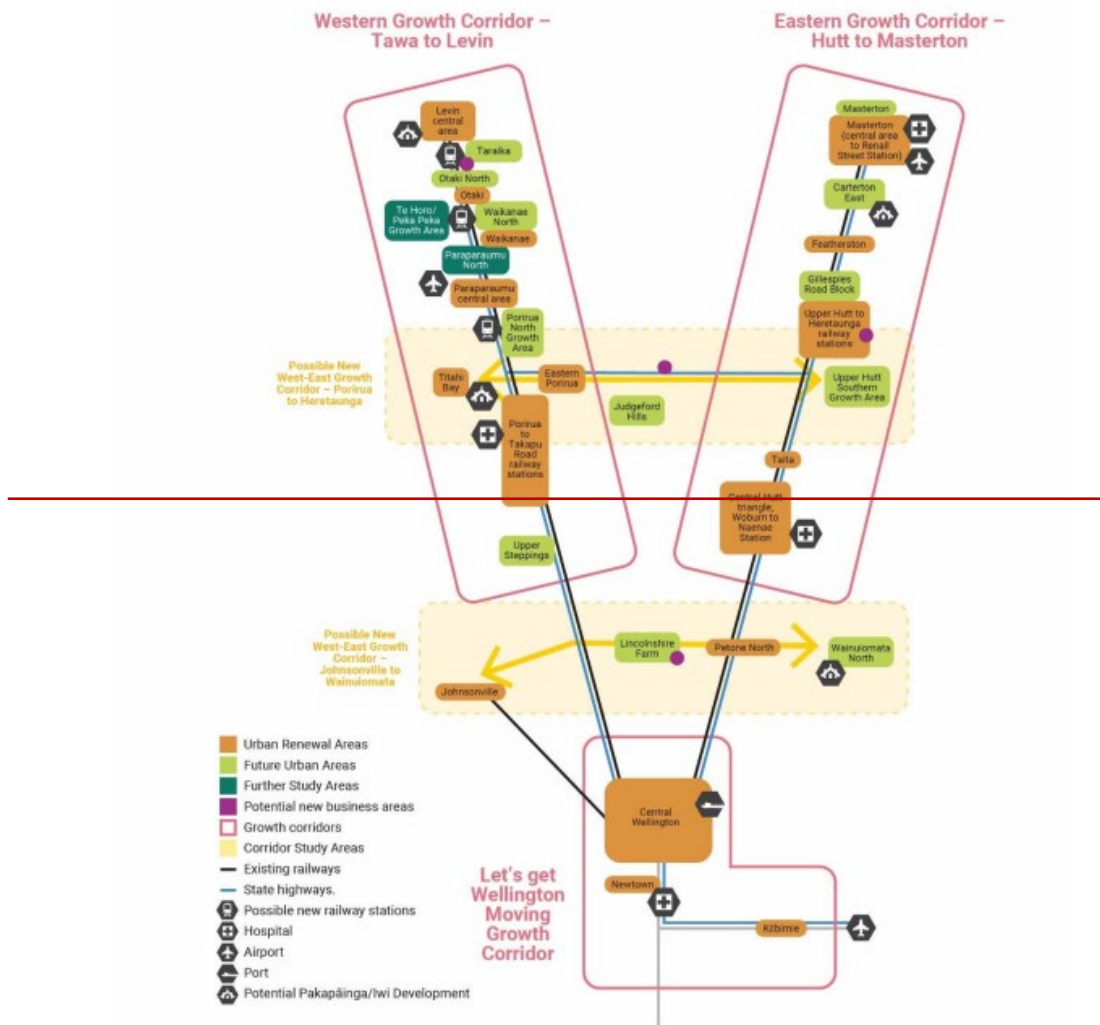


Figure 3: Wellington Regional Growth Framework corridors

The transport corridor pattern includes State Highway 1 and the North Island Main Trunk rail line which enters the region near Ōtaki and extends southwards through Kāpiti Coast, Pukerua Bay, Porirua and northern Wellington and through to Wellington city central business district. State Highway 1 continues through to Wellington International Airport. State Highway 2 and the Wairarapa railway line enter the region north of Masterton and extend southwest through Wairarapa, the Hutt valley and on to merge with State Highway 1 and the North Island Main Trunk rail line at Ngauranga. State Highway 58 provides a vital the current east-west link between State Highways 1 and 2.

~~This corridor pattern is a strength for the region. It reinforces local centres, supports passenger transport, reduces energy use and makes services more accessible.~~

There are, however, parts of the region where growth pressures exist and where the region's current compact form is beginning to fray at the edges, reducing transport efficiency and the ability of some centres to grow as community service and employment areas. The region also has limited east-west transport linkages, which means freight and commuter movements are focused along the north-south corridors, increasing congestion on some major routes:

In certain locations, the region's urban design has also been weakened by poorly designed developments which negatively affect the look, feel, health, safety, vitality and vibrancy of those areas.

The region's form, design and function have been examined by the region's nine local authorities, in conjunction with the region's iwi authorities, central government and business, education, research and voluntary sector interests, as part of the development of the Wellington Regional Strategy (2007), a sustainable economic growth strategy for the Wellington region. The Wellington Regional Strategy focuses on leadership and partnership; growing the region's economy and good *regional form*. It is recognised that the region's form is a key component to making the Wellington region 'internationally competitive'.

3.2 Regionally significant issues

51. The amendments to the Issues as notified read:

The regionally significant issues and the issues of significance to the Wellington region's iwi authorities for regional form, design and function are:

A. Lack of housing

The Wellington Region lacks sufficient, affordable, and quality (including healthy) housing supply and choice to meet current demand, the needs of projected population growth and the changing needs of our diverse communities. There is a lack of variety of housing types, including papakāinga. Housing affordability has declined significantly over the last decade, causing severe financial difficulty for many lower-income households, leaving some with insufficient income to provide for their basic needs and well-being. There is a lack of supporting infrastructure to enable the development of sufficient housing and the provision of quality urban environments.

B. Inappropriate development



Inappropriate and poorly managed urban land use and activities in the Wellington region have damaged, and continue to jeopardise, the natural environment, degrade ecosystems, particularly aquatic ecosystems, and increased the exposure of communities to the impacts of climate change. This has adversely affected mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

1. Poor quality urban design



Poor quality urban design can adversely affect public health, social equity, land values, the cultural practices and wellbeing of mana whenua / tangata whenua and communities, the vibrancy of local centres and economies, and the provision of, and access to, civic services. It can also increase the use of non-renewable resources and vehicle *emissions* in the region.

2. Sporadic, uncontrolled and/or uncoordinated development



Sporadic, uncontrolled and/or uncoordinated, development (including of infrastructure) can adversely affect the region's compact form. This can, among other things, result in:

- (a) new development that is poorly located in relation to existing infrastructure (such as roads, public transport, water supply, sewage and stormwater systems) and is costly or otherwise difficult to service
- (b) development in locations that restrict access to the significant physical resource in the region – such as *aggregate*
- (c) the loss of rural or open space land valued for its productive, ecological, aesthetic and recreational qualities
- (d) insufficient population densities to support public transport and other public services

- (e) development in locations that undermine existing centres and industrial employment areas
- (f) loss of vitality and/or viability in the region's central business district and other centres of regional significance
- (g) displacement of industrial employment activities from established industrial areas
- (h) adverse effects on the management, use and operation of infrastructure from incompatible land uses under, over, on or adjacent.
- (i) adverse effects on mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

3. Integration of land use and transportation

A lack of integration between land use and the region's transportation network can create patterns of development that increase the need for travel, the length of journeys and reliance on private motor vehicles, resulting in:

- (a) increased *emissions* to air from a variety of pollutants, including *greenhouse gases*
- (b) increased use of energy and reliance on non-renewable resources
- (c) reduced opportunities for alternate means of travel (such as walking and cycling), increased community severance, and increased costs associated with upgrading roads
- (d) increased road congestion leading to restricted movement of goods and services to, from and within the region, and compromising the efficient and safe operation of the transport network
- (e) inefficient use of existing infrastructure (including transport orientated infrastructure).

3.2.1 Submissions, Evidence and Analysis

52. There were 18 original submissions and 14 further submissions on the regionally significant issues.
53. The regionally significant issues the Officer supports¹⁹ relating to regional form, design and function are:
- a. Lack of housing supply and choice
 - b. Inappropriate development
 - c. Poor quality urban design
 - d. Inadequate infrastructure
 - e. Sporadic, uncontrolled or uncoordinated development
 - f. Integration of land use and transportation (not in Change 1).
54. We support the Officer's amendments to the Issues, including to delete the reference to 'supporting infrastructure' from Issue A (renumbered as

¹⁹ As set out in the Reporting Officer's Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, Appendix 1, pages 6 – 7.

Issue 1) and include a new issue “Inadequate infrastructure” which was requested by Wellington Water [S113.010] and is largely based on wording recommended by Mr Smeaton on behalf of PCC.²⁰ We recommend a minor amendment to renumbered Issue 4, to reference the “maintenance and upgrading of existing infrastructure”. The Officer, commenting on the relief requested by Wellington Water and Kāinga Ora notes that capacity constraints and the need for large-scale maintenance and upgrades to support urban development is a significant issue across the Region.²¹

55. We recommend that the change to the chapeau to refer to “iwi authorities in the Wellington Region...” (rather than the existing “Wellington Region’s iwi authorities” which inadvertently implies ownership) be made as a Schedule 1, clause 16 minor amendment as it is not within the scope of any particular submission.²² This sentence occurs throughout Change 1 (and provisions in the RPS not amended through Change 1). We recommend the Council make this amendment across Change 1 as a minor amendment and then address the drafting in a subsequent full review of the RPS.
56. Kāinga Ora and Winstone Aggregates asked for the words “territorial authorities” to be included before “iwi authorities”. We asked the Officer about this and she raised a consistency issue as this sentence appears in all chapters of the operative RPS, including those not amended by Proposed Change 1. The Officer also noted that that sentence was not proposed to be amended by the Change document.²³ We do not recommend that “territorial authorities” is added into the sentence. The issues of significance to TAs may come within the words “regionally significant issues” at the start of the sentence, and the reference to “iwi authorities” comes directly from s 62(1)(b) which does not refer to TAs.
57. We support the relief sought by HortNZ [S128.015] to amend Issue B (renumbered as Issue 2) to acknowledge that highly productive land can be adversely impacted and fragmented by inappropriate development. The wording we propose is altered slightly from that in HortNZ’s submission so it is suitably reflected within Issue 2. We acknowledge the

²⁰ Statement of Evidence of Rory Smeaton on behalf of Porirua City Council (Planning), 15 September 2023, Hearing Stream 4 – para 30.

²¹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 367.

²² As recommended in the Reporting Officer’s Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, paras 54 – 55 in response to our question (j)(v) in Minute 14.

²³ Hearing Transcript, HS4 – Urban Development, Day 1, page 14, lines 660-665, (Reporting Officer, Ms Zöllner).

Officer's comments that loss of rural land is captured in Issue 5(c), however in our view Issue 5 is about ensuring development is coordinated and planned properly and so has a different focus from Issue 2 which is about the impacts of the inappropriate development on natural and other values. We consider that the amendment we support to Issue 2 also aligns with the amendments we support to the Integrated Management provisions (HS2) and Objective 22(f) regarding productive capacity of rural land.

3.2.2 Finding and s 32AA Evaluation

58. We largely agree with the Reporting Officer's recommendations on the Regional Form, design and function Issues and recommend they are approved as set out below for the reasons we have discussed above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We recommend a minor amendment to refer to iwi authorities in the Wellington Region as this more clearly expresses the intent. We also recommend an amendment to include the productive capacity of rural land in Issue 2 as this aligns with amendments recommended in HS2 and to Objective 22, and also appropriately recognises direction in the NPS-HPL. Finally, we recommend a minor amendment to refer to the maintenance of infrastructure as well as its upgrading in new Issue 4. This is a minor amendment and clarifies the policy intent. We do not consider there to be any cost implications from these amendments.

3.2.3 Recommendation

The regionally significant issues and the issues of significance to the Wellington region's iwi authorities in the Wellington Region for *regional form*, design and function are:

~~A-1. Lack of housing supply and choice~~

The Wellington Region lacks sufficient, affordable, and quality (including healthy) housing supply and choice to meet current demand, the needs of projected population growth and the changing needs of our diverse communities. There is a lack of variety of housing types and sizes across the region, including papakāinga- and medium and high density residential living in and around centres and existing and planned transit nodes, all of which impacts housing affordability in the region. Housing affordability has declined significantly over the last decade, causing severe financial difficulty for many lower-income households, leaving some with insufficient income to provide for their basic needs and well-being. There is a lack of supporting infrastructure to enable the development of sufficient housing and the provision of quality urban environments.

B: 2. Inappropriate development

Inappropriate and poorly managed urban land use and activities in the Wellington Region have damaged, and continue to jeopardise, the natural environment including the productive capacity of rural land, degrade ecosystems, particularly aquatic ecosystems, and increased the exposure of communities to the impacts of climate change. This has adversely affected mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

1-3. Poor quality urban design

Poor quality urban design can adversely affect public health, social equity, land values, the cultural practices, visibility, identity and well-being of mana whenua / tangata whenua and communities, the vibrancy of local centres and economies, and the provision of, and access to, civic services. It can also increase the use of non-renewable resources and vehicle emissions in the region.

4. Inadequate infrastructure

~~There is insufficient supporting infrastructure to enable urban development, while providing for high-quality. The development of well-functioning urban areas, including providing for sufficient development capacity, is constrained in many locations within the Wellington Region by a lack of capacity in existing infrastructure. These constraints include the availability and affordability of funding required for delivery of new infrastructure, or the maintenance and upgrading of existing infrastructure.~~

2: 5. Sporadic, uncontrolled and/or uncoordinated development

Sporadic, uncontrolled, and/or uncoordinated, development (including of *infrastructure*) can adversely affect the region's compact form and function. This can, among other things, result in:


- a) new development that is poorly located in relation to existing *infrastructure* (such as roads, public transport, water supply, sewage and stormwater systems) and is costly or otherwise difficult to service
- b) development in locations that restrict access to the significant physical resource in the region – such as *aggregate*
- c) the loss of rural or open space land valued for its productive, ecological, aesthetic and recreational qualities
- d) insufficient population densities to support public transport and other public services
- e) development in locations that undermine existing centres and industrial employment areas
- f) loss of vitality and/or viability in the region's central business district and other centres of regional significance
- g) displacement of industrial employment activities from established industrial areas

- h) adverse effects on the management, use and operation of *infrastructure* from incompatible land uses under, over, on or adjacent
- i) adverse effects on mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.

3-6. Integration of land use and transportation (not in Change 1)

3.3 Objective 22

59. Objective 22 as notified reads:

<p>Objective 22 </p> <p><u>Urban development, including housing and infrastructure, is enabled where it demonstrates the characteristics and qualities of well-functioning urban environments, which:</u></p> <p>(a) <u>Are compact and well designed; and</u></p> <p>(b) <u>Provide for sufficient development capacity to meet the needs of current and future generations; and</u></p> <p>(c) <u>Improve the overall health, well-being and quality of life of the people of the region; and</u></p> <p>(d) <u>Prioritise the protection and enhancement of the</u></p>	<p><u>quality and quantity of freshwater; and</u></p> <p>(e) <u>Achieve the objectives in this RPS relating to the management of air, land, freshwater, coast, and indigenous biodiversity; and</u></p> <p>(f) <u>Support the transition to a low-emission and climate-resilient region; and</u></p> <p>(g) <u>Provide for a variety of homes that meet the needs, in terms of type, price, and location, of different households; and</u></p> <p>(h) <u>Enable Māori to express their cultural and traditional norms by providing for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga; and</u></p>	<p>(i) <u>Support the competitive operation of land and development markets in ways that improve housing affordability, including enabling intensification; and</u></p> <p>(j) <u>Provide for commercial and industrial development in appropriate locations, including employment close to where people live; and</u></p> <p>(k) <u>Are well connected through multi-modal (private vehicles, public transport, walking, micro-mobility and cycling) transport networks that provide for good accessibility for all people between housing, jobs, community services,</u></p>	<p><u>natural spaces, and open space.</u></p> <p>A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:</p> <p>(a) <u>a viable and vibrant regional central business district in Wellington city;</u></p> <p>(b) <u>an increased range and diversity of activities in and around the regionally significant centres to maintain vibrancy and vitality;</u></p> <p>(c) <u>sufficient industrial-based employment locations or capacity to meet the region's needs;</u></p> <p>(d) <u>development and/or management of the Regional Focus Areas identified in the Wellington Regional Strategy;</u></p>	<p>(e) <u>urban development in existing urban areas, or when beyond urban areas, development that reinforces the region's existing urban form;</u></p> <p>(f) <u>strategically planned rural development;</u></p> <p>(g) <u>a range of housing (including affordable housing);</u></p> <p>(h) <u>integrated public open spaces;</u></p> <p>(i) <u>integrated land use and transportation;</u></p> <p>(j) <u>improved east-west transport linkages;</u></p> <p>(k) <u>efficiently use existing infrastructure (including transport network infrastructure); and</u></p> <p>(l) <u>essential social services to meet the region's needs.</u></p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

60. Objective 22 states the outcomes the RPS wants to achieve in relation to the *Regional form*, design and function issues.

61. The Reporting Officer says the Objective is intended to be an over-arching and integrating objective²⁴ that articulates what a well-functioning urban environment is in the context of the Wellington Region.²⁵

62. The Objective aims to respond to the lack of sufficient, affordable and quality housing supply and choice to meet current demand, the needs of projected population growth and the changing needs of diverse communities. In addition, the Objective responds to inappropriate development that has threatened (and continues to threaten) the natural environment and increases exposure to the effects of climate change.²⁶

3.3.1 Submissions, Evidence and Analysis

63. There were 35 original submissions and 20 further submissions on Objective 22.

²⁴ Reporting Officer's Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 60.

²⁵ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 167.

²⁶ Section 32 Report, Proposed RPS Change 1 2022, pages 106 - 107.

64. The Officer recommended that a more overarching version of Objective 22 replace Objectives 22A and 22B. Objective 22 was therefore recommended to be almost completely replaced by a new version through the s 42A Report.
65. There was considerable evidence presented at the Hearing about Objective 22. We have structured the analysis below into the following subheadings focusing on the key issues raised. We have gone into some detail and also looked at these issues vertically through Change 1, given their cascade from the Objective.
- a. Regional form and well-functioning urban areas
 - b. Tier 3 local authorities
 - c. Managing environmental and climate change effects
 - d. Mana whenua / tangata whenua perspectives
 - e. Compact form, centres hierarchy, and a strategic approach to enabling development capacity
 - f. Intensification
 - g. Greenfield development
 - h. Infrastructure
 - i. Housing affordability, access, quality, choice
 - j. Productive land
 - k. Integrated transport and multi-modal access
 - l. Climate change and low emission
66. In response to our questions in Minute 14, Ms Zöllner recommends:
- a. Inserting “quality” into Objective 22(a)
 - b. Deleting “local and regional” before ‘centres’ in Objective 22(e)
 - c. Inserting the words “including retaining the productive capacity of rural land” in Objective 22(f)
 - d. Inserting reference to “efficient” operation of RSI in Objective 22(k)
 - e. Not including the hierarchy in the Objective, and instead amending Policy UD.4 to elevate the prominence and clarity of the hierarchy.
67. We support these amendments but propose one amendment regarding clause (f). We also recommend some minor changes below.
- 3.3.1.1 Regional form and well-functioning urban areas**
68. PCC [S30.022] had sought reference to “regional form” in the chapeau in their requested redrafting of Objective 22. Various submitters supported this approach, with some modifications. For instance, Ms Heppelthwaite,

providing evidence for Waka Kotahi, agreed with an overarching objective for regional form, but requested that the word “safely” is added to clause (g) and the potential for reverse sensitivity effects are recognised in a new clause.

69. The Officer explains in the s 42A Report that “regional form” refers to rural areas, urban areas, urban environments (which are a subset of the Region’s urban areas), transport network, open space, special purpose zones, infrastructure and peri-urban areas.²⁷ We found Figure 1 in the s 42A Report a helpful image explaining the relationship between rural development, urban development and regional form. We understand that regional form includes smaller towns, rural areas, cities, infrastructure, open space and the connections between them i.e. the linkages between urban and rural communities,²⁸ and also the linkages within urban communities and rural communities.
70. Objective 22 aims to do more than give effect to Objective 1 and Policy 1 of the NPS-UD (which are about achieving / contributing to well-functioning urban environments). The regionally significant issues which it links to apply across the whole Region, and are broader than the concepts in the NPS-UD Objective 1 and Policy 1, and therefore, as Rangitāne’s submission [S168.030] notes, it is important that the activities addressed by the policies and methods are supported by an objective that provides integrated direction on the regionally significant issues and takes a holistic, integrated approach to urban and rural development, consistent with the Council’s s 30, RMA functions. We accept Ms Zöllner’s assessment of the other statutory matters relevant to this point, including s 6 and other Part 2 provisions relevant to this chapter.²⁹
71. The Officer recommends amendments in the s 42A Report to expand the Objective to address not only “urban development” (as notified), but also “regional form” that has “well-functioning *urban areas* and *rural areas*”. We support these amendments. UHCC was concerned that the objective goes beyond the requirements of the NPS-UD [S34.089]. We agree, but are satisfied of the rationale for this and the importance of the connections between urban areas and rural areas.
72. While the NPS-UD provides strong policy direction for “well-functioning urban environments”, the regional form chapter in the RPS also has other

²⁷ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 168.

²⁸ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 176 and 178.

²⁹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 176 and 191.

purposes discussed. We therefore support the Officer’s recommendation to delete “well-functioning urban environments” from the chapeau of Objective 22 and replace this with “well-functioning *urban areas and rural areas*”. As the Officer concisely puts it, all of these areas should be able to function well.³⁰

73. Different elements of the Objective address the Issues in a series of clauses. Ms Rojas, presenting evidence for UHCC said her preference was for the clauses in Objective 22 to be deleted because an objective should “seek to enable the policies rather than direct them through the supporting policies, especially as an overarching objective”.³¹ She felt that the version of Objective 22 supported by the Officer left almost no room for the regional plan and district plans to drill into specifics and the clauses essentially gave policy direction in the objective.
74. We understand this concern, and do note what seems to be repetition of similar concepts throughout the HS4 provisions which may seem like a belts and braces approach. We do not see this as adding to the regulatory burden for plan makers and consent/NoR applicants. The approach the Council has taken reflects the complexity that occurs when seeking to achieve integrated management and implement various national direction and management strategies.
75. Policy 1 of the NPS-UD requires planning decisions to contribute to well-functioning urban environments. Looking at this issue vertically, we are satisfied that Objective 22 and the policies that implement it, give effect to Policy 1. Change 1 therefore appropriately articulates at the regional level, the following characteristics of well-functioning urban environments (as required by Policy 1, NPS-UD):
 - a. Supporting compact development patterns (eg chapeau of Objective 22, Objective 22(d) and (i), Policies 30, 31, UD.4, UD.5)
 - b. Access through low and zero-carbon emission transport modes (Objective 22(d), Policies 57, 58, CC.1, CC.9, UD.5)
 - c. Supports reductions in GHGe (Objective 22(d) and (e), Policies 30, 31, 33, UD.4, 55, 56, 57, 58, UD.5, CC.1, CC.9)
 - d. Diversity of housing typologies (Objective 22(a) and (j), Policies UD.3, UD.5)

³⁰ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 183.

³¹ Hearing Transcript, HS4 – Urban Development, Day 2, page 12, lines 542 – 550; and page 17 lines 839 – 840.

- e. Multi-modal connections between housing, employment, services, green space and local centres (Objective 22(e), Policies 30, 31, 33, UD.4, 55, 57, 58, UD.5)
- f. Providing for and protecting mana whenua values, sites of significance and the relationship of mana whenua / tangata whenua to their culture, lands, water, sites, wāhi tapu and other taonga (Objective 22(b), Policies 55, 56, UD.2)
- g. Avoiding/mitigating adverse effects of urban development on the natural environment (definition of *environmentally responsive*, Objective 22(c), Policy UD.5)
- h. Supports the competitive operation of land and development markets (Objective 22(a), Policies UD.4, 55 and UD.3)
- i. Avoiding/mitigating adverse effects on the ability to manage, use, operate existing infrastructure (development is integrated) (Objective 22(g), (h), 55, 58, UD.3, UD.5)
- j. Protecting the operation and safety of regionally significant infrastructure from potential reverse sensitivity effects (Objective 22(k), Policies 55, UD.5)
- k. Enables a variety of sites suitable for business and industrial sectors (Objective 22(j), Policy 32, 56, UD.4).
- l. Resilience to climate change effects (definition of *climate resilience*, chapeau of Objective 22 and Policies 55, 29 and 51)

76. In our view, to achieve integrated management and implement relevant direction, it is appropriate for the Change 1 provisions to:

- a. Support intensification within the existing urban form, ahead of greenfield development
- b. Provide strong direction for urban development to be compact and higher density
- c. Ensure environmental effects and effects from climate change are managed
- d. Ensure development occurs on the basis of infrastructure being available, having capacity or being provided
- e. Focus on local and active transport to reduce infrastructure costs and reduce GHGe
- f. Allows unanticipated or out of sequence development if it would add significantly to development capacity and contribute to well-functioning urban environments.

77. We think the provisions for the main part achieve this, but we recommend some amendments to improve the clarity of the policy intent. As Objective

22 states the outcome that the policies are all intending to achieve, we provide a more detailed assessment below of the key themes throughout HS4 which all touch on Objective 22 in some way.

3.3.1.2 Tier 3 local authorities

78. CDC [S25.012] and SWDC [S79.016] disputed the application of the NPS-UD to them, and Ms McGruddy for WFF said that the chapter should focus on urban development and ensure that does not unduly encroach on rural land.³² She said that a “compact regional form” does not make sense and the Objective should be directed specifically and exclusively to urban areas.³³ SWDC [S79.016] noted that Objective 22 has to provide direction to all territorial authorities including those that are not Tier 1, 2 and 3 authorities.
79. We acknowledge and accept the Officer’s analysis in the s 42A Report assessing the relevance of the NPS-UD direction to the Wairarapa Councils.³⁴ We are comfortable that Objective 22 applies to all local authorities in the Region (including Tier 3) and that MDC contains an urban area that meets the definition of *urban environment*. We also accept the Officer’s analysis that the towns in CDC and SWDC (Carterton, Greytown, Martinborough and Featherston) all well-connected to the housing and labour markets of Masterton, Wellington, Lower and Upper Hutt and therefore meet test (b) in the definition of *urban environment*.³⁵
80. We agree that replacing the term “well-functioning urban environments” in the Objective with “well-functioning urban areas” will give effect to SWDC’s relief and CDC’s relief as it is more inclusive. The NPS-UD itself refers in various places to “urban areas” and “rural areas”. The evidence the Officer provided on the pressures experienced by councils in the Wairarapa on housing affordability and choice, especially for renting, was not challenged.³⁶ The Officer also discussed the potential for mode shift and improved access for travel within and between the Wairarapa towns, and the potential for the towns to be highly walkable given they are relatively compact, and each contains a town centre with services, parks and employment opportunities close to residential areas.³⁷ Therefore, we

³² Hearing Transcript, HS4 – Urban Development, Day 2, page 26, lines 1264 – 1274.

³³ Hearing Transcript, HS4 – Urban Development, Day 2, page 26, lines 1287 – 1293.

³⁴ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 203 – 213.

³⁵ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 205.

³⁶ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 210 – 211, and Table 8.

³⁷ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 209.

are satisfied of the appropriateness of Objective 22 applying to all local authorities in the Region.

3.3.1.3 Managing environmental and climate change effects

81. We support the wording recommended by the Officer to the chapeau, including “*climate resilient, accessible, and environmentally responsive*” for the reasons given in the Officer’s evidence.³⁸ We think the definition the Officer proposes for “environmentally responsive” should be amended to focus more on managing adverse effects on the natural environment. The version supported by the Officer seems to select particular aspects of Part 2 and could lead to unintended outcomes. Various experts commented on the definition, including Ms McCormick for Ātiawa. We also consider that “identified qualifying matters” should be included in the definition of *environmentally responsive* for the reasons explained under Policy 31 and in the Definitions section.

3.3.1.4 Mana whenua / tangata whenua perspectives

82. Ātiawa [S131.045] sought consistent wording for s 6(e) matters, as currently the provisions contain different drafting relating to “ancestral lands, water, sites, wāhi tapu and other taonga”. Ms McCormick said she acknowledged that other mana whenua in the rohe have also sought amendments so she would welcome the inclusion of drafting that provides for “our ways of understanding the natural world through kupu Māori” because presently there is not a “consistent narrative throughout”.³⁹

83. Te Ātiawa and Rangitāne sought that s 6(e), RMA matters be reflected in urban expansion and rural development. This point was discussed in the Hearing, and the Officer recommended an amendment to Policy UD.2 to refer to “ancestral” lands. We recommend amendments to give effect to relief sought by iwi.

84. Ātiawa considered that Policy UD.5 prioritised providing for housing and infrastructure aspects of urban development, but did not give adequate consideration to the natural and physical aspects that contribute to well-functioning urban areas.⁴⁰ While this comment is specifically in relation to Policy UD.5, we consider that there is an imbalance in the chapter and we recommend amendments to Objective 22 to ensure, as Ms McCormick

³⁸ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 182.

³⁹ Hearing Transcript, HS4 – Urban Development, Day 1, page 55, lines 2793 – 2807.

⁴⁰ Hearing Transcript, HS4 – Urban Development, Day 1, page 56, lines 2833 – 2835.

expressed it, that “the urban environment forms part of the broader, interconnected environment. Therefore, in developing a well-functioning urban environment, the well-being of the environment must be provided for.”⁴¹

3.3.1.5 Compact form, centres hierarchy, and a strategic approach to enabling development capacity

85. We recommend Objective 22 retains the words “compact, well-designed” in the notified version of the chapeau. We found Ms Zöllner’s explain of these terms helpful:⁴²

A compact regional form refers to well-connected urban areas with compact urban form, surrounded by well-functioning rural areas. A well-designed regional form means it is supported by design guides, holistic urban design principles and robust spatial planning processes using up to date information, including the sequencing of infrastructure.

86. Paragraph (a) of Objective 22 as proposed to be amended by the Officer, is about sufficient “development capacity”; the capacity of land to be developed for housing or for business use. We think the issue of ‘providing options / choice’ should also be incorporated into paragraph (j) so the provisions would read “a variety of residential, commercial, mixed use and industrial development in appropriate locations provides choice and contributes to viable and vibrant...”.

87. Mr Lewandowski for PPFL wanted clause (a) amended to state “there is at least sufficient development capacity” for alignment with Policy 2 of the NPS-UD. The Officer said the NPS direction was at a policy level, and including the words “at least” sounded clunky when stated as an outcome. In our view, the word “sufficient” is appropriate for an outcome provision, and the policies that link to this clause will provide further direction on what is meant by “sufficient development capacity” in the context of the particular plan change document or consent application.

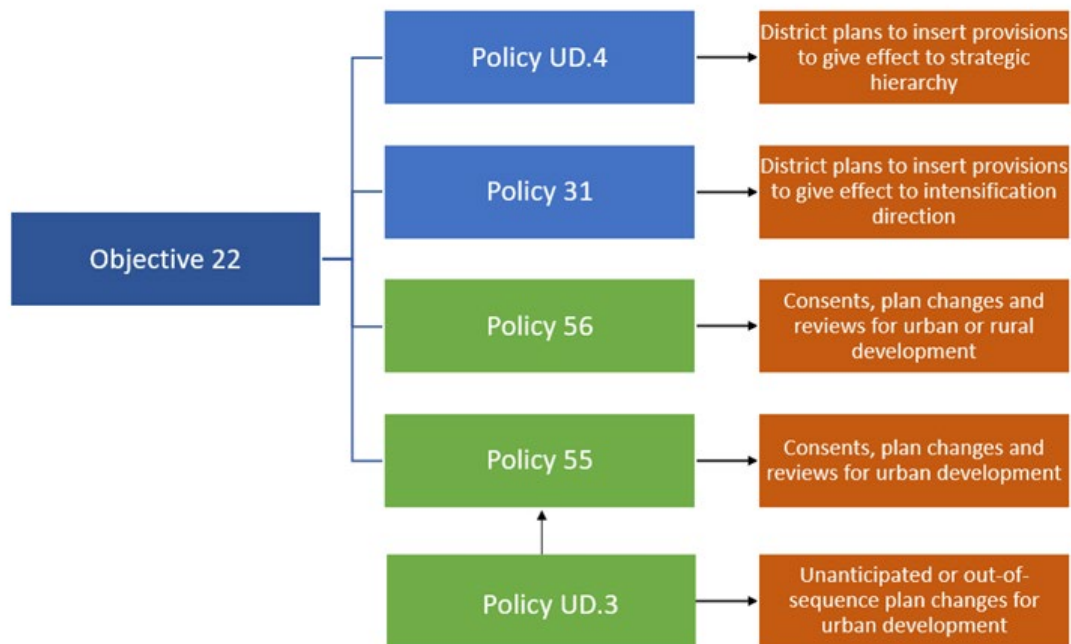
88. The notified version referred to “improve the overall health, well-being and quality of life of the people of the region”. Through her Rebuttal and Reply Evidence, the Officer recommends that “health and well-being” are incorporated into the definition of “environmentally responsive”. As we state in our discussion below on the definition of “environmentally

⁴¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 56, lines 2852 – 2856.

⁴² Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, paras 179.

responsive”, we do not think this is necessary as health and well-being” also comes into clause (e) of Objective 22, and Policy 67.

89. We found this diagram Ms Zöllner included in her Reply Evidence, helpful to show the relationships between policies relevant to the development hierarchy.⁴³



90. Ms Heppelthwaite presenting planning evidence for Waka Kotahi recommended the content of para (c) in the Introductory ‘How the Plan Works’ section be expressed as a policy. This is now reflected in Policy UD.4. However, at the Hearing, Ms Heppelthwaite said that the hierarchy should be identified in Objective 22 because of its importance.⁴⁴ As Ms Heppelthwaite said:⁴⁵

Also, it directs application of other policies. If it sits at a policy level itself then we need to be very careful about balancing those out. There may be a situation where an applicant may try and balance or rebalance in a way that wasn’t anticipated if all of ... UD.4 and the policies it refers to all sit at policy levels.

⁴³ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 157.

⁴⁴ Hearing Transcript, HS4 – Urban Development, Day 2, page 61, lines 3091 – 3096; page 62, lines 3125 – 3130.

⁴⁵ Hearing Transcript, HS4 – Urban Development, Day 2, page 61, lines 3098 – 3101.

91. We are satisfied that it is open to the Proposed Change 1 provisions to express a “preferential directive” (to use Ms Heppelthwaite’s words).⁴⁶ The provisions cannot, and we are satisfied that they do not, preclude greenfield development, including unanticipated or out of sequence development. They provide for responsive planning by providing a pathway.
92. We found Ms Heppelthwaite’s analysis useful but accept the Officer’s reasons in her Reply Evidence as to why the hierarchy is appropriately contained in Chapter 4.1, Policy UD.4.⁴⁷ The Officer’s recommended amendments to Policy UD.4 apply a clear hierarchy to the policies named within Policy UD.4.
93. Kāinga Ora broadly supported the provisions in Proposed Change 1, particularly the direction to achieve compact and concentrated urban form and densification, especially for residential and commercial land uses, and well-functioning and quality urban environments based around transit-oriented development and connected centres.⁴⁸ However, it sought a regionally driven centres hierarchy that is more directive of where intensification is to occur in the Region.
94. We discuss this issue further in Policies 30 and 31.

3.3.1.6 Intensification

95. The Reporting Officer notes that the Change 1 provisions as a whole support intensification and recognise the benefits of intensification and higher density development. We agree with the Officer that meeting housing and business demand through development within existing urban areas and through intensification, is the most effective way to respond to the multiple issues facing the region.⁴⁹ We also agree with the Officer that intensification can achieve multiple outcomes more effectively than greenfield development, including reducing transport-related emissions, supporting housing affordability and choice, and more efficiently utilising, providing and maintaining infrastructure. We agree that Objective 22 should clearly signal this direction but that the policy intent could be clarified in the drafting recommended by the Officer.

⁴⁶ Hearing Transcript, HS4 – Urban Development, Day 2, page 62, line 3146.

⁴⁷ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, paras 59 – 60.

⁴⁸ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, para 4.3.

⁴⁹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 221.

96. The Officer says that the wording she supports is more focused on an outcome than the process of intensification (which should be policy direction).⁵⁰ However, we recommend that a clear statement that intensification is enabled within existing urban areas where it is environmentally responsive still expresses the outcome sought but also recognises qualifying matters (which was a point raised by various submitters including Kāinga Ora [S158.012]).
97. We acknowledge PCC’s concerns that the Objective could lead to a poly-centric urban form (which we understand to be an urban form with many centres), rather than one where there is hierarchy between centres through intensification levels. However, we think that this level of direction can be set through the policies (especially Policy 30) and there is a risk that specifying a directive centres hierarchy in the Objective could be overly restrictive for some territorial authorities and conflict with other direction in the NPS-UD.
98. The Officer recommends adding in a new clause to Objective 22: “The biophysical characteristics, location, values, capability and limitations of land inform its use and development, including retaining the productive capacity of rural land”. The Officer says this clause summarises the direction for the preparation of FDS at a high level, while also picking up on RPS direction to manage natural hazard risk, locate development near existing infrastructure capacity and transport routes, and consider other spatial factors such as values and sites and areas of significance to Māori. The recommended wording also aligns with the nature-based solutions policy package, because achieving the clause also involves responding to the ability of natural features and ecosystems to provide nature-based solutions.⁵¹ We support the amendment proposed but recommend a minor amendment to refer to “recognised values” to avoid any inference that ‘values’ is referred to land values.

3.3.1.7 Greenfield development

99. PPFL is concerned that Proposed Change 1 does not impose inappropriate hurdles in the consideration of what it considered to be otherwise appropriate new greenfield areas across the region.⁵² Mr Lewandowski, presenting planning evidence for PPFL, said that in his view, the provisions will have a detrimental effect on the competitive operation of land and

⁵⁰ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 223.

⁵¹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 231.

⁵² Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited (Submitter 18) – HS4 – Urban Development, October 2023, page 5.

development markets, and that these impacts have not been properly assessed in the s 32 analysis or through the s 42A Report. In essence, the key point seemed to be that Proposed Change 1 did not appropriately provide for unanticipated or out of sequence development.⁵³ We discuss this further in our assessment of Policies UD.4, 55 and UD.3, but note that the provisions do not, in our view, preclude greenfield development.

100. Through the Hearing, there was discussion about whether it was appropriate for the HS4 provisions to establish a development hierarchy, and if so, where that should be reflected, for instance, in the Introduction, Objective 22, Policy UD.4 or elsewhere.
101. We agree with the Officer's recommendation, and support Wellington Water's relief to provide for a hierarchy of urban development within the provisions. Taking an integrated and structured approach to the relevant national direction and management plans, it is appropriate that options for enabling development capacity via intensification are the first priority, then sequenced and planned greenfield development, then unanticipated and out-of-sequence greenfield, then development in rural areas. We discuss this further in our analysis of Policy UD.4.
102. We also agree with the Officer, responding to concerns raised by Wellington Water at the Hearing, that the hierarchy for plan making in Policy UD.4 cannot apply to consenting. Resource consents cannot demonstrate prioritisation of different kinds of development.

3.3.1.8 Infrastructure

103. Ms Hunter providing planning evidence for WIAL, sought a reference to the safe and efficient operation of RSI in Objective 22, which is wording that is more consistent with qualifying matter (c) in clause 3.32 of the NPS-UD. The Officer has supported this relief.
104. WIAL supported the Officer's recommendations to Policy UD.5 (discussed below) regarding protecting the operation and safety of RSI from potential reverse sensitivity effects, but requested an amendment to Objective 22 to 'hang the Policy UD.5 amendment from'.⁵⁴ Ms Hunter explained that the NPS-UD recognises there are limits on intensification in the form of "qualifying matters". The Officer has not recommended Ms Hunter's

⁵³ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited (Submitter 18) – HS4 – Urban Development, October 2023, page 3.

⁵⁴ Statement of Evidence by Claire Hunter, 15 September 2023, Hearing Stream 4 – Urban Development, para 17.

precise wording, but has included reference in (f) to the “biophysical characteristics, location, values, capability and limitations of land” which inform its use and development.

105. In its hearing statement, Powerco requested that clause (h) be amended to include a qualifier, “where practicable”.⁵⁵ Mr Rowe said that the integration and sequencing of infrastructure with development can be problematic in some circumstances, for instance, if a developer is staging in a manner that is at odds with the way in which Powerco provides its infrastructure and services for a development.
106. At the Hearing we asked the Reporting Officer a question about clause (i) regarding development densities. Ms Zöllner explained that the clause is about strategically clustering density to best support both existing and new infrastructure.⁵⁶ The Officer noted that this flows from Issue 5(d) regarding sporadic, uncontrolled or uncoordinated development, and also links to Policy 55 which seeks density to be clustered where it can make the most efficient use of infrastructure.
107. Mr Lewandowski for PPFL stated at the Hearing that he did not think the word “effectively” was needed in clause (g) as he did not see how infrastructure could be used ‘ineffectively’.⁵⁷ He noted this was not a major issue for PPFL. We understand the Officer supported the word “effectively” in response to Wellington Water’s proposed amendment to clause (g) seeking that existing infrastructure use is both efficient and effective.⁵⁸
108. The Officer recommends deleting Objective 22B. This gives effect to the relief of submitters who were not clear about the meaning of “strategically planned” (eg PCC [S118.014]), and it allows development in rural areas to be considered within Objective 22. We support the deletion.

3.3.1.9 Housing affordability, access, quality, choice

109. We asked the Reporting Officer at the Hearing if there was a distinction between “affordable housing” and “housing affordability”. Ms Zöllner

⁵⁵ So (h) (as proposed to be amended by the Officer would read “new or upgraded infrastructure... is integrated and sequenced with development where practicable”. Miles Rowe, Hearing Statement on behalf of Powerco, Hearing Stream 4 – Urban Development, 15 September 2023, paras 2.2 – 2.4.

⁵⁶ Hearing Transcript, HS4 – Urban Development, Day 1, page 22, lines 1097 - 1105, (Reporting Officer, Ms Zöllner).

⁵⁷ Hearing Transcript, HS4 – Urban Development, Day 1, page 63, lines 3197 – 3201.

⁵⁸ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 25 September 2023, para 37.

advised that the NPS-UD seeks that housing affordability is improved and that “we want housing affordability to be improved for anyone across the region. We also specifically want more provision of more affordable housing. Housing affordability is intended to capture both or all of those”.⁵⁹ Mr Lewandowski for PPFL sought that the reference to affordable housing be deleted as this issue is best addressed through enabling sufficient supply to provide competition.⁶⁰

110. We recommend the Objective refer to “improving housing affordability” (rather than “adequate housing affordability”) and we propose wording to reflect this in our recommendations below. In our view, this amendment gives better effect to Objective 2 of the NPS-UD, and it recognises that sufficient development capacity can improve housing affordability. We consider this accepts PPFL’s relief at least in part, and talks to the importance of the competitive operation of land and development markets. This relief was supported by Mr McDonnell on behalf of HCC.⁶¹
111. We support the reference to “choice” in clause (a) but recommend some restructuring of the clause to improve readability. Mr Lewandowski for PPFL noted some duplication in clause (a) regarding “choice” and “a diversity of housing typologies”.⁶² We accept some refinement is justified to remove duplication, and propose amendments below. We support the Officer’s recommendation to include the phrase “access to a diversity of housing typologies within neighbourhoods” and note the discussion at the Hearing about the need to ensure homes and opportunities are built for all people in Wellington Region.⁶³ We also recommend a minor amendment to clause (j) to refer to a variety of development “providing choice”.

3.3.1.10 Productive land

112. HortNZ sought alignment with the NPS-HPL in its submissions including recognition of the benefits, and protection, of highly productive land

⁵⁹ Hearing Transcript, HS4 – Urban Development, Day 1, page 17, lines 837-853, (Reporting Officer, Ms Zöllner).

⁶⁰ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited (Submitter 18) – HS4 – Urban Development, October 2023, page 9.

⁶¹ Hearing Transcript, HS4 – Urban Development, Day 2, page 6, lines 264 – 273.

⁶² Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.6; and Hearing Transcript, HS4 – Urban Development, Day 1, page 62, lines 3170 – 3172.

⁶³ Hearing Transcript, HS4 – Urban Development, Day 1, page 23, lines 1146 – 1165, (Reporting Officer, Ms Zöllner).

through the Issues [S128.015], Objective 22 [S128.017], Policy 55 [S128.048] and Policy 56 [S128.049] among other provisions.⁶⁴

113. The Reporting Officer Mr Jeffreys expressed a preference that the NPS-HPL was not implemented in a piecemeal way and that it contained a reasonably strong interim framework which would apply regardless of whether it was implemented in Change 1 or not. Ms Zöllner noted that Policy 59 of the operative RPS requires particular regard be given in consenting, plan changes, variations, reviews and NoRs to “safeguarding productive capability on Class I and II land” and so references in Change 1 to “highly productive land” would need to ensure there are no policy conflicts. As Ms Zöllner explained, a lot of the policy framework would need to be brought in from the NPS-HPL to ensure consistency with it, and then there are issues of definitions and exemptions.⁶⁵ We understand the complexity, the risks of partial and/or inadequate implementation, and also issues and related problems of scope.
114. The Officers commented in their Reply Evidence that incorporation of the NPS-HPL is crucial and undoubtedly relevant to subdivision, use and development but that the strong interim direction in the NPS means that there is not a significant risk in not incorporating its provisions into Change 1.⁶⁶ The Officers’ also cautioned against using the term “highly productive land” given the term “highly productive agricultural land” in the operative RPS which includes only LUC classes 1 and 2, rather than clauses 1, 2, and 3.⁶⁷ We do not consider it appropriate through Proposed Change 1 to incorporate the definitional changes sought by Hort NZ.⁶⁸ There is interim protection for highly productive land, including land identified as LUC III in the NPS-HPL and we agree with Officers that a comprehensive change is required at a future date to properly implement the NPS-HPL.

⁶⁴ See summary in Industry Statement to be Tabled by Emily Levenson for Horticulture New Zealand, HS4, 15 September 2023, para 11.

⁶⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 20, lines 973 - 994, (Reporting Officer, Ms Zöllner).

⁶⁶ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, paras 21 – 22.

⁶⁷ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 27.

⁶⁸ Industry Statement to be Tabled by Emily Levenson for Horticulture New Zealand, HS4, 15 September 2023, para 30.

115. While we appreciate there is existing direction in the RPS, namely:
- a. Policy 59 - which is a consideration policy requiring particular regard to be given to safeguarding the productive capability on Class I and II land, and
 - b. Objective 30 – which states “Soils maintain those desirable physical, chemical and biological characteristics that enable them to retain their ecosystem function and range of uses”

we consider that some recognition and protection of productive capacity is important in the regional form suite of provisions given the close relationship with subdivision, use and development and loss of productive land and the Regional Council’s integrated management functions. As Ms Levenson for HortNZ explained in her evidence, “as soon as urban development expands onto highly productive land that soil resource is lost”.⁶⁹ We do not view highly productive land as a constraint that can be accommodated on the basis it is a qualifying matter (and we note Mr Whittington’s caution against the RPS being able to do so)⁷⁰ as the identification of qualifying matters is for territorial authorities. Similarly, Policy 4 of the NPS-UD allows an RPS to modify building height and density to accommodate qualifying matters but we don’t consider that this applies to highly productive land.

116. We support the Officer’s recommendation to “retain the productive capacity of rural land” within Objective 22, although with the amendments below to improve readability. In our view, the provision does not sit too comfortably in (f) as the Officer recommended, so we recommend it be included in its own subclause.
117. We recommend a minor amendment in clause (j) to improve the clarity of the drafting and also refer to a “range” of industrial-based employment locations. This is a minor drafting change but we consider there is scope from SWDC’s submission [S79.016] which sought an amendment to the Objective to “provide for commercial and industrial development in appropriate locations”.

⁶⁹ Hearing Transcript, HS4 – Urban Development, Day 2, page 55, lines 2765 – 2766.

⁷⁰ Hearing Transcript, HS4 – Urban Development, Day 3, page 14, lines 653 – 657, although this submission was in relation to a submitter seeking that qualifying matters be listed in the RPS.

3.3.1.11 Integrated transport and multi-modal access

118. We recommend some amendments to clause (e) to provide for stronger direction of the integration of transport with urban development to meet the health and well-being needs of all people. We acknowledge the submission of DAST seeking that the RPS contains more recognition of the health benefits of active transport and mode-shift. The Officer's amendments to clause (e), together with the amendments we recommend, recognise that having access through active transport to jobs, housing, community services and other things people need, can help to meet their health and wellbeing needs. We recommend an amendment to clause (e) to refer to "integrated transport infrastructure" and "active transport".

3.3.1.12 Climate change and low emission

119. PPFL sought that "low emission" be deleted from (d) and be replaced with "contributes to reducing *greenhouse gas emissions*". The Officer supported this change. PPFL sought a similar amendment to Policy 56 which has also been accepted by the Officer.

3.3.2 Finding and s 32AA Evaluation

120. We largely agree with the Reporting Officer's recommendations on Objective 22 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend the following amendments:
- a. Some minor restructuring in clause (a) to improve readability and a reference to "improving housing affordability"
 - b. Amendments to clause (b) to better reflect s 6(e) of the RMA and the relationship of mana whenua / tangata whenua with their ancestral lands
 - c. A new clause stating that intensification is enabled within existing urban zones where it is environmentally responsive
 - d. An amendment to the definition of *environmentally responsive* which we discuss in the Definitions section below
 - e. A minor amendment to clause (f) to refer to "recognised values"
 - f. Incorporating "the productive capacity of rural land" in its own clause

- g. An amendment to clause (e) to refer to “integrated transport infrastructure” and “active transport”
- h. An amendment to clause (j) to state that a variety of development in appropriate locations including “a range” of industrial-based employment locations “enables choice”.

121. We consider these amendments to be relatively minor as they do not change the policy intent but express the desired outcomes in a clearer way in our view and align more closely with national direction. The amendments improve the interpretation of the Objective and therefore enhance the effectiveness and efficiency of the provisions they relate to. We do not consider there to be any cost implications from the amendments.

3.3.3 Recommendation

Objective 22

A compact, well-designed, climate-resilient, accessible, and environmentally responsive regional form with well-functioning urban areas and rural areas, where:

Urban development, including housing and infrastructure, is enabled where it demonstrates the characteristics and qualities of well-functioning urban environments, which:

(a) Are compact and well designed; and

(a) ~~(b) there is Provide for~~ sufficient development capacity to meet the needs of current and future generations, affordable improve adequate housing affordability, and quality and housing choice, and provide, to meet the needs of current and future generations, with and access to a diversity of housing typologies within neighbourhoods which enable choice; and

(b) ~~(h) Enable~~ Māori are able to express their culture ~~at~~ and traditions ~~at norms, and the relationship of~~ by providing for mana whenua / tangata whenua and their relationship with their culture, ancestral land, water, sites, wāhi tapu and other taonga is provided for; and

(c) ~~(d) Te Mana o Te Wai is given effect to Prioritise the protection and enhancement of the quality and quantity of freshwater; and~~

(cc) intensification is enabled within existing urban zones in appropriate places where it is environmentally responsive; and

(d) ~~(f) subdivision, use and development is located, designed, and constructed in a way that is climate-resilient and contributes to reducing greenhouse gas emissions and is Supports the transition to a low-emission and climate-resilient region; and~~

~~(e)(k) built environments, including integrated transport infrastructure, meet the health and wellbeing needs of all people. Are well-connected through with high-quality housing and multi-modal access (private vehicles, public transport, walking, micromobility and cycling) transport networks that provide for good accessibility for all people including active transport, to and between housing, jobs, community services, local and regional centres, green space, natural spaces, and open space; and~~

~~(f) the biophysical characteristics, location, recognised values, capability and limitations of land inform its use and development, including retaining the productive capacity of rural land; and~~

~~(ff) the productive capacity of rural land is retained; and~~

~~(g) existing urban-zoned land; and infrastructure capacity including transport infrastructure; is used effectively and efficiently; and~~

~~(h) new or upgraded infrastructure, including transport infrastructure, is integrated and sequenced with development; and~~

~~(i) development densities are sufficient to support the its provision and ongoing maintenance of infrastructure; and~~

~~(ij) Provide for a variety of residential, commercial, mixed use and industrial development in appropriate locations is provided which contributes to viable and vibrant centres at a range of scales, and a range of industrial-based employment locations; and, including employment close to where people live; and~~

~~(k) the safe and efficient operation of regionally significant infrastructure is protected from potential reverse sensitivity effects.~~

~~(c) Improve the overall health, well-being and quality of life of the people of the region; and~~


~~(e) Achieve the objectives in this RPS relating to the management of air, land, freshwater, coast, and indigenous biodiversity; and~~

~~(g) Provide for a variety of homes that meet the needs, in terms of type, price, and location, of different households; and~~

~~(i) Support the competitive operation of land and development markets in ways that improve housing affordability, including enabling intensification; and~~

3.4 Objective 22B

122. As notified Objective 22B read:

Objective 22B  **FW**
Development in the Wellington Region's rural area is strategically planned and impacts on significant values and features identified in this RPS are managed effectively.

123. This Objective stated that development in the Region's rural areas is strategically planned, and impacts on significant values and features are managed effectively.

3.4.1 Submissions, Evidence and Analysis

124. Various submitters, including PPFL, sought either clarification of the meaning of the Objective, or that it be deleted (see for instance HCC [S115.026] and also WFF). The Officer has recommended it is deleted and that Objective 22 also addresses development in rural areas.

3.4.2 Finding

125. We agree with the Reporting Officer's recommendations on Objective 22B for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.4.3 Recommendation

Objective 22B

~~Development in the Wellington Region's rural area is strategically planned and impacts on significant values and features identified in this RPS are managed effectively.~~

3.5 Policy 30: Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – district plans

126. As notified, Policy 30 stated:

Policy 30: Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – district plans

District plans shall include policies, rules and/or methods that enable and manage a range of land use activities that maintain and enhance the viability and vibrancy of ~~regional central business district in the Wellington city and the:~~

1. the regionally significant central business district of Wellington City;

2. other regionally significant centres:

- (i) Upper Hutt city centre;
- (ii) Lower Hutt city centre;
- (iii) Porirua city centre;
- (iv) Paraparaumu town centre;
- (v) Masterton town centre; and the

3. the locally significant centres of Suburban centres in:

- (i) Petone;
- (ii) Kilbirnie; and
- (iii) Johnsonville;

- (iv) Ōtaki;
- (v) Waikanae;
- (vi) Featherston;
- (vii) Greytown
- (viii) Carterton; and
- (ix) Martinborough.

(a) Sub-regional centres of:

- (i) Upper Hutt city centre;
- (ii) Lower Hutt city centre;
- (iii) Porirua city centre;
- (iv) Paraparaumu town centre;
- (v) Masterton town centre; and the

(b) Suburban centres in:

- (i) Petone;
- (ii) Kilbirnie; and
- (iii) Johnsonville;

Explanation

Policy 30 identifies the hierarchy of regional and locally significant centres within the Wellington Region for which district plans must maintain and enhance their vibrancy and vitality. The centres identified are of significance to the region's form for economic development, transport movement, civic or community investment. Maintaining and enhancing the viability and vibrancy of these centres is important in order to encourage investment and development that supports an increased range and diversity of activities. It is also important for their prosperity and resilience in the face of social and economic change. The regional central business district is the major centre in the Wellington region; the other key centres also provide significant business, retailing and community services. This policy does not limit territorial authorities from identifying additional centres of local significance within the district plan.

The centres listed in policy 30 were identified during the development of the Wellington Regional Strategy as centres of significance to the region's form for economic development, transport movement, civic or community investment. The Wellington central business district is the regional central business district, with 73,000 people working there each day. The subregional centres of regional significance are the civic centres of Upper Hutt city centre, Lower Hutt city centre, Porirua city centre, Paraparaumu town centre, and Masterton town centre. The suburban centres of regional significance are in Petone, Kilbirnie and Johnsonville. Maintaining and enhancing the viability and vibrancy of these centres is important in order to encourage investment and development that supports an increased range and diversity of activities. It is also important for their prosperity and resilience in the face of social and economic change. The regional central business district is the major centre in the Wellington region; the sub-regional centres also provide significant business, retailing and community services. The range of appropriate land

~~uses to be encouraged through this policy will vary depending on the character and context of each centre. For this reason, policy 30 requires the region's district and city councils to determine the range and location of land uses, supported by appropriate social infrastructure to be encouraged and/or controlled in order to maintain and enhance the viability and vibrancy of the relevant centre managed through its district plan. However, when maintaining and enhancing regionally significant centres within a district, councils also need to consider the viability and vibrancy of the regionally significant centres outside their district, including the regional central business district as the major centre in the Wellington region.~~

127. This Policy is about creating a regional form that is compact. It directs district plans to include provisions that enable and manage subdivision use and development that maintains and enhances the viability and vibrancy of Central Wellington as the main centre, and then other regionally significant centres, locally significant centres and other local and neighbourhood centres.
128. This 'strategic hierarchy of centres' approach is intended to support the Region's form, recognising these areas provide business, retailing and

community services at different geographic scales, which in turn serve different catchment scales.⁷¹

3.5.1 Submissions, Evidence and Analysis

129. There were 21 original submission points and 12 further submission points on Policy 30.
130. The Officer explained in the s 42A Report that while the National Planning Standards specify centre zone descriptions (such as ‘Metropolitan centre zone’), the RPS is not required to comply with these as they are part of the District Plan Structure Standard.⁷² The RPS was therefore able to set the hierarchy using the terms “regionally significant centres” and “locally significant centres” and so on.
131. While Policy 3 of the NPS-UD refers to enabling development in “city centre zones”, “metropolitan centre zones” and other zones, there is no requirement in our view for the RPS to define or identify these areas in the Region. That is instead a specific implementation task for tier 1 TAs under clause 3.3.1.
132. We see a key issue with Policy 30 is whether the RPS should be identifying where intensification is to happen in the Region. There were strong differences in opinion regarding the level of direction the RPS should contain.
133. Kāinga Ora [S158.040, 158.042, FS12.015 and FS12.016] sought amendments to Policy 30 to achieve a regionally consistent approach in the hierarchy of centres, better alignment with the National Planning Standards and better direction of where high-density development should occur. Kāinga Ora’s legal counsel and experts explained that the housing and employment market is regional, and so the centres hierarchy should be set at the regional level, rather than be left to each territorial authority to determine.⁷³ If a TA disagreed about a particular centre, it may be able to apply a qualifying matter to say that there was a ‘district level reason’ why the RPS was not necessarily right.⁷⁴
134. Kāinga Ora sought a defined centres hierarchy with Wellington City Centre identified as the “City Centre” (and therefore aligned with Policy 3(a) of the

⁷¹ Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 758.

⁷² Section 42A, Hearing Stream 4 – Urban Development, 4 September 2023, para 740.

⁷³ See for instance Hearing Transcript, HS4 – Urban Development, Day 3, page 15, lines 693 – 695 (Mr Whittington).

⁷⁴ Hearing Transcript, HS4 – Urban Development, Day 3, page 15, line 705 – 708 (Mr Whittington).

NPS-UD), Metropolitan Centres including Johnsonville Centre, Kilbirnie, Porirua Centre, Petone Centre and Upper Hutt and Lower Hutt Centres, as well as Masterton Centre and Paraparaumu Centre to recognise the level of intensification they are directed to achieve through Policy 3(b) of the NPS-UD. They also sought that Newtown, Miramar, Tawa, Mana, Waikanae and other specific centres be identified in the RPS as Larger Town Centres, which also recognised their future growth projections.

135. Mr Heath, presenting Economic evidence for Kāinga Ora, discussed the economic benefits of consolidating activities within commercial centres and establishing a centres hierarchy with the highest enabled height thresholds in the commercial hubs as these were the areas where it was most economically efficient for built form density to occur. A staggered approach to building height and density would occur as you move down the centre hierarchy.⁷⁵ This hierarchy would, according to Mr Heath, maximise land use efficiencies (a key purpose of planning) and the locational advantages of centres, including amenity, agglomeration and productivity gains, transportation efficiency, increased utilisation of community facilities and other public assets, and efficient land use.⁷⁶
136. Mr Heath presented information on the economic metrics of the main commercial centres in the Region. His evidence was comprehensive and we understand the main difference of view with the Council Officer is that Mr Heath would prefer the “*regionally significant centres*” to be described as “Metropolitan centres” to align with the wording in the National Planning Standards. The same 8 centres Mr Heath identifies, on the basis of economic analysis as “Metropolitan centres”, the Officer identifies as “regionally significant centres” to avoid zoning by proxy. Mr Heath’s “Larger Town Centres” which includes areas with anticipated future growth to become ‘large town centres’, are the same as the Officer’s “locally significant centres” although Mr Heath also identifies Miramar, Newtown, Tawa, Naenae, Waterloo and Mana, and the Officer does not include this within the description of “locally significant centres”. On the other hand, the Officer includes “Ōtaki Main Road [and] Ōtaki Township” and these feature on Mr Heath’s lists of “Smaller Town Centres”.⁷⁷

⁷⁵ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, paras 1.6, 3.4, 3.6 and 6.1.

⁷⁶ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, paras 6.10 – 6.29.

⁷⁷ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, Page 18, Table 1.

137. Kāinga Ora said that the centres hierarchy should be driven from the regional level as part of the Council’s integrated management function, with the territorial authorities then tasked with identifying how much intensification in a particular centre is appropriate.⁷⁸ Kāinga Ora therefore sought a regionally consistent approach to the hierarchy of centres. Mr Whittington, Counsel for Kāinga Ora explained the outcomes Kāinga Ora was seeking in this way:⁷⁹

Kāinga Ora has to address the significant disparity between the number of people who are seeking housing and the number of spots in the public housing register that are available to them. It needs to close that gap. And that means that when it's doing that it needs to acquire land and construct housing in the most significant places; in the places that have best scope for intensification, amenities for Kāinga Ora’s tenants, community services and jobs importantly. That's why this is important. That's where the rubber will hit the road.

138. Mr Liggett for Kāinga Ora, explained that they have a waiting list issue, and in the next 18 months, they will deliver 840 new homes to the Region, but they are unable to meet the demand they see today, let alone what is forecast for the future.⁸⁰

139. Mr Heath, presenting planning evidence for Kāinga Ora, highlighted the economic efficiency of density around centres and noted that Johnsonville and Kilbirnie were two significant economic assets in the Region that were underperforming, and were strategically located to provide and deliver intensification.⁸¹ Mr Heath noted that the RPS was simply providing a policy framework and the market would have to deliver. He summarised the aims of Kāinga Ora in this way:

We want to provide I suppose competitive advantages to locations that will provide the most economic efficiency. That’s what we are trying to do with the signals we’re sending in the hierarchy. The status of each of those centres gives a strong signal to the level of infrastructure investment in those centres moving forward, to help deliver some of those intensification targets and the economic efficiencies that can be generated as a result of that.⁸²

⁷⁸ Hearing Transcript, HS4 – Urban Development, Day 3, page 15, lines 702 – 705.

⁷⁹ Hearing Transcript, HS4 – Urban Development, Day 3, page 15, lines 719 – 726.

⁸⁰ Hearing Transcript, HS4 – Urban Development, Day 3, page 18, lines 859 – 871.

⁸¹ Hearing Transcript, HS4 – Urban Development, Day 3, page 31, lines 1543 – 1544; 1553 – 1555.

⁸² Hearing Transcript, HS4 – Urban Development, Day 3, page 31, lines 1557 – 1566.

140. Mr Heale listed in his evidence the factors that distinguish centres in the hierarchy, including journey to work data.
141. Mr Whittington, said that:
- if all the centres' hierarchy in the RPS does is align with where the District Councils have ended up, then it is not adopting a regional wide approach to the management.⁸³
142. As some of the planners on behalf of the territorial authorities said, there is a sequencing issue as many councils within the Region, apart from the Wairarapa Councils, have substantially given effect to the NPS-UD through fast-tracked plan changes incorporating the medium density standards and NPS-UD directions.⁸⁴
143. Mr Heale for Kāinga Ora explained the problem in this way:⁸⁵
- [the] process has been run backwards as Independent Hearings Panel (IHP) recommendations have already been released in some territorial authorities and IPI hearings have largely been completed for district plans ahead of the RPS which makes it difficult for district plans to give effect or have regard to the RPS in accordance with RMA requirements. This has resulted in missed opportunities to achieve regional integration and associated cost savings.
144. We agree with Mr Whittington, Counsel for Kāinga Ora that even though the RPS is lagging behind many of the IPIs, that can't be allowed to mean that the RPS does not drive the policy and integrated management across the region.⁸⁶ As Mr Heale says, Policies 30 and 31 should be guiding district plan development in a regionally consistent way, and should not be led by the outcome of IPIs,⁸⁷ nor should the hierarchy be left to territorial authorities through their plan change processes.⁸⁸
145. Mr Whittington's view was that Policies 30 and 31, as supported by the Officer, do not achieve Policy 3 of the NPS-UD because "enable" is

⁸³ Above.

⁸⁴ Mr McDonnell for HCC, Hearing Transcript, HS4 – Urban Development, Day 2, page 3, lines 124 – 129.

⁸⁵ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), 15 September 2023, para 6.10(c).

⁸⁶ Hearing Transcript, HS4 – Urban Development, Day 3, page 13, lines 630 – 636.

⁸⁷ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), 15 September 2023, para 6.10.

⁸⁸ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), 15 September 2023, para 6.10(d).

directive and if the RPS essentially repeats Policy 3, then it is not taking a regional focus to the differentiation between the centres listed in the Policy.⁸⁹

146. Kāinga Ora said its approach places more emphasis on providing a competitive market by providing more choice and opportunity for developers through supply, therefore better achieving Objective 2 of the NPS-UD.
147. At the Hearing, Mr Heale said that the changes he supported would allow zoning flexibility. This is because Policy 30 directs where the intensification is to occur, and Policy 31 directs the level of intensification.⁹⁰ TAs would still be able to determine the spatial extent of centres.⁹¹ As Mr Heale said:

⁹²

... use of the term Regionally and Locally significant in the RPS is also confusing as this is not utilised in the Standards or defined in the RPS, and the reporting officer has made it clear that these represent Metropolitan and Town Centres, so why not call them that. Calling centres by their relevant type will also create better links to density outcomes in Policy 31 and allow the RPS to advance regional planning beyond what NPS-UD policy 3 broadly states.

The inclusion of the terms Metropolitan and Town Centre in Policy 30 is not effectively zoning these areas in the RPS as District Plans will still need to determine the spatial extent of centres and their walkable catchments (within parameters). This approach will still allow Centre heights to be determined in District Plans, they will just have to be above six stories.

148. Mr McDonnell for HCC said that he supported Petone being identified as a *regionally significant centre*.⁹³ He also confirmed that he supported the Rebuttal version of Policy 31 that gives the territorial authorities discretion as to zoning while also still setting out a hierarchy of centres.⁹⁴
149. In our view, Policy 30 as recommended by the Officer, provides an appropriate level of direction that is consistent with the Council's

⁸⁹ Hearing Transcript, HS4 – Urban Development, Day 3, page 31, lines 1580 – 1597.

⁹⁰ Hearing Transcript, HS4 – Urban Development, Day 3, page 23, lines 1112 – 1114.

⁹¹ Hearing Transcript, HS4 – Urban Development, Day 3, page 23, lines 1116 – 1117.

⁹² Speaking Notes of Matt Heale for Kāinga Ora, HS4 RPS – 4 October 2023, paras 9(e) and (f).

⁹³ Hearing Transcript, HS4 – Urban Development, Day 2, page 7, lines 317 – 318.

⁹⁴ Hearing Transcript, HS4 – Urban Development, Day 2, page 7, lines 327 – 331.

statutory functions and the direction in Policy 3 of the NPS-UD for the RPS to ‘enable’ intensification.

150. In his speaking notes, Mr Heale said that Kāinga Ora’s approach sets “some limits but allow[s] zoning flexibility for district plans to determine the spatial extent of centres, parameters around lower order centres, the extent of walkable catchments, and to determine height and density beyond minimum parameters.” However, in our view, the amendments Mr Heale supports would set the zoning that TAs would have to implement, and this is contrary to clause 3.31 of the NPS-UD.
151. In Minute 14, we invited TAs to comment on the changes sought by Kāinga Ora to the centres hierarchy in Policy 30. We asked the Reporting Officers to consider the TAs’ responses in their Reply, and the comments are summarised in paragraphs 12 to 17 of the Reply Evidence.
152. None of the three territorial authorities that provided comments, supported Kāinga Ora’s relief. WCC had, in its further submission [FS13.024], supported Kāinga Ora’s relief [S158.026] for a regionally consistent approach in the hierarchy of centres and Counsel for Kāinga Ora raised a natural justice concern with this change of position. Mr Whittington said the Regional Council’s position in its Reply had to be considered against the scope of submissions.⁹⁵ It is not unusual for parties to change their views on provisions in the course of a hearing, but even if we take WCC’s position on Policy 30 as set out in its original submission and further submission, this does not change our finding that it is appropriate for each TA to be able to set its own zoning.
153. Neither HCC nor PCC thought that the hierarchy in Policy 30 should use zoning terminology such that the amendments Kāinga Ora sought would require them to rezone centres as ‘Town Centre Zones’ where they are not currently zoned as such. They identified that if Kāinga Ora’s relief was accepted, they would be required to rezone Miramar, Newtown, Tawa, Naenae, Waterloo and Mana as Town Centres, and this would require a new chapter and associated provisions in the District Plans to reflect these new zones. While we felt it important to canvas TAs’ views, we must still follow the statutory framework in our assessment of submitters’ relief.
154. We are comfortable with the Reporting Officer Mr Jeffreys’ rationale, which is supported by the comments received by the three TAs who provided

⁹⁵ Memorandum of Counsel for Kāinga Ora – Homes and Communities, Hearing Stream 4 (Urban Development), 7 November 2023.

substantive comments (PCC, HCC and WCC) that Policy 30 would create zoning by proxy if it used the zoning terminology from the Standards as each TA would have to zone the centre in accordance with this hierarchy when giving effect to the Policy. Clause 3.3.1 of the NPS-UD requires TAs to identify location, building heights and densities and they must be enabled by the RPS to do so under Policy 3. The National Planning Standards provide for a centres hierarchy through the centres zoning framework. We agree with the Reporting Officer that it is not appropriate for Policy 30 to adopt zoning centres terminology as zoning is a District Council function.⁹⁶

155. We therefore agree with retaining the terms “regionally significant” and “locally significant” in Policy 30.
156. The Officer agrees with Mr McDonnell for HCC that Petone should be listed as a regionally significant centre, rather than a locally significant centre.⁹⁷
157. Mr Smeaton for PCC sought that Johnsonville and Kilbirnie should not be recognised as regionally significant centres. He said that including them would undermine the overall centres hierarchy and specifically the importance of regionally significant centres such as Porirua.⁹⁸ Mr Smeaton presented commuter data to support his position but acknowledged this may reflect a historic situation and only captured people travelling to work or school, and not for recreation, retail or other activities.⁹⁹ The Reporting Officer disagreed with this. We found Mr Heath’s economic evidence persuasive on this point¹⁰⁰ and are satisfied with the second tier categorisation for Kilbirnie and Johnsonville.
158. The Officer took care to point out that identification in Policy 30 as a “regionally significant centre” would not amount to zoning by proxy, and each territorial authority would still have to apply Policy 3 in the NPS-UD.
159. A key difference is the identification of ‘third tier’ “locally significant centres” as described by the Officer, and “Town Centre Zones” as

⁹⁶ Statement of Rebuttal Evidence of Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4, 25 September 2023, para 19.

⁹⁷ Statement of Rebuttal Evidence of Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4, 25 September 2023, para 10.

⁹⁸ Statement of Evidence of Rory Smeaton on behalf of Porirua City Council (Planning), 15 September 2023, para 40.

⁹⁹ Above.

¹⁰⁰ ¹⁰⁰ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, paras 8.11 – 8.18.

described by Mr Heath. Mr Heath accepted that Miramar was not a ‘town centre’ based on economic metrics, but it was well positioned to facilitate density in the future given the efficiencies it provides the community from a regional perspective.¹⁰¹ Similarly, Mr Heath’s evidence explained why he thought Newtown and Tawa, align with the characteristics of ‘Town Centres’, and why Naenae, Waterloo, Mana, which allow a maximum building height of 6 storeys under the relevant IPIs show their potential for future expansion as Larger Town Centres.

160. As we understand it, the point Mr Heath makes is that higher density development is considered appropriate and encouraged under the district plans and a ‘Town Centre’ status would send appropriate signals to the market. Mr Heath takes a future, capacity potential focus to these areas¹⁰² that factors in the height enabled through respective territorial authority IPI processes. As he explained, the Centres approach he promotes identifies centres “with opportunity to fulfil higher order functions in the future based on their strategic positioning within the region and ability to accommodate higher density development in the future”.¹⁰³ This approach will, he says, help achieve a more consolidated urban form and a corresponding range of agglomeration and other benefits including transport and infrastructure efficiencies.¹⁰⁴ The RPS is not just looking at what is happening today, but what should be in the future to help facilitate intensification of employment and residential over the long term, and to send the right signals to market about where intensification can be more efficiently delivered.¹⁰⁵
161. Mr Heale explained that there would be an expectation that there would be more density in the larger urban areas, and that as part of the technical work they’ve done, Miramar, Newtown and Tawa qualify as ‘Town Centres’ in terms of the description in the NPS-UD.¹⁰⁶ Mr Heale also said that ‘Town Centres’ are included in Policy 30 already, they’re just called ‘locally significant centres’.¹⁰⁷

¹⁰¹ ¹⁰¹ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, para 8.38 and

¹⁰² ¹⁰² Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, paras 8.45 – 8.48.

¹⁰³ Statement of Primary Evidence of Timothy Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, para 9.1.

¹⁰⁴ Statement of Primary Evidence of Timoty Heath on behalf of Kāinga Ora – Homes and Communities (Economics), 15 September 2023, para 9.2.

¹⁰⁵ Hearing Transcript, HS4 – Urban Development, Day 3, page 17, lines 803 – 808 (Mr Heath).

¹⁰⁶ Hearing Transcript, HS4 – Urban Development, Day 3, page 16, lines 754 – 759.

¹⁰⁷ Hearing Transcript, HS4 – Urban Development, Day 3, page 16, lines 750 – 752.

162. Having considered the relevant statutory and planning framework and submissions and evidence, we accept that the centres hierarchy should take a long-term 30 year perspective and we are satisfied with Mr Jeffreys' position. We agree with the Officer that the RPS can identify a hierarchy of centres, but the TAs should determine the zoning within those centres because otherwise there could be a misalignment if the zoning changes in a district plan change.¹⁰⁸ We think this is consistent with the direction in clause 3.31 of the NPS-UD. The Officer also thought it would be overly and unnecessarily directive for the RPS to specify mandatory zoning and we agree.
163. We are not convinced that integrated management will be better achieved through specifying a zoning hierarchy in Policy 30, nor do we think there is a disconnect between Policies 30 and 31, or that the National Planning Standards require the use of centre typologies or zoning terminology. We also note the associated costs with implementing the changes sought by Kāinga Ora.
164. We are satisfied that the provisions as supported by the Officer give appropriate effect to the NPS-UD. We note that Johnsonville and Kilbirnie are identified as Metropolitan Centres in the Wellington Proposed District Plan (Appeals version) and various areas are identified as Town Centres including Newtown and Miramar, but, we understand, with varying building heights / densification within these areas. Policy 30 is not intended to prescribe zoning and it has expressly avoided using zoning terminology, leaving this up to each TA to determine. We consider this appropriate and consistent with direction in the NPS-UD.
165. We support the change in Policy 30 to “Central Wellington” rather than “central business district”, including because, as Mr McDonnell described at the Hearing, the latter term does not reflect the range of activities that happen in an urban centre, which is much broader than business.¹⁰⁹ We also accept the economic evidence presented on this point by Mr Heath.

3.5.2 Finding

166. We agree with the Reporting Officer's recommendations on Policy 30 for the reasons above, and otherwise as set out in the Officer's s 42A Report,

¹⁰⁸ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 744.

¹⁰⁹ Hearing Transcript, HS4 – Urban Development, Day 2, page 7, lines 353 – 355.

or the Officer's Rebuttal and Reply Evidence. We correct one minor typo in the recommendation below.

3.5.3 Recommendation

Policy 30: Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – district plans

District plans shall include objectives, policies, rules and/or methods that enable and manage appropriate subdivision, use and development ~~a range of land use activities~~ that maintains and enhances the viability and vibrancy of ~~regional central business district in the Wellington city and the:~~

1. Central Wellington as the main centre of the Region ~~the regionally significant central business district of Wellington City;~~
2. other regionally significant centres:
 - i. ~~Upper Hutt city centre;~~
 - ii. ~~Lower Hutt city centre;~~
 - iii. ~~Porirua city centre;~~
 - iv. ~~Paraparaumu town centre;~~
 - v. ~~Masterton town centre; and the~~
 - vi. Johnsonville; and
 - vii. Kilbirnie; and
 - viii. Petone
3. the locally significant centres of Suburban centres in:
 - i. ~~— Petone;~~
 - ii. ~~— Kilbirnie; and~~
 - iii. ~~— Johnsonville.;~~
 - iv. Paraparaumu Beach
 - ii. Ōtaki Main Road;
 - iii. Ōtaki Township;
 - iv. Raumati Town;
 - v. Waikanae;
 - vi. Featherston;
 - vii. Greytown;
 - viii. Carterton; and
 - ix. Martinborough.
4. Other local and neighbourhood centres that provide for the daily and weekly needs of their residential catchments.
 - a. Sub-regional centres of:
 - i. ~~Upper Hutt city centre;~~

- ii. Lower Hutt city centre;
 - iii. Porirua city centre;
 - iv. Paraparaumu town centre;
 - v. Masterton town centre; and the
- b. Suburban centres in:
- i. Petone;
 - ii. Kilbirnie; and
 - iii. Johnsonville.;

Explanation

Policy 30 identifies the hierarchy of regionally and locally significant centres within the Wellington Region ~~for which district plans must maintain and enhance their vibrancy and vitality~~. The centres identified are of significance to the region's form for economic development, transport movement, civic or community investment.

~~By identifying these centres and in enabling their planned purpose and role in the urban environment and wider region, Policy 30 is intended to help achieve a regional form that delivers other outcomes identified in the RPS. This includes, reducing greenhouse gas emissions, ensuring an equitable access to commercial and community services, economic development, and land use-transport integration.~~

~~District Plans are required to identify these centres and include provisions that enable them to achieve their planned purpose and role.~~ Maintaining and enhancing the viability and vibrancy of these centres is important in order to encourage investment and development that supports an increased range and diversity of activities. It is also important for their prosperity and resilience in the face of social and economic change.


~~The regional central business district is the major centre in the Wellington region; the other key centres also provide significant business, retailing and community services. This policy does not limit territorial authorities from identifying additional centres of local significance within the district plan.~~

~~The centres listed in policy 30 were identified during the development of the Wellington Regional Strategy as centres of significance to the region's form for economic development, transport movement, civic or community investment. The Wellington central business district is the regional central business district, with 73,000 people working there each day. The subregional centres of regional significance are the civic centres of Upper Hutt city centre, Lower Hutt city centre, Porirua city centre, Paraparaumu town centre, and Masterton town centre. The suburban centres of regional significance are in Petone, Kilbirnie and Johnsonville. Maintaining and enhancing the viability and vibrancy of these centres is important in order to encourage investment and development that supports an increased range and diversity of activities. It is also important for their prosperity and resilience in the face of social and economic change. The regional central business district is the major centre in the Wellington region; the sub-regional centres also provide significant business, retailing and community services. The range of appropriate~~

land uses to be encouraged through this policy will vary depending on the character and context of each centre. For this reason, policy 30 requires the region's district and city councils to determine the range and location of land uses, supported by appropriate social *infrastructure* to be encouraged and/or controlled in order to maintain and enhance the viability and vibrancy of the relevant centre managed through its district plan. However, when maintaining and enhancing regionally significant centres within a district, councils also need to consider the viability and vibrancy of the regionally significant centres outside their district, including the regional central business district as the major centre in the Wellington region

3.6 Policy 31: Identifying and enabling a range of building heights and density - district plans

167. The notified amendments to Policy 31 stated:

Policy 31: Identifying and enabling a range of building heights and density promoting higher density and mixed use development – district plans	
<p><u>District plans shall include policies, rules and/or methods that identify and enable a range of different building heights and density within <i>urban areas</i> where it contributes to maintaining, establishing or improving the qualities and characteristics of well-functioning <i>urban environments</i>, including as a minimum:</u></p> <p>(a) <u>For any tier 1 territorial authority, identify areas for high density development within:</u></p> <p>(i) <u>City centre zones and metropolitan centre zones; and</u></p> <p>(ii) <u>any other locations, where there is with good access to:</u></p> <ol style="list-style-type: none">1. <u>existing and planned rapid transit;</u>2. <u>edge of city centre zones and metropolitan centre zones; and/or</u>3. <u>areas with a range of commercial activities and community services.</u> <p>(b) <u>For any tier 1 territorial authority, identify areas for medium density residential development within any relevant residential zone.</u></p> <p>(c) <u>For any other territorial authority not identified as a tier 1 territorial authority, identify areas for greater building height and density where:</u></p> <p>(i) <u>there is good access to existing and planned active and public transport to a range of commercial activities and community services; and/or</u></p> <p>(ii) <u>there is relative demand for housing and business use in that location.</u></p> <p>District plans shall:</p> <p>(b) identify key centres suitable for higher density and/or mixed use development;</p> <p>(c) identify locations, with good access to the strategic public transport network, suitable for higher density and/or mixed use development; and</p> <p>(d) include policies, rules and/or methods that encourage higher density and/or mixed use development in and around these centres and locations,</p>	

~~so as to maintain and enhance a compact, well designed and sustainable regional form.~~

Explanation

Policy 31 requires identification of areas suitable for intensification, and enables intensification in these areas, giving effect to Policy 3 of the National Policy Statement on Urban Development 2020. Policy 31 also enables greater building height and densities to be provided for in non-tier 1 territorial authorities which includes Masterton being a tier 3 territorial authority as well as Carterton and South Wairarapa. Providing for this development is consistent with Policy 5 of the National Policy Statement on Urban Development 2020.

~~Policy 31 directs district and city councils to determine key centres and other locations with good access to the strategic public transport network, suitable for higher density or mixed-use development, where they will reinforce the region's compact form. District plans will then need to include policies, rules and/or other methods to encourage higher density and mixed use activities in these locations to support this form.~~

~~Objective 22 outlines the range of elements to be achieved by a compact, well designed and sustainable regional form. This includes a viable and vibrant regional central business district in Wellington city and an increased range and diversity of activities in and around other centres listed in policy 30.~~

~~Key centres include the regionally significant centres identified in policy 30, as well as other significant local centres that a city or district council considers are integral to the functioning of the region's or a district's form. This includes centres identified for higher density and/ or mixed use development in any Council growth and/or development framework or strategy.~~

~~Examples of growth and/or development framework or strategies in the region are:~~

- ~~• The Upper Hutt Urban Growth Strategy~~
- ~~• Wellington City Northern Growth Management Framework~~
- ~~• Porirua Development Framework~~
- ~~• Kapiti Coast: Choosing Futures Development Management Strategy and local outcomes statements contained in the Kapiti Coast Long term Council Community Plan.~~

~~Higher density and mixed use development can be achieved in a number of ways – such as infill development, comprehensive re-development and/or multi-storey developments that support complementary living and other uses.~~

~~Mixed use development means a variety of compatible and complementary uses within an area. This can include any combination of residential, commercial, industrial, business, retail, institutional or recreational uses.~~

168. Policy 31 aims to give effect to the direction in Objective 3 and Policies 3 and 5 of the NPS-UD about intensification within existing urban areas. Policy 55 is about greenfield development.

3.6.1 Submissions, Evidence and Analysis

169. There were 25 original and 13 further submissions points on Policy 31.
170. Some submitters thought Policy 31 repeated direction in the NPS-UD unnecessarily (eg PCC [S30.052], HCC [S115.052]), UHCC thought that clause (b) was not consistent with the MDRS [S34.091], and KCDC sought the policy to be amended to ensure consistency with the NPS-UD and their Intensification Planning Instrument [S16.085]. Kāinga Ora sought more specific direction for where high-density development should occur.
171. Objective 3 of the NPS-UD says RPS' enable more people to live in, and more businesses and community services to be located in, areas of an urban environment that have one or more specific features relating to proximity to a centre zone or other area with employment opportunities, being well-serviced by existing or planned public transport, and there being high demand for housing or business land in the area.
172. This also achieves other features of well-functioning environments including good accessibility between housing, jobs and community services, and supporting reductions in GHGe.
173. Policy 3 applies to tier 1 local authorities (that is, WRC, WCC, PCC, HCC, UHCC and KCDC) and requires them to enable an urban form in:
- (a) city centre zones that realises as much development capacity as possible, to maximise the benefits of intensification, and
 - (b) In metropolitan centre zones, building heights and density of urban form that reflect demand for housing and business use with building heights of at least 6 storeys; and
 - (c) Within a walkable catchment of:
 - a. Existing and planned rapid transit stops
 - b. The edge of city centre zones
 - c. The edge of metropolitan centre zones building heights of at least 6 storeys.

174. Policy 4 applies to tier 1 urban environments and says that building height or density requirements under Policy 3 should be modified to the extent necessary to accommodate a qualifying matter in that area.
175. Policy 5 applies to tier 2 and 3 urban environments and enables heights and density of urban form commensurate with levels or accessibility by existing or planned active or public transport to services or relative demand for housing and business in that location.
176. The Officer explained that the Regional Land Transport Plan (RLTP) identifies, at a high level, what the rapid transport network is, but that is subject to change every three years when the RLTP is reviewed. The NPS-UD defines “rapid transit service” as any existing, or planned frequent, quick, reliable and high-capacity public transport service that operates on a permanent route (road or rail) that is largely separated from other traffic. And “rapid transit stop” means a place where people can enter or exit a rapid transit service, whether existing or planned.
177. The Officer explained that this determines under the NPS-UD the locations for high-density development under Policy 3, but that this was being resolved at the District Plan level.¹¹⁰
178. Mr McDonnell, providing planning evidence for HCC, said he disagreed with HCC’s submission which sought to delete Policy 31, because Policy 3 of the NPS-UD requires the RPS to enable intensification.¹¹¹ Mr McDonnell also noted that the territorial authorities, with perhaps the exception of the Wairarapa Councils, had also implemented the medium density and building height/density of urban form directives in the NPS-UD in their Intensification Planning Instruments (IPIs).¹¹²

(a) Application of the Policy to tier 3 territorial authorities

179. Policy 31(b) gives effect to Policy 3(d) and Policy 5 of the NPS-UD. Mr Jeffries for WCC had initially asked for Policy 31 to be deleted on the basis it provided no additional direction to that stated in the NPS-UD, and could even conflict with it.¹¹³ At the Hearing, Mr Jeffries accepted that the Policy

¹¹⁰ Hearing Transcript, HS4 – Urban Development, Day 1, page 14, lines 646-650 (Reporting Officer, Ms Zöllner)

¹¹¹ Hearing Transcript, HS4 – Urban Development, Day 2, page 7, lines 294 – 297.

¹¹² Hearing Transcript, HS4 – Urban Development, Day 2, pages 3 and 7, lines 124 -129, and 299 – 304.

¹¹³ Hearing Transcript, HS4 – Urban Development, Day 2, page 19, lines 931 – 932.

provides direction to the Wairarapa Councils around intensification and therefore he supported retaining clause (b) and deleting clause (a).¹¹⁴

180. We do not agree with deleting clause (a) as Policy 3 of the NPS-UD requires that a RPS enable the densification stated in the Policy. Policy 31(b)(i) of Proposed Change 1 requires non-Tier 1 TAs to identify areas for increased building height and density within, and adjacent to *town centre zones* where appropriate, and where either there is good access to existing or planned active and public transport and a range of commercial activities and community services, or to meet relative demand for housing and business use in that location. Counsel for the Council confirmed in legal submissions that “adjacent” means “near”, “close” or “neighbouring”. We recommend Council review the numbering or sentence structure in Policy 31(b). As explained in the s 42A Report, the clause:¹¹⁵

gives direction to the Wairarapa councils to enable intensification in and around centres and transport corridors, and/or where there is demand.

181. We consider there is a potential drafting issue with the references to “and/or” in clause (b) and these be reviewed to ensure they give appropriate effect to the NPS-UD direction.
182. In light of the meaning of “adjacent” we consider the direction to the Wairarapa Councils in clause (b) is appropriate.

(b) Qualifying matters

183. We also considered that it is important that this regulatory Policy include reference to qualifying matters, which are relevant to consenting and therefore a s 104 assessment (which includes the RPS policies). We understand that IPIs are in place for the Region (although some may not have taken legal effect yet). Given the relevance of qualifying matters to consenting, we recommend that clause (a) is amended to refer to “identified qualifying matters” (that is, those identified by TAs in plans). The relevance of qualifying matters as constraints on housing developments was raised by WIAL [S148.009] and also Kiwirail Holdings Limited [S124.006] (in relation to Policy 31), and Kāinga Ora [S158.012] in relation to the Regional form, design and function introductory text. The

¹¹⁴ Hearing Transcript, HS4 – Urban Development, Day 2, page 19, lines 945 – 949.

¹¹⁵ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 394.

relevance of qualifying matters to provisions in an RPS is also set out in Policy 4 of the NPS-UD.

184. We had considered including qualifying matters in the definition of *environmentally responsive*. Given qualifying matters are not relevant to the whole region, we consider on balance that it is appropriate to refer to them specifically in relation to Tier 1 authorities. As we discuss below in the Definitions section of this chapter, we also recommend that the definition of *environmentally responsive* be amended to refer to the context, constraints and opportunities of a place. This will allow any relevant factors such as identified qualifying matters to be assessed as part of the particular consenting, NoR or planning issue.

(c) **Enabling building heights of at least 6 storeys vs providing for building heights of at least 6 storeys**

185. PCC sought that Policy 31 be amended to “provide for building heights of at least 6 storeys”. The Reporting Officer stated at the Hearing that a decision was made to not be prescriptive and allow TAs some flexibility, while being consistent with the NPS-UD. The Officer explained that the definition of “high density development” refers to an “anticipated building height of at least 6 storeys”. The directive in Policy 31 is to “enable” *high density development* and in our view, this is consistent with Policy 3 of the NPS-UD. The Officer’s view is that being more directive would go further than the minimum direction in Policy 3 and this was not appropriate.¹¹⁶
186. Kāinga Ora sought that Policy 31 should direct high-density development in ‘town centre zones in larger urban areas’. The Officer did not support this relief on the basis that this direction is better determined through district plan processes, where appropriate building heights and densities, that are commensurate with the level of commercial activity and community services, have been determined in detail for each centre.¹¹⁷
187. As stated above, we do not agree with submitters who stated Policy 31 is redundant as it simply repeats national direction. Policies 3 and 5 of the NPS-UD place specific requirements on RPS’, and Policy 31 responds to that. The Policy also implements the compact regional form outcomes in Objective 22.

¹¹⁶ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 85.

¹¹⁷ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 85.

188. We agree with the amendments recommended by the Officer in the s 42A Report to maximise development capacity in city centre zones and to incorporate the definition of “walkable catchments” recommended by the Climate Change Transport Reporting Officer. We agree with the Officer that a high-level definition of this term will not (or at least is less likely to) conflict with territorial authorities’ identification of ‘walkable catchments’ in their plans. We also support changes to reflect Kāinga Ora’s relief to provide greater recognition for town centre zones, and distinguishing between city and metropolitan centre zones.
189. In our view, the Officer’s revised amendments seek to provide the high level framework for the different levels of intensification, while allowing territorial authorities the ability to determine the specific areas that come within each centre description.
190. We agree with amending “urban areas” to “urban zones” as recommended in the Officer’s Rebuttal Evidence.¹¹⁸ Intensification is to be enabled and prioritised in urban zones, and development beyond urban zones is greenfield development (and subject to Policy 55). We agree that “urban areas” incorporates broader categories such as open space and recreational zones, and these should not be subject to intensification.¹¹⁹ Therefore, in our view, it is appropriate to include a separate definition for “urban zones” (which are areas identified by territorial authorities as subject to intensification) and this will support the direction in other policies in Change 1 (including Policy UD.4, Policy 55, Policy UD.3 and Policy UD.5) to enable urban intensification.
191. UHCC had queried the role of “settlement zones”. The Officer recommended that they are addressed as part of “rural areas” to align with the National Planning Standards. We agree with this analysis. This is discussed further in relation to Policy 55 and in the Definitions section of this chapter.

3.6.2 Finding and s 32AA Evaluation

192. We largely agree with the Reporting Officer’s recommendations on Policy 31 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend that identified qualifying matters are incorporated into clause (a), and that the Council review the sentence structure in clause (b) as the use of and/or is

¹¹⁸ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, paras 172 and 52-63.

¹¹⁹

not correct in our view, and we consider some minor amendments are required for readability. It may be that the clause will more accurately align with Policies 3 and 5 of the NPS-UD if it says:

- (b) For any other territorial authority not identified as a *tier 1 territorial authority*, identifying areas for greater building height and urban form densities within, and adjacent to *town centre* zones where appropriate, and either:
 - (i) where there is good access to existing or planned active and public transport ~~or to~~ a range of commercial activities and community services, or
 - (ii) to meet relative demand for housing and business use in that location.

3.6.3 Recommendation

Policy 31: ~~Identifying and enabling a range of building heights and density promoting higher density and mixed use development~~ Enabling intensification to contribute to well-functioning urban areas – district plans

District plans shall include policies, rules and/or methods that ~~identify and enable intensification within existing urban zones~~ urban areas where it contributes to a compact, well-designed, *climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas* ~~(as articulated in Policy UD.5) by: a range of different building heights and density within urban areas where it contributes to maintaining, establishing or improving the qualities and characteristics of well-functioning urban environments, including as a minimum:~~

- (a) ~~F~~for any tier 1 territorial authority, identifying a range of building heights and urban form densities (while recognising identified qualifying matters in that area) to:
 - (i) realise as much development capacity as possible in city centre zones;
and
 - (ii) ~~enable identify areas for high density development within:~~ City centre zones metropolitan centre zones; and any other locations, within at least a walkable catchment of ~~where there is with good access to:~~
 1. existing and planned rapid transit stops, along networks identified as existing and planned rapid transit in the current Regional Land Transport Plan; or
 2. edge of city centre zones and metropolitan centre zones; and/or
 3. areas with a range of commercial activities and community services; and

- (iii) ~~(b) For any tier 1 territorial authority, identify areas for enable medium density residential development within any relevant residential zone;~~ and
- (iv) ~~otherwise reflect the purpose of, and level of commercial activities and community services, within and adjacent to, town, local and neighbourhood centres;~~ and
- (b) ~~(c) For any other territorial authority not identified as a tier 1 territorial authority, identifying areas for greater building height and urban form densities where:~~
 - ~~i. within, and adjacent to town centre zones where appropriate; and either:~~
 - ~~i. ii. where there is good access to existing and/or planned active and public transport and to a range of commercial activities and community services; and/or~~
 - ~~ii. iii. there is to meet relative demand for housing and business use in that location.~~

District plans shall:

- ~~(a) identify key centres suitable for higher density and/or mixed use development;~~
- ~~(b) identify locations, with good access to the strategic public transport network, suitable for higher density and/or mixed use development; and~~
- ~~(c) include policies, rules and/or methods that encourage higher density and/or mixed use development in and around these centres and locations, so as to maintain and enhance a compact, well designed and sustainable regional form.~~

Explanation

Policy 31 requires identification of ~~locations areas~~ suitable for intensification, and enables intensification in these ~~locations areas~~, giving effect to Policy 3 of the National Policy Statement on *Urban development 2020*. ~~Sufficient development capacity to meet expected housing demand in the short, medium, and long term must be achieved in any tier 1 urban environment, as required by Objective 22A. Rapid transit is as identified in the current Regional Land Transport Plan.~~

Policy 31 also enables greater building height and densities to be provided for in non-tier 1 territorial authorities, ~~which includes Masterton being a tier 3 territorial authority, as well as Carterton and South Wairarapa~~. Providing for this development is consistent with Policy 5 of the National Policy Statement on *Urban development 2020*.

Policy 31 directs district and city councils to determine key centres and other locations with good access to the strategic public transport network, suitable for higher density or mixed use development, where they will reinforce the region's compact form. District plans will then need to include policies, rules and/or other methods to encourage higher density and mixed use activities in these locations to support this form.

Objective 22 outlines the range of elements to be achieved by a compact, well designed and sustainable regional form. This includes a viable and vibrant regional central business

district in Wellington city and an increased range and diversity of activities in and around other centres listed in policy 30:

Key centres include the regionally significant centres identified in policy 30, as well as other significant local centres that a city or district council considers are integral to the functioning of the region's or a district's form. This includes centres identified for higher density and/or mixed use development in any Council growth and/or development framework or strategy:

Examples of growth and/or development framework or strategies in the region are: • The Upper Hutt Urban Growth Strategy • Wellington City Northern Growth Management Framework • Porirua Development Framework • Kapiti Coast: Choosing Futures Development Management Strategy and local outcomes statements contained in the Kapiti Coast Long-term Council Community Plan:

Higher density and mixed use development can be achieved in a number of ways – such as infill development, comprehensive re-development and/or multi-storey developments that support complementary living and other uses. Mixed use development means a variety of compatible and complementary uses within an area. This can include any combination of residential, commercial, industrial, business, retail, institutional or recreational uses. Density is a measure of how compact development is in a given area. For example, the number of people per square kilometre, the variety of land uses or activities (mixed use development) per square kilometre, or square meters of retail space per square kilometre of land area.


The strategic public transport network is those parts of the region's passenger transport network that provide a high level of service along corridors with high demand for public transport. It connects the region's centres with the central business district in Wellington city. It includes the rail network and key bus corridors within Wellington region:

Locations with good access to the strategic public transport network include those:

- Within reasonable walk times to stops or stations on the strategic public transport network (research indicates a walk time of up to 10 minutes is 'reasonable')
- With frequent and reliable public transport services
- With accessibility, by public transport, to key destinations in the region, and
- Without physical barriers to public transport (for example, busy roads, lack of footpaths or crossing facilities, steep hills):

3.7 Policy 32: Identifying and protecting key industrial-based employment locations – district plans

193. As notified, the amendments to Policy 32 stated:

<p>Policy 32: Identifying and protecting key industrial-based employment locations – district plans</p>	
<p>District plans should <u>shall</u> include policies, rules and/or methods that identify and protect key industrial-based employment locations where they <u>contribute to the qualities and characteristics of well-functioning urban environments by: maintain and enhance compact, well designed and sustainable regional form</u></p> <ul style="list-style-type: none"> (a) <u>Recognising the importance of industrial based activities and the employment opportunities they provide.</u> (b) <u>Identifying specific locations and applying zoning suitable for accommodating industrial activities and their reasonable needs and effects including supporting or ancillary activities.</u> (c) <u>Identifying a range of land sizes and locations suitable for different industrial activities, and their operational needs including land-extensive activities,</u> (d) <u>Managing the establishment of non-industrial activities, in industrial zones, by avoiding activities likely to result in reverse sensitivity effects on industrial activities, or likely to result in an inefficient use of industrial zoned land or infrastructure.</u> <p>Explanation</p> <p><u>Policy 32 directs that district plans must protect key industrial based employment opportunities where they contribute to the qualities and characteristics of well-functioning urban environments. Further direction is provided on how this is achieved though clauses (a) – (d). Key industrial employment locations are important as they provide for economic growth, employment opportunities and development.</u></p>	
<p><u>Management of other land use activities where significant historical investment or existing infrastructure may be adversely affected by competing or conflicting activities.</u></p> <p>This policy uses “should” to recognise that in some locations there is limited information about the supply of and demand for industrial employment activities, and that this makes it difficult for city and district councils to identify key industrial based employment locations.</p> <p>Objective 22 outlines the range of elements to be achieved by a compact, well designed and sustainable regional form.</p> <p>The introduction of non industrial uses such as large scale retail, wholesaling activities, showrooms, offices and residential activities into industrial based employment locations can displace industrial employment activities from established industrial areas. Key industrial based employment locations that maintain and enhance the region’s compact form need to be protected in order to, amongst other matters, reduce the demand for new infrastructure, and promote the efficient use of existing infrastructure.</p>	

194. Policy 32 aims to protect key industrial-based employment locations where they contribute to well functioning urban and rural areas.

3.7.1 Submissions, Evidence and Analysis

195. A number of submitters sought that Policy 32 be retained as notified (CDC [S25.034], MDC [S166.034], HCC [S115.053], WCC [S140.054], Ātiawa [S131.077] supported by Ngā Hapū [FS20.347], Taranaki Whānui [S167.093], Rangitāne [S168.0165], Muaūpoko [S133.070], Fish and Game [S147.061], Kāinga Ora [S158.028], BLNZ [S78.014], and CentrePort Ltd [S83.004] supported by the Fuel Companies [FS10.001].
196. Others sought its deletion on the grounds that it unnecessarily repeats the NPS-UD (Robert Anker [S31.023], Philip Clegg [S62.022], and Dr. Sarah Kerkin [S96.018]), or partial deletion (UHCC [S34.092]) as the direction in Policy 32 is beyond the Regional Council’s legislative ability to direct district plans to protect some types of industrial development.
197. A few submitters sought readability and clarification changes, including application to quarrying activities (SWDC [S79.092]).
198. In relation to this last point, the s 42A Reporting Officer stated that “‘Industrial or trade process’ is a defined term under the RMA and was a well understood concept in their opinion.¹²⁰ The Officer agreed that quarrying is covered by Policy 32, but did not consider it necessary to identify a specific industrial activity over others as then other activities could be interpreted as being excluded from the Policy.
199. More generally the Officer states that it is appropriate for the RPS to provide the direction in Policy 32 and its deletion would leave a gap where these issues are not adequately addressed.¹²¹ The Officer does not agree that Policy 32 duplicates direction contained in the NPS-UD.
200. Regarding the Council’s legislative function the Officer advises that under section 30 of the RMA, regional councils may prepare provisions to respond to regionally significant issues and to ensure there is adequate business land to meet the expected demands of the region and the Policy contributes to achieving these functions.

¹²⁰ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 418.

¹²¹ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, paras 419 - 420

201. There was no submitter evidence presented on this Policy at the Hearing.

3.7.2 Finding

202. We agree with the Reporting Officer's recommendations on Policy 32 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.7.3 Recommendation

District plans ~~should~~ shall include policies, rules and/or methods that identify and protect key industrial-based employment locations where they contribute to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas and rural areas ~~the qualities and characteristics of well-functioning urban environments~~ by: ~~maintain and enhance compact, well designed and sustainable~~ *regional form*

- (a) Recognising the importance of industrial based activities and the employment opportunities they provide; ~~and~~
- (b) Identifying specific locations and applying zoning suitable for accommodating industrial activities and their reasonable needs and effects including supporting or ancillary activities; ~~and~~
- (c) Identifying a range of land sizes and locations suitable for different industrial activities, and their operational needs including land-extensive activities; ~~and~~
- (d) Managing the establishment of non-industrial activities; ~~in industrial zones, by avoiding activities likely to result in reverse sensitivity effects on industrial activities, or likely to result in an inefficient use of industrial zoned land or infrastructure.~~

Explanation

Policy 32 directs that district plans must protect key industrial based employment opportunities where they contribute to Objective 22 ~~the qualities and characteristics of well-functioning urban environments~~. Further direction is provided on how this is achieved though clauses (a) – (d). Key industrial employment locations are important as they provide for economic growth, employment opportunities and development.

This policy uses “should” to recognise that in some locations there is limited information about the supply of and demand for industrial employment activities, and that this makes it difficult for city and district councils to identify key industrial based employment locations. Objective 22 outlines the range of elements to be achieved by a compact, well designed and sustainable regional form.

~~The introduction of non-industrial uses such as large scale retail, wholesaling activities, showrooms, offices and residential activities into industrial-based employment locations~~

can displace industrial employment activities from established industrial areas. Key industrial-based employment locations that maintain and enhance the region's compact form need to be protected in order to, amongst other matters, reduce the demand for new infrastructure, and promote the efficient use of existing infrastructure.

3.8 Policy 33: Supporting well-functioning urban environments and a reduction in transport related greenhouse gas emissions – Regional Land Transport Plan Strategy

203. The notified amendments to Policy 33 stated:

<p>Policy 33: Supporting <u>well-functioning urban environments and a reduction in transport related greenhouse gas emissions</u> a compact, well designed and sustainable regional form – Regional Land Transport <u>Plan</u> Strategy</p>	
<p>The Wellington Regional Land Transport <u>Plan</u> Strategy shall contain objectives and policies that support <u>well-functioning urban environments and a reduction in transport related greenhouse gas emissions and vehicle kilometres travelled of the light vehicle fleet</u>, maintenance and enhancement of a compact, well designed and sustainable regional form.</p> <p>Explanation</p> <p><u>Policy 33 provides direction to the Wellington Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan in achieving well-functioning urban environments and a reduction in transport related greenhouse gas emissions.</u></p> <p>The Wellington Regional Land Transport Strategy provides a policy framework for regional transport decisions that play an important role in the maintenance and enhancement of a compact, and well designed and sustainable regional form.</p> <p>Objective 22 outlines the elements that are to be achieved by a compact, well designed and sustainable regional form. Elements of particular relevance will include efficient use of existing infrastructure and improved east west transport linkages.</p>	

204. This Policy aims to support Objectives 22 and CC.3, by providing direction for the RLTP to address reductions in transport GHGe.

3.8.1 Submissions, Evidence and Analysis

205. There were 15 original and 8 further submission points on Policy 33.

206. A number of submitters sought that Policy 33 be retained as notified, including UHCC [S34.039], HCC [S115.054], WCC [S140.055], Ātiawa [S131.078] supported by Ngā Hapū [FS20.348], Taranaki Whānui [S167.094], Rangitāne [S168.0166], Muaūpoko [S133.071], and Fish and Game [S147.062]

207. Other submitters sought:

- that Policy 33 reflect the requirements of Objective CC.3 and specify a reduction of 35% of 2019 transport emissions by 2030 (Forest and Bird [S165.059])
- amendments to provide a clear link between Policy 33 and Objective 30 to provide for benefits of the use of local quarrying/aggregate supply to achieve a well-functioning urban environment and a reduction in transport emissions (Winstones [S162.035], supported by Fulton Hogan Ltd [FS11.013]).
- amendment to recognise that intensification should be focused around major centres and rapid transit nodes to support efficient use of infrastructure and create well-functioning and sustainable urban environments (Investore [S154.009] and Stride Investment [S155.007])

208. The s 42A Reporting Officer does not agree that there is a mismatch between Policy 33 and Objective CC.3 provisions as Policy 33 is aiming to contribute to the targets in Objective CC.3 and specifying targets in the Policy would cause it to be out of step with other policies that give effect to the Objective.¹²² We agree.

209. The Reporting Officer also disagrees that Policy 33 be amended to direct recognition of quarrying and aggregate resources in the RLTP as that is intended to set strategic direction to guide integrated land transport planning and investment in long-term plans and set the vision and objectives for the Region's land transport network. The RLTP is not concerned with where specific goods are being transported to and from and if the transport of aggregate were mentioned, then other industries that also supply locally and therefore support reductions in transport-related greenhouse gas emissions, would also need to be mentioned.¹²³

210. On the need to focus intensification around major centres and rapid transit nodes, the Reporting Officer does not consider that this is relevant to Policy 33.¹²⁴ She considers that amendments recommended to other provisions in this topic, such as Objective 22, Policy 31 and Policy 55, will provide the relief sought by these submissions.

¹²² Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 432.

¹²³ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 430.

¹²⁴ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 431.

211. In Minute 16, and during the Hearing, we asked Ms Heppelthwaite, planner for Waka Kotahi, some specific questions on terminology in Policy 33. In her Supplementary Evidence, Ms Heppelthwaite said the definition of “well-functioning urban environments” captures accessibility, reductions in greenhouse gas emissions and effects of climate change, and therefore it was not necessary to repeat these again in the Policy as proposed in the s 42A Report.¹²⁵ In Reply Evidence, the Reporting Officer agreed that there is some duplication and that the Policy should refer to regional form rather than well-functioning urban environments as direction to the RLTP should not be constrained to urban environments only.¹²⁶ The Officer considered it appropriate to retain the phrase “a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form” to retain the connection with the wording in Objective 22. The Officer also considered it important to retain the reference to reductions in transport-related greenhouse gas emissions and vehicle kilometres travelled as the policy intent is that the RLTP will specifically support transport emissions reductions to contribute to Objectives 22 and CC.3
212. In her Supplementary Evidence, Ms Heppelthwaite also raised a concern regarding the level of direction provided in the Policy to the RLTP and suggests that it may not be appropriate for the RPS to direct RLTP content through use of the word “shall”. The Officer raised issues of scope and natural justice in relation to this matter as this point was not addressed in the Minute nor in Waka Kotahi’s submission. The strength of direction to the RLTP has not been raised in other hearings nor in the planners’ caucusing on the Climate Change Transport subtopic provisions regarding Policy EIW.1. With the repeal of the Natural and Built Environment Act, we understand that s 14(c) of the Land Transport Management Act 2003 requires a regional transport committee to take a relevant regional policy statement into account before submitting a RLTP to a regional council. In any event, because we have not heard other submissions on this and other submitters who may be interested in this issue have not had the opportunity to comment, we do not take Ms Heppelthwaite’s Supplementary Evidence further.
213. We agree with the Officer’s recommendations on Policy 33 as they are appropriate to give effect to relevant national direction and Objective 22.

¹²⁵ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi, Hearing Stream 4, 20 October 2023.

¹²⁶ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, paras 194 – 205.

3.8.2 Finding

214. We agree with the Reporting Officer's recommendations on Policy 33 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.8.3 Recommendation

Policy 33: Supporting ~~a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form and well-functioning urban environments~~ and a reduction in transport related greenhouse gas emissions a compact, well designed and sustainable regional form– Regional Land Transport Plan Strategy

The Wellington Regional Land Transport Plan Strategy shall contain objectives and policies that ~~support well-functioning urban environments and~~ contribute to a reduction in transport related ~~greenhouse gas emissions and vehicle kilometres travelled of the light vehicle fleet, to contribute to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form.~~ maintenance and enhancement of a compact, well designed and sustainable ~~regional form.~~

The Wellington Regional Land Transport Strategy provides a policy framework for regional transport decisions that play an important role in the maintenance and enhancement of a compact, and well designed and sustainable regional form. Objective 22 outlines the elements that are to be achieved by a compact, well designed and sustainable regional form. Elements of particular relevance will include efficient use of existing infrastructure and improved east west transport linkages.

Explanation

Policy 33 provides direction to the Wellington Regional Land Transport Plan, acknowledging the role of the objectives and policies in that plan in achieving ~~well-functioning urban environments, and~~ a reduction in transport related ~~greenhouse gas emissions and Objective 22.~~

The Wellington Regional Land Transport Strategy provides a policy framework for regional transport decisions that play an important role in the maintenance and enhancement of a compact, and well designed and sustainable regional form.

Objective 22 outlines the elements that are to be achieved by a compact, well designed and sustainable regional form. Elements of particular relevance will include efficient use of existing infrastructure and improved east west transport linkages.

3.9 Policy UD.1 Providing for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land – district plans

215. Proposed Change proposes the inclusion of new Policy UD.1 that reads:

<p><u>Policy UD.1: Providing for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land – district plans</u></p> <p><u>District plans shall include objectives, policies, rules and/or methods that provide for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land, by:</u></p> <p>(a) <u>enabling mana whenua / tangata whenua to exercise their Tino Rangatiratanga; and</u></p> <p>(b) <u>recognising that marae and papakāinga are a Taonga and making appropriate provision for them; and</u></p> <p>(c) <u>recognising the historical, contemporary, cultural, and social importance of papakāinga; and</u></p> <p>(d) <u>if appropriate, identifying a Māori Purpose Zone; and</u></p> <p>(e) <u>recognising Te Ao Māori and enabling mana whenua / tangata whenua to exercise Kaitiakitanga; and</u></p> <p>(f) <u>providing for the development of land owned by mana whenua / tangata whenua.</u></p> <p><u>Explanation</u></p> <p><u>Policy UD.1 directs that district plans must provide for the occupation, use, development, and ongoing relationship of mana whenua / tangata whenua with their ancestral land and provides the minimum requirements in doing so. Enabling mana whenua / tangata whenua to exercise Tino Rangatiratanga may be achieved through District Councils working in partnership with mana whenua / tangata whenua during the plan review, change or variation process. Papakāinga is specifically referenced in the policy and are required to be provided for, which is consistent with Policy 1(a)(ii) of the National Policy Statement for Urban Development. Clause (d) provides the ability for identifying a Māori Purpose Zone, having the same meaning as the National Planning Standards.</u></p>

216. Policy UD.1 directs district plans around enabling the occupation, use, development, and ongoing relationship of mana whenua / tangata whenua with their ancestral land.

3.9.1 Submissions, Evidence and Analysis

217. There were 13 submission points and 10 further submission points received on proposed Policy UD.1.

218. There was general support from submitters for this Policy. The key issue raised was clarity as to what land the Policy covers, and whether there is a

need for a definition of ancestral land (eg WCC [S140.056] and HCC [S115.055]). Tuma Paeroa [S102.077, S102.097] sought that the policy be broadened to include providing for development for land owned by Māori landowners.

219. The Reporting Officer explained at the Hearing “that within the s 42A Report there was a statement that mana whenua preference was for [ancestral land] not to be defined” and on this basis, the Officer did not recommend a definition.¹²⁷ However, the Officer has suggested amendments to the explanation text to identify that ancestral land includes freehold land owned by mana whenua / tangata whenua, but excludes general land owned by Māori. General land owned by Māori is broadly captured under Policy UD.2.
220. Further, in response to questioning in Minute 14 as to whether it is appropriate to use the term “ancestral land” in s 6(e), RMA in Policy UD.1 and/or UD.2, the Reporting Officer responded that the term “ancestral land” as per s 6(e) is appropriate in Policy UD.1 as the policy specifically seeks to provide for the ongoing relationship of mana whenua / tangata whenua with their ancestral land.¹²⁸
221. Muaūpoko [S133.072] sought that they are specifically recognised through the Policy. The Reporting Officer advises in the s 42A Report that the wider issue of the status of Muaūpoko as mana whenua was addressed in Hearing Stream 1.¹²⁹

3.9.2 Finding

222. We agree with the Reporting Officer’s recommendations on Policy UD.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.9.3 Recommendation

Policy UD.1: Providing for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land – district plans

¹²⁷ Hearing Transcript, HS4 – Urban Development, Day 1, page 11, lines 517 – 519.

¹²⁸ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, para 130.

¹²⁹ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, paras 933 – 934.

District plans shall include objectives, policies, rules and/or methods that provide for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land, by:

- a. enabling mana whenua / tangata whenua to exercise their Tino Rangatiratanga; and
- b. recognising that marae and papakāinga are a Taonga and making appropriate provision for them; and
- c. recognising the historical, contemporary, cultural, and social importance of papakāinga; and
- d. if appropriate, identifying a Māori Purpose Zone; and
- e. recognising Te Ao Māori and Mātauranga Māori, and enabling mana whenua / tangata whenua to exercise Kaitiakitanga; and
- f. providing for the development of land owned by mana whenua / tangata whenua.

Explanation

Policy UD.1 directs that district plans must provide for the occupation, use, development, and ongoing relationship of mana whenua / tangata whenua with their ancestral land, including freehold land owned by mana whenua / tangata whenua but excluding general land owned by Māori, and provides the minimum requirements in doing so. Enabling mana whenua / tangata whenua to exercise Tino Rangatiratanga may be achieved through District Councils working in partnership with mana whenua / tangata whenua during the plan review, change or variation process. Papakāinga is specifically referenced in the policy and are required to be provided for, which is consistent with Policy 1(a)(ii) of the National Policy Statement for *Urban development*. Clause (d) provides the ability for identifying a Māori Purpose Zone, having the same meaning as the National Planning Standards.

3.10 Policy UD.4: Achieving a compact regional form – district and regional plans

223. The Officer proposed including this Policy in the s 42A Report to respond to general submissions and submissions on Policies 55 and UD.3. The Officer explains that Policy UD.4 not only implements the NPS-UD but also implements other national direction, addresses regionally significant issues, and the Council’s s 30 functions.¹³⁰
224. The Policy implements the “compact regional form” outcome in Objective 22 and directs district and regional plans to support the following hierarchy of development:

Policy UD.4: Achieving a compact regional form – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods requiring that subdivision, use and development occurs in a way that contributes to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas and rural areas. This includes:

- (a) preventing dispersed growth patterns by prioritising:
 - (i) firstly, urban development (including unanticipated or out-of-sequence brownfield development) should occur within urban areas in and adjacent to centres with a range of commercial activities and along existing or planned public transport corridors, then
 - (ii) urban development that does not meet (i) within urban areas (including unanticipated or out-of-sequence brownfield development), then
 - (iii) sequenced and planned urban development beyond urban areas, consistent with Policies 55 and 56, then
 - (iv) unanticipated or out-of-sequence greenfield urban development that is well-connected to the existing urban area and along existing or planned transport corridors, consistent with Policies 55 and 56, and adds significantly to development capacity consistent with Policy UD.3, then
 - (v) residential development in rural areas, consistent with Policy 56, and

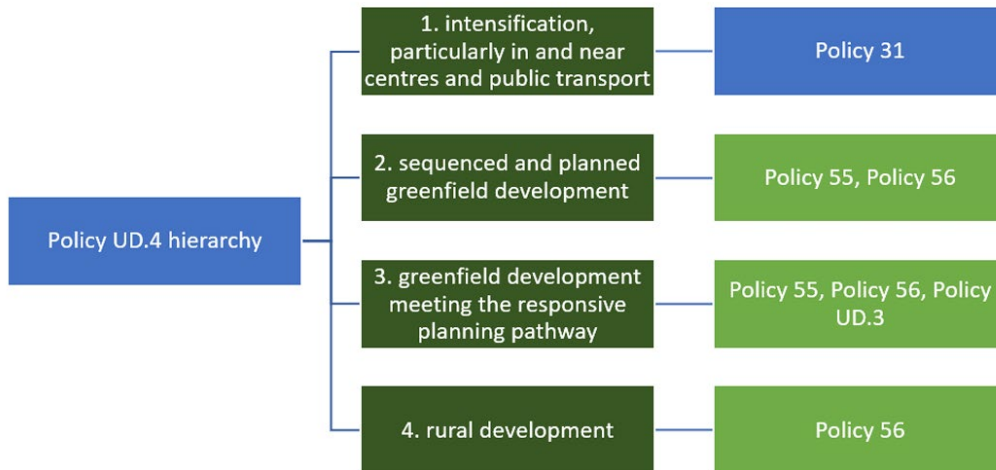
3.10.1 Submissions, Evidence and Analysis

225. We agree with the Officer that the Policy responds appropriately to relief sought by Waka Kotahi [S129.024] seeking the prioritisation of

¹³⁰ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, para 162.

intensification of existing urban areas which enables more efficient use of infrastructure.

226. The Officer provided the following diagram as Figure 2 in her Reply Evidence showing how Policy UD.4 relates to other relevant provisions in Proposed Change 1:



227. The Officer explained that Policy 31 is not referred to in Policy UD.4 because it is a plan-making provision which district plans must give effect to anyway and including it in Policy UD.4 could cause confusion.

228. The hierarchy outlines an order of priority, namely options for first enabling development capacity through intensification within and near centres and transport networks, then planned greenfield development beyond existing urban zones, then unplanned development that is well-connected along transport corridors, and then rural development.¹³¹ We understand that subdivision, use and development that does not come within the hierarchy can still be provided for in district and regional plans, but that it won't be as enabled or supported as proposals that align with the hierarchy. We think this is appropriate for achieving Objective 22.

229. We support Ms Zöllner's recommendation that the provisions referenced in Policy UD.4 do not themselves refer to the hierarchy as this would merge consenting decisions with plan-making decisions,¹³² and there is limited scope for considering alternatives in the former. As Mr Slyfield explained,

¹³¹ Reporting Officer's Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 170.

¹³² Reporting Officer's Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 172.

“the heavy lifting has to be done at the planning level and not at the consenting level”.¹³³

230. Wellington Water supported the development hierarchy but considered that it needed to be more prominent and expressed more clearly.¹³⁴ Mr Slyfield, counsel for Wellington Water, said that “a hierarchy is an important mechanism for ensuring that development happens first and foremost where it is going to be best served by infrastructure and that there is an avoidance of unplanned and ad hoc infrastructure requirements elsewhere”.¹³⁵
231. We agree with the inclusion of the words “supports compact growth by prioritising” inserted through the Officer’s Reply Evidence and think this addresses Wellington Water’s concerns that the hierarchy within the Policy is down-played by the wording in the chapeau.¹³⁶ The wording the Officer supports in her Reply Evidence, is clear the Policy implements the “compact form” ambitions of the HS4 provisions.
232. We are satisfied that the hierarchy should remain articulated in Policy UD.4 and not in the Objective or in the Introduction, for the reasons Ms Zöllner provides in her Reply.¹³⁷
233. We agree with the Officer that although the NPS-UD supports development that is “both up and out” where it contributes to well-functioning urban environments, it does place greater emphasis on intensification than on enabling greenfield development.¹³⁸ We do not consider Policy UD.4 prevents responsive planning to unanticipated or out-of-sequence developments, but it provides for them in a way that gives effect to Policy 8 of the NPS-UD, and is otherwise consistent with the directions in the NPS-UD.
234. Mr Lewandowski, providing planning evidence on behalf of Peka Peka Farm and Summerset¹³⁹ sought that Policy UD.4 is deleted on the basis

¹³³ Hearing Transcript, HS4 – Urban Development, Day 2, page 35, lines 1747 – 1748.

¹³⁴ Wellington Water Ltd Speaking Notes Handout, 3 October 2023.

¹³⁵ Hearing Transcript, HS4 – Urban Development, Day 2, page 33, lines 1630 – 1634.

¹³⁶

¹³⁷ Reporting Officer’s Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 60.

¹³⁸ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 70.2.

¹³⁹ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.64 – 5.70; and Statement of Evidence of Maciej Lewandowski on behalf of Summerset Group Holdings Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.63 – 5.68.

that it is fundamentally flawed, would constrain and implement the NPS-UD in an unbalanced way, and is fundamentally inconsistent with the provisions in the NPS-UD. We understand that the primary concern is that policy directs the prioritisation of urban development within existing urban areas ahead of urban expansion that is sequenced and planned, and urban expansion that is unanticipated or out of sequence. Mr Lewandowski says the NPS-UD allows all of these types of development to occur to provide for development capacity, and the impact of Policy UD.4 (in particular on the competitive operation of land and development markets and Peka Peka Farm's and Summerset's ability to be responsive to land availability) has not been assessed by way of a s 32AA assessment.

235. We do not agree with Mr Lewandowski's views. We consider the direction in Proposed Change 1 to prioritise intensification in existing urban areas ahead of greenfield development is supported by Objectives 3, 8 and Policy 1 of the NPS-UD, the NAP and ERP, and the Council's integrated management functions. We recognise that Objective 6(c) and Policy 8 of the NPS-UD require the RPS to be responsive to out-of-sequence or unanticipated opportunities for development. In addition, Policy 2 requires sufficient development capacity to be provided as a minimum to meet expected demand.

236. Clause 3.17(1)(a) of the NPS-UD requires tier 1 and 2 authorities to have regard to the relevant FDS when preparing or changing an RPS, and clause 3.20 says the Housing and Business Capacity Assessment (HBA) informs RMA planning documents.

237. The latest HBA states that there is almost twice as much capacity available as need. The FDS lists greenfield developments that are well connected to existing urban areas in towns and cities and can be easily serviced by existing and planned infrastructure (including by public and active transport modes) as Priority '5' (out of 5 priority areas). The FDS says:¹⁴⁰

Development of greenfield areas sits lowest in the priority for development due to the significant capacity for growth within our existing urban areas in our towns and cities.

238. We consider the approach in Policy UD.4 is aligned with the FDS and has had appropriate regard to the HBA. The strategic development hierarchy in

¹⁴⁰ Wellington Regional Leadership Committee, Future Development Strategy, 2024 – 2054, page 61.

the Policy gives appropriate effect to direction in the NPS-UD, while also taking into account the regional council's functions and other relevant documents and strategies such as the ERP.

239. The word “enable” in Objective 3 and also Policy 3 regarding intensification in city centre and other zones, is reasonably directive. Objective 3 of the NPS-UD seeks that RPS’ enable people to live in areas of an urban environment which are near centres zones or areas with many employment opportunities, well-served by existing or planned public transport, or where there is high demand for housing. Objective 6 of the NPS-UD seeks decisions on urban development which are integrated, strategic, and responsive. Policies 1 and 2 are also relevant, and seek planning decisions contribute to well-functioning urban environments, and that sufficient development capacity is provided. While the NPS-UD does not contain an explicit hierarchy, one can be inferred from the individual policies in the NPS-UD and applying the ‘integrating frame’ which includes consideration of the ERP.
240. In our view, the planning framework requires intensification to be *enabled*, while also being responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.
241. We consider that Policy UD.4 provides useful signposting and that the amendments Ms Zöllner has recommended to the Policy in her Reply Evidence:
- a. provide clear direction and an express hierarchy for development
 - b. require the infrastructure needed to support development to be provided in an integrated and efficient way prioritising the use or upgrading of existing infrastructure over the creation of new infrastructure
 - c. provide for a range of housing typologies, and
 - d. require plans to demonstrate that additional urban zoned land is necessary to enable sufficient development capacity.
242. Ms Anderson, Counsel for the Council, filed legal submissions on 25 September 2023 addressing the issue of whether the hierarchy in Policy UD.4 is in accordance with the NPS-UD. Ms Anderson explained that the NPS-UD requires the RPS to be responsive to significant development

capacity coming in through out-of-sequence or unanticipated development and essentially this means ensuring there is a pathway available. Ms Anderson also explained that Policy UD.4 gives this development a priority in existing urban areas (in clause (a)) but certainly does not prevent it outside of existing urban zones or areas.¹⁴¹ Further, clause 3.8 of the NPS-UD:¹⁴²

sits in the part of the NPS which sets out a 'non-exhaustive list of things that local authorities must do to give effect to the objectives and policies' of the NPS. It clearly states that nothing in this implementation part of the NPS-UD 'limits the general obligation under the Act to give effect to those objectives and policies'. This suggests that the NPS-UD anticipates that the objectives and policies are key, and the implementation clauses set out ways those objectives and policies can be met. However, the Regional Council is not limited to only doing those things.

243. Ms Anderson submitted that Policy UD.4 is responsive to out-of-sequence or unanticipated urban development because it provides for it as part of the hierarchy, prioritises it in existing urban zones, and does not prevent it in areas outside of existing urban zones.
244. In response at the Hearing, Mr Lewandowski confirmed that he was not saying Policy UD.4 was *ultra vires*, but he did consider that it was inappropriate as the NPS-UD does not place a priority on intensification. Ms Zöllner explained in her Reply Evidence that Policy UD.4 was not just about implementing the NPS-UD, but it also relates to addressing regionally significant issues and the council's functions under s 30 of the RMA as well as other national policy statements. She reiterated her comment at the Hearing that the hierarchy is not inconsistent with the NPS-UD.¹⁴³
245. The s 42A Report refers to research finding there to be overall higher external costs from greenfield development arising particularly from greater transport infrastructure costs, congestion, and environmental externalities although intensification scenarios also had infrastructure, air quality and shadowing costs. The Officer says the research supports

¹⁴¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 42, lines 2104 – 2109.

¹⁴² Legal submissions in reply on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 13.

¹⁴³ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, para 162.

prioritising well-designed intensification as a response to multiple pressures in the region.¹⁴⁴

246. We agree with the Council that Policy UD.4 is responsive to unanticipated or out-of-sequence urban development because it provides a pathway for it and there is nothing in the national direction that says this pathway must be provided for in all situations. We consider the Policy to be consistent with the direction in the NPS-UD.
247. WWL noted its support for Policy UD.4 prioritising the use or upgrading of existing infrastructure over the creation of new infrastructure.¹⁴⁵
248. We had doubts about whether Policy 56 should be referred to in clause (c) as we understand the intention is for unanticipated or out-of-sequence greenfield urban development to be assessed in accordance with Policy 55. The s 42A Report states that Policy 56 does not provide any specific consideration of out-of-sequence development or significant development capacity.¹⁴⁶ However, on reflection, we consider that the intention here is that if urban development occurs in a rural area, the matters in Policy 56 are also relevant (eg to ensure that the productive capacity of the land is retained).

3.10.2 Finding

249. We agree with the Reporting Officer's recommendations on Policy UD.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.10.3 Recommendation

Policy UD.4: Achieving a compact regional form – district and regional plans

~~District and regional plans shall include objectives, policies, rules and/or other methods requiring that subdivision, use and development occurs in a way that supports compact growth by prioritising:~~

~~contributes to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas and rural areas. This includes:~~

~~(a) (b) preventing dispersed growth patterns by prioritising supporting compact growth~~

¹⁴⁴ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 570.

¹⁴⁵ Wellington Water Ltd Speaking Notes Handout, 3 October 2023.

¹⁴⁶ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 793.

by:

~~(a) (i) firstly, prioritising urban development (including unanticipated or out-of-sequence brownfield development) should occur within existing urban zones urban areas, with a preference for higher densities in and adjacent to centres with a range of commercial activities and along existing or planned public transport corridors, then~~

~~(ii) urban development that does not meet (i) within urban areas (including unanticipated or out-of-sequence brownfield development), then~~

~~(b) (iii) (ii) second, sequenced and planned greenfield urban development beyond existing urban zones urban areas, consistent with Policies 55 and 56, then~~

~~(c) (iv) (iii) third, unanticipated or out-of-sequence greenfield urban development that is well-connected to the existing urban area and along existing or planned transport corridors, consistent with Policies 55 and 56, and adds significantly to development capacity consistent with Policy UD.3, then~~

~~(d) (v) (iv) fourth, residential or mixed use development in rural areas, consistent with Policy 56; and~~

District and regional plans shall apply this hierarchy to enable development capacity while:

~~(i) (a) enabling Māori to express their culture and traditions, and~~

~~(ii) (e) (d) requiring all infrastructure necessary to support development to be provided in an integrated and efficient way which prioritises the use or upgrading of existing infrastructure over the creation of new infrastructure; and~~

~~(iii) (f) (e) providing for a range of housing typologies and land uses, including mixed use development; and; and~~

~~(iv) (d) (c) for clauses (b) (a) (iii) and (c) (a) (iiiiv), demonstrating that additional urban-zoned land is necessary and the most appropriate option to enable sufficient development capacity. meet housing and business demand, including consideration of existing realisable development capacity enabled within existing urban zones the urban area; and~~


~~(f) enabling Māori to express their culture and traditions, and~~

Explanation

Policy UD.4 provides strategic direction to district plans on how housing and business demand is to be met. Clause (d)(a)(iv) relates to residential rural lifestyle development as well as development in settlement zones.

3.11 Policy UD.2: Enable Māori cultural and traditional norms – consideration

250. As notified, the proposed Policy stated:

Policy UD.2: Enable Māori cultural and traditional norms – consideration	
<p><u>When considering an application for a resource consent, notice of requirement, or a plan change of a district plan for use or development, particular regard shall be given the ability to enable Māori to express their culture and traditions in land use and development, by as a minimum providing for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.</u></p>	
<p><u>Explanation</u></p> <p><u>Policy UD.2 supports Māori to express their cultural traditions and norms in land use and development. This includes recognising taonga and sites and areas of significance, awa and moana and important places where mana whenua / tangata whenua still practice mātauranga.</u></p>	

251. Policy UD.2 is a consideration policy that enables Māori to express their culture and traditions in land use and development activities.

3.11.1 Submissions, Evidence and Analysis

252. There were 13 original and 12 further submission points on Policy UD.2.

253. A number of submitters requested that Policy UD.2 be retained as notified or sought no amendment (Te Tumu Paeroa [S102.078], Ātiawa [S131.0103] supported by Ngā Hapū [FS29.218], WCC [S140.080], MDC [S166.061], and Fish and Game [S147.072]).

254. Other submitters sought amendments including:

- Recognition of Muaūpoko connections to Te Whanganui-a-Tara (Muaūpoko [S133.073])
- Amendments to protect against proposed developments on land surrounding marae/urupā and other sites (Taranaki Whānui [S167.0121])
- Strengthening of the wording and inclusion of reference to Kaupapa Māori-based models and frameworks to help build the social, cultural, environmental and economic capacity of iwi and hapū, and allow iwi and hapū to express relationships with their land,

water, sites, culture, wāhi tapu and other taonga (Rangitāne [S168.0168] supported by Sustainable Wairarapa [FS31.097])

- Amendments so that Policy UD.2 does not apply to resource consents (UHCC [S34.094])
- Consideration of how urban Māori are represented in the Policy and amendment to the Policy explanation to read “...and important places to mana whenua / tangata whenua in accordance with Mātauranga Māori” (UHCC [S34.094] supported by Ngāti Toa [FS6.002])
- Deletion of the Policy because it is too open-ended in relation to resource consent applications (WFF [S163.078], supported by BLNZ [FS30.150]), and it has no value beyond section 6(e) of the RMA (PCC [S30.076]). PCC note that ‘have particular regard’ is a lower regulatory bar than ‘recognise and provide for’ and seek amendment to provide clear and appropriate direction to plan users in line with objectives.

255. The Reporting Officer said that the policy is most appropriate at a broad level so that it does not preclude or put additional weight on potential avenues for giving effect to the policy.¹⁴⁷ The Officer said that for example, the implementation of Policy UD.2 is likely to be different across the Region depending on the values and interests of mana whenua / tangata whenua in their rohe, and opportunities that arise through specific urban development projects.

256. At the Hearing the Reporting Officer talked about the broad intent in this Policy to enable Māori to express their culture and traditions, and that the policy applied to mana whenua as well as other kinship groups (Mātāwaka).¹⁴⁸ The Officer explained that in an urban development project, this would include considering urban design opportunities, including Māori being enabled to apply mātauranga Māori in urban spaces (kaupapa Māori led urban development).

257. In response to relief sought by Muaūpoko, we agree with the Reporting Officer that it is not appropriate to identify the status of specific iwi/hapu in the RPS provisions.

¹⁴⁷ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 595.

¹⁴⁸ Hearing Transcript, HS4 – Urban Development, Day 1, page 17, lines 803-806 (Reporting Officer, Mr Jeffreys).

258. In response to submitters who were concerned about the application of Policy UD.2 to resource consents, the Reporting Officer said that the Policy is consistent with other consideration policies in Change 1 and that if the Policy has already been given effect by the district plan, it does not add any additional work as a consent application will already need to meet these requirements.¹⁴⁹
259. There is strong national direction supporting Policy UD.2. The NPS-UD says that Māori are enabled to express their cultural traditions and norms as a part of well-functioning urban environments.¹⁵⁰ Section 6(e) of the RMA also states that the relationship of Māori and their culture and traditions with their ancestral lands is to be recognised and provided for as a matter of national importance therefore providing strong national direction. Adverse effects of development on cultural practices and wellbeing of mana whenua / tangata whenua, and a lack of weight historically being given Te Ao Māori and Mātauranga Māori, are recognised as a regionally significant issues in various topics in Change 1.
260. Policy UD.2 contributes to addressing these issues and, in doing so, appropriately applies to resource consents. The Officer says that in practice, this means that consent applicants should demonstrate genuine intent and actions to enable Māori to express their culture and traditions to support cultural visibility and identity in land use and development, commensurate to the scale and type of consent application.¹⁵¹ The policy is not prescriptive regarding what this must involve which provides flexibility for different activities. We agree with the Officer’s assessment and are of the view that this analysis also addresses submitters who sought the deletion of the Policy.
261. The Reporting Officer further considered the wording of Policy UD.2 in their Reply Evidence in response to questions posed in Minute 14. The Officer recommended several amendments to strengthen the policy direction and to include reference to “ancestral lands” for consistency with s 6(e).

¹⁴⁹ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 178.

¹⁵⁰ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 598.

¹⁵¹ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 598.

3.11.2 Finding

262. We agree with the Reporting Officer's recommendations on Policy UD.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.11.3 Recommendation

Enable Māori to express their culture and traditions – consideration


When considering an application for a resource consent, notice of requirement, or a ~~plan~~ change of a *district plan* for subdivision, use or development, particular regard shall be given the ability seek to enable Māori to express their culture and traditions in land use and development by, as a minimum:

~~;(a) providing for mana whenua / tangata whenua to express and their relationship with their culture, ancestral lands, water, sites, wāhi tapu, and other taonga; and~~

(b) recognising taonga and sites and areas of significance, awa and moana and important places where mana whenua / tangata whenua practice Mātauranga Māori, including marae and urupā.

3.12 Policy 55: Providing for appropriate urban expansion – consideration

263. As notified, Policy 55 reads:

<p>Policy 55: <u>Providing for appropriate urban expansion – Maintaining a compact, well-designed and sustainable regional form – consideration</u></p>	
<p>When considering an application for a resource consent, or a change, variation or review of a district plan for <i>urban</i> development beyond the region’s <i>urban areas</i> (as at March 2009 August 2022), particular regard shall be given to whether:</p> <p>(a) the <i>urban proposed development</i> is the most appropriate option to achieve Objective 22 <u>contributes to establishing or maintaining the qualities of a well-functioning <i>urban environment</i>, including:</u></p> <p style="margin-left: 20px;">(i) <u>the <i>urban development</i> will be well-connected to the existing or planned urban area, particularly if it is located along existing or planned transport corridors;</u></p> <p style="margin-left: 20px;">(ii) <u>the location, design and layout of the proposed development shall apply the specific management or protection for values or resources identified by this RPS, including:</u></p> <ol style="list-style-type: none"> 1. <u>Avoiding inappropriate subdivision, use and development in areas at risk from natural hazards as required by Policy 29,</u> 2. <u>Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values as identified by Policy 23,</u> 3. <u>Protecting outstanding natural features and landscape values as identified by Policy 25,</u> 4. <u>Protecting historic heritage values as identified by Policy 22,</u> 5. <u>Integrates <i>Te Mana o Te Wai</i> consistent with Policy 42,</u> 6. <u>Provides for climate resilience and supports a low or zero carbon transport network consistent with Policies CC.1, CC.4, CC.10 and CC17.</u> 7. <u>Recognises and provides for values of significance to <i>mana whenua / tangata whenua</i>,</u> 8. <u>Protecting <i>Regionally Significant Infrastructure</i> as identified by Policy 8; and</u> <p>(b) the <i>proposed urban development</i> is consistent with any <i>Future Development Strategy</i>, or the Council’s regional or local strategic growth and/or development framework or strategy that describes where and how future <i>urban development</i> should occur in that district or region, should the <i>Future Development Strategy</i> be yet to be released; and/or</p> <p>(c) a structure plan has been prepared; and/or</p> <p>(d) <u>Any <i>urban development</i> that would provide for significant development capacity, regardless of if the development was out of sequence or unanticipated by growth or development strategies.</u></p> <p><u>Explanation</u></p> <p><u>Policy 55 gives direction to the matters that must be considered in any proposal that will result in urban development occurring beyond the region’s existing urban areas. This includes ensuring that the qualities and characteristics of a well-functioning <i>urban environment</i> are provided for through clause (a), which includes recognising values or resources identified elsewhere in the RPS.</u></p>	

264. Policy 55 is a consideration policy that provides direction to greenfield development beyond existing urban zones. The Policy informs the consideration of proposals for consents, plan changes, variations and reviews, and NoRs and applies to all greenfield development, including plan changes to out-of-sequence or unanticipated developments. The aim is to ensure all greenfield development can demonstrate its contribution to a compact, well-designed, resilient, accessible and environmentally responsive regional form.

3.12.1 Submissions, Evidence and Analysis

265. There were 34 original and 24 further submissions on Policy 55.

266. As the Reporting Officer says, “the intent of Policy 55 is to send a clear signal that greenfield development must be able to provide for a well-functioning urban environment, maximise the efficient use of existing infrastructure, and be able to provide any new infrastructure that may be necessary to support the development”.¹⁵²

267. WCC wanted references to resource consents in Policies 55, 56, 57 and 58 deleted on the basis that it is inappropriate for RPS policies to direct decision-making at the consent level and instead, they should seek to provide regional direction which is implemented through district plans. We note that in a Memorandum dated 8 September 2023, the Manager for WCC’s District Planning team advised that WCC’s submission did not have sufficient scope to address matters of importance to WCC, but their planning evidence was within the scope of other territorial authorities’ submissions, and/or Kāinga Ora.¹⁵³

268. The Maunsell Family Trust and UHCC sought the deletion of the dates in the chapeau (ie “as at August 2022”) so that the current urban extent was not set at a point in time. The Officer supported this relief and explained that the urban extent changes over time and including a date reduced the responsiveness of the Policy.¹⁵⁴ The same relief applies to Policy 56.

¹⁵² Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 515.

¹⁵³ Memo from Michael Duindam, Manager District Planning, Wellington City Council, to Chair RPS Hearing Panel, 8 September 2023, Hearing Stream 4.

¹⁵⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 38, lines 1892 – 1899, (Reporting Officer, Ms Zöllner);

3.12.1.1 Relationship to the FDS

269. We support the amendment to require the FDS to be “had regard to”, rather than a “consistency with” requirement. This supports the change sought by Mr Jeffries for WCC in his evidence¹⁵⁵ (although we note WCC has no scope to seek this change) and gives better effect to the NPS-UD. The amendment also accepts in part, PPFL’s relief. Mr Lewandowski, presenting PPFL’s planning evidence, observed that a private plan change that is unanticipated or out of sequence will, by definition, not be consistent with a FDS.¹⁵⁶ At the Hearing Ms Zöllner stated that a development that was unanticipated or out-of-sequence could try to demonstrate it was consistent with the strategic direction in the FDS, and that this was appropriate for a consideration policy.¹⁵⁷
270. We put the question to Officers in Minute 14 whether a requirement for greenfield development to be “consistent with” the FDS gives proper effect to the NPS-UD. The Officers said that clause 3.17 of the NPS requires planning documents to have regard to the relevant FDS, but that direction does not apply to consents or NoRs. However, because Policy 55 applies to plan changes and reviews as well as consents and NoRs, they supported the wording “consistent with” be replaced with “has regard to”. We agree with that change.
271. Mr Jeffries for WCC raised concerns about the relationship between the FDS and the HS4 provisions. He showed wording from the draft FDS at the Hearing which raised, in his view, a conflict regarding influence and application of the FDS. He said Policy 55, and its direction regarding the FDS, went beyond what is required to give effect to Policy 8 of the NPS-UD¹⁵⁸ which requires local authorities to be responsive to plan changes that would add significantly to development capacity and contribute to well-functioning urban environments.
272. The FDS 2024 – 2054 has now been adopted. Page 9 describes how areas will be prioritised for development. It lists five areas (in order of priority):¹⁵⁹
- a. Areas of importance to iwi for development

¹⁵⁵ Hearing Transcript, HS4 – Urban Development, Day 2, page 20, lines 989 – 990.

¹⁵⁶ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.20.

¹⁵⁷ Hearing Transcript, HS4 – Urban Development, Day 1, page 68, lines 3447 – 3457.

¹⁵⁸ Hearing Transcript, HS4 – Urban Development, Day 2, page 21, lines 1039 – 1070.

¹⁵⁹ Wellington Regional Leadership Committee, Future Development Strategy 2024 – 2054.

- b. Areas along strategic public transport network corridors with good access to employment, education and active mode connections
 - c. Priority Development Areas
 - d. Within existing rural towns around current and proposed public transport nodes and strategic active mode connections
 - e. Greenfield development that are well connected to existing urban areas and can be easily serviced by existing and currently planned infrastructure, including public and active transport modes, and where the location and design would maximise climate and natural hazard resilience supporting low-carbon lifestyles.
273. The FDS says that any areas not specifically identified as priorities for development may still be appropriate to develop according to local needs and constraints but will not be prioritised at a regional level.
274. Ms Rotherham and Ms Kelly from the Wellington Leadership Committee presented to us at the hearing on the FDS. They said that the FDS, which had now been completed and endorsed by Council, focused development within the existing urban footprint, with a few greenfield extensions.¹⁶⁰ They confirmed that development outside of the Otaki urban extent would not meet one of the FDS development priorities, and that capacity for 65,000 homes had been identified through their analysis of district plans and strategies within the region and Horowhenua.¹⁶¹

3.12.1.2 Structure plans

275. Clause (c) of Policy 55 had initially required a structure plan to be prepared and approved by the relevant council, or prepared by the council in partnership with mana whenua / tangata whenua. Mr Lewandowski for PPFL noted that a private plan change application could not meet this part of the Policy as it does not have a structure plan prepared and approved by a council. The Officer accepted this and recommended deleting these particular words from (c) and instead requiring a structure plan to be prepared to a level of detail commensurate to the scale of the urban development. We support this change.
276. Ātiawa sought an amendment to Policy 55(c) to require structure plans to be prepared in partnership with mana whenua / tangata whenua, to ensure

¹⁶⁰ Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2392 – 2394.

¹⁶¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 45, lines 2513 – 2521.

involvement during the design and development phase. The Officer has accepted this relief where structure plans are undertaken by a local authority. We support that change.

277. We recommend an amendment in clause a.2(iii) to refer to “planned” new or upgraded transport infrastructure which we consider gives better effect to the direction in Objective 6 of the NPS-UD regarding integration with infrastructure planning and funding, and Objective 3(b) regarding areas of an urban environment being well-serviced by existing or planned public transport.

3.12.1.2 Adjacent

278. Mr Lewandowski for PPFL sought that the word “adjacent” in Policy 55(a)(2)(i) is replaced with “well-connected” as the notified wording could require development to be located directly next to existing urban areas.¹⁶² The Officer did not support this amendment. Counsel for Council, although discussing a different provision in HS4, stated at the hearing that caselaw has established that “adjoining” means directly next to, and “adjacent” means nearby.¹⁶³ We understand from Counsel’s comments that there is discussion in cases as to how close “nearby” is, but “adjacent” is not as strict as “adjoining”. We consider Mr Lewandowski’s suggestion to use the word “well-connected” would result in a circular interpretation given that Policy 55(a)(2) is giving meaning to what “well-connected” means. Given that “adjacent” does not mean ‘immediately next to’, we support retaining the word “adjacent”. We discussed Counsel’s comments with Mr Lewandowski at the hearing. He said that the term “well-connected” is used in clause 3.8 of the NPS-UD and he was concerned that the Officer’s Rebuttal evidence was saying that a ‘direct connection’ was required but he did get some assurance from caselaw on the word “adjacent”.¹⁶⁴
279. In our view the requirement to be adjacent to “existing *urban zones*” also allays some of Mr Lewandowski’s concerns and it is open for the Council to interpret “well-connected along transport corridors” as meaning “adjacent to existing urban zones” in Policy 55(1)(2)(a). Further, as Ms Zöllner states in her Rebuttal Evidence, Policy 55 does not only give effect

¹⁶² Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.25.

¹⁶³ Hearing Transcript, HS4 – Urban Development, Day 1, page 26, lines 1270 – 1274.

¹⁶⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 63, lines 3269 – 3274.

to clause 3.8 of the NPS-UD but it must also be consistent with other provisions in Proposed Change 1.¹⁶⁵

280. Mr Lewandowski sought that the linkage between clauses (c) and (d) should be an ‘or’ rather than an ‘and’.¹⁶⁶ We support the reasoning in Ms Zöllner’s Rebuttal Evidence that structure plans should apply to both private plan changes and resource consents, but that an assessment of scale will determine the level of detail needed.¹⁶⁷ If a consent application for a greenfield development occurs after a private plan change, then the structure plan for the plan change could be referred to quite simply.¹⁶⁸

3.12.1.3 Settlement zones

281. Ms Rojas for UHCC, sought that settlement zones are considered as urban zones. She explained that the settlement zone in Upper Hutt is intended to work around the existing Maymorn Station and provide a density which is symbiotic with the further development of that Station. It has existing multi modal connections, including public transport, to existing urban areas of Upper Hutt and intends to provide a mix of housing typologies, but most development in the Zone would not rely on reticulated services therefore it would not come within the definition of ‘urban development’ and therefore be exempt from Policy 55.
282. The Officer did not consider it appropriate for settlement zones to be considered urban zones as then they would be exempt from Policy 55 and defining them as urban zones would suggest that intensification within them is encouraged.¹⁶⁹ Ms Rojas’ view was that subjecting settlement zones to Policy 55 would present unnecessary hurdles in front of an already zoned and developed area, even though it was partly disconnected from existing urban areas.
283. The Officer’s view is that settlement zones are intended to be rural in National Planning Standards and are not considered to form part of the urban area or be urban zones for the purposes of the RPS. The Officer recommended that to provide more clarity on the issue, the definition of

¹⁶⁵ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 113.

¹⁶⁶ Hearing Transcript, HS4 – Urban Development, Day 1, page 66, lines 3377 - 3381.

¹⁶⁷ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 125.

¹⁶⁸ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 125; see also the discussion at the hearing on this point, Hearing Transcript, HS4 – Urban Development, Day 1, page 67, lines 3391 – 3394.

¹⁶⁹ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, para 97.

rural area is amended to include settlement zones. We agree with the Officer's assessment and analysis.

3.12.1.4 Productive land

284. At the Hearing, Ms Levenson for HortNZ said that Policy 55 provides little protection for rural areas from urban expansion, even though horticultural and highly productive land is often located adjacent to existing urban areas making it vulnerable to urban expansion.¹⁷⁰ We considered giving effect to HortNZ's relief by including a subclause in Policy 55(4), referencing Policy 59 of the RPS which requires particular regard to be given to safeguarding productive capability on Class I and II land. On balance, we think it is better to not recommend this amendment because the protection in the NPS-HPL is arguably stronger (because, among other things it applies to LUC III land), and also because Policy 59 applies anyway, and it may be unhelpful to incorporate this amendment now in the event it could be interpreted as giving (inadequate) effect to the NPS-HPL.
285. Winstone Aggregates' planner, Ms Clarke, supported the amendments in Policy 55 (4)(ix) to protect significant mineral resources from incompatible or inappropriate adjacent land uses, consistent with Policy 60.

3.12.1.5 Relationship with Policy UD.3

286. In Reply Evidence and in response to a question about Policy UD.3, the Reporting Officer said that the actual act of undertaking responsive planning occurs through Policy 55(d) where the development capacity provided by such a plan change is considered, alongside whether it contributes to a well-functioning urban environment and is well-connected along transport corridors.¹⁷¹ We asked Ms Zöllner how a person would know if they satisfied the criteria in (d). She clarified that most realistically, it would be an assessment of the developments that are anticipated in that area over the short to medium term, and infrastructure provision and the FDS may be relevant as well. In our view, the Reply version that links (d) to Policy UD.3 makes a logical and clear connection between the two policies and avoids the risk of inadvertently mis-stating the issues in Policy UD.3 which could lead to interpretation difficulties.

¹⁷⁰ Hearing Transcript, HS4 – Urban Development, Day 2, page 53, lines 2652 – 2657.

¹⁷¹ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4, 24 November 2023, para 151.

287. In Minute 27 we asked the Officer to consider whether any consequential amendments were appropriate to Policy 55 in light of the FDS being adopted in March 2024. In response, the Officer recommended amendments to Policy 55(b) and the Explanation (shown in brown text below), to update references to the FDS. We agree with the Officer's recommendations.

3.12.2 Finding and s 32AA Evaluation

288. We largely agree with the Reporting Officer's recommendations on Policy 55 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend some drafting amendments below to improve readability and clarify the policy intent and to refer to "planned" infrastructure which we consider gives better effect to Objectives 3 and 6 of the NPS-UD. We do not consider there to be any cost implications from these changes.

3.12.3 Recommendation

Policy 55: ~~Managing greenfield development to contribute to well-functioning urban areas and rural areas~~ ~~Contributing to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form~~ ~~Providing for appropriate urban expansion~~ ~~Maintaining a compact, well designed and sustainable regional form—~~ ~~consideration~~

~~When considering an~~ ~~An~~ application for a resource consent, ~~notice of requirement~~, or a change, variation or review of a district plan for *urban development* beyond the region's ~~existing urban zones~~ ~~urban areas (as at March 2009~~ ~~August 2022)~~, will contribute to ~~its contribution to~~ ~~achieving a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form~~ ~~shall be determined by~~ ~~if~~ particular regard shall be given to ~~whether~~:

a) ~~the location, design and layout of~~ the *urban* ~~proposed development is the most appropriate option to achieve Objective 22~~ ~~contributes to~~ ~~establishing or maintaining the qualities of a well-functioning urban environment, including:~~

1. ~~contributes to well-functioning urban areas, as articulated in Policy UD.5; and~~
2. ~~(i) the urban development will be~~ ~~is~~ well-connected to the existing ~~or planned urban area, particularly if it is located which means it:~~
 - i) ~~is adjacent to existing urban zones~~ ~~urban areas~~ with access to employment and amenities, and ~~either,~~
 - ii) ~~is~~ along existing or planned ~~multi-modal~~ transport corridors that provide for multi-modal transport options, including

- public transport, or
- iii) supports the efficient and effective delivery of planned new or upgraded transport infrastructure including for public transport services; and
3. concentrates building heights and densities to:
- i) maximise access to, and efficient use of, existing development infrastructure; and
- ii) use land to be zoned urban-zoned land efficiently; and
- iii) support viable and vibrant neighbourhood, local, town, metropolitan and city centres; and
- iv) support reductions in greenhouse gas emissions by use of travel using low and zero-carbon emission transport modes, including efficient provision of public transport services; and
4. ~~(ii) the proposed development proposal shall~~ applies the specific management or protection for values or resources identified required by this Regional Policy Statement, including:
- i) Avoiding inappropriate Managing subdivision, use and development in accordance with the areas at risk from natural hazards as required by Policy 29,
- ii) Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values as identified by Policy 23,
- iii) Protecting outstanding natural features and landscape values as identified by Policy 25,
- iv) Protecting historic heritage values as identified by Policy 22,
- v) Integrates Giving effect to Te Mana o Te Wai consistent with Policy 42
- vi) Providing for climate-resilience and supporting a low and or zero-carbon multi-modal transport network consistent with Policies CC.1, CC.4, CC.4A, CC.910, CC.14 and CC.14A7,
- vii) Recognises and providing for mana whenua / tangata whenua values, including their relationship with their culture,

~~ancestral lands, water, sites, wāhi tapu and other taonga for values, of significance to mana whenua / tangata whenua~~

- viii) ~~Protecting Regionally significant infrastructure from incompatible or inappropriate adjacent land uses, consistent with as identified by~~ Policy 8,
- ix) ~~Protecting significant mineral resources from incompatible or inappropriate adjacent land uses, consistent with Policy 60,~~
- x) ~~Managing effects on natural character in the coastal environment, consistent with Policy 36; and~~

~~(b) it the proposed urban development has regard to is consistent with any the Wellington Region Future Development Strategy or, if the Future Development Strategy has not been notified, the Council's regional or local strategic growth and/or development framework or strategy that describes where and how future urban development should will occur in that district or region, should the Future Development Strategy be yet to be released; and/or~~

~~(c) a structure plan has been prepared to a level of detail commensurate to the scale of the urban development, in partnership with mana whenua / tangata whenua where undertaken by a local authority and approved by the relevant city or district council, or prepared by the relevant city or district council in partnership with mana whenua / tangata whenua and in consultation with the regional council; and/or~~

~~(d) for a plan changes, it would add significantly to development capacity in accordance with Policy UD.3, even if it is out of sequence with planned land release or unanticipated by the district plan., if it is:~~

- ~~1. — in the form of a plan change, and~~
- ~~2. — in a city or district containing part or all of an urban environment, and~~
- ~~3. — in accordance with Policy UD.3.~~

~~Any urban development that would provide for significant development capacity, regardless of if the development was out of sequence or unanticipated by growth or development strategies.~~

Explanation

Policy 55 gives direction to the matters that must be considered in any proposal that will result in urban development occurring beyond the region's existing urban areas, which is any greenfield development. This includes involves ensuring that Objective 22 is

~~achieved. the qualities and characteristics of a well-functioning urban environment are provided for through clause (a), which includes managing values or resources as required identified elsewhere in the RPS.~~

Policy 55 seeks that greenfield developments demonstrate appropriate development densities to use the new urban-zoned land efficiently. They should also be located, zoned, laid out, and designed to best support existing urban development or existing or new centres (for example through mixed use zoning) and provide for low and zero-carbon travel, to support compact, connected, climate-resilient, diverse and low-emission neighbourhoods.

Clause (b) requires consideration to be given to the consistency of the development with the *Future Development Strategy* which will look to deliver well-functioning urban environments through a regional spatial plan. ~~To provide for the interim period where the Wellington Region Future Development Strategy is in development, clause (b) also requires consideration to be given to the consistency with any regional or local strategic growth and/or development framework which is currently the Wellington Regional Growth Framework.~~

Clause (c) requires consideration to be given to whether a structure plan has been provided. A structure plan is a framework to guide the development or redevelopment of an area by defining the future development and land use patterns, areas of open space, the layout and nature of *infrastructure* (including transportation links), and other key features and constraints that influence how the effects of development are to be managed.

Clause (d) requires consideration of ~~any proposal a plan change~~ that would add significantly to development capacity, ~~which regardless of whether it is out of sequence or unanticipated by growth or development strategies. This clause~~ gives effect to Policy 8 of the National Policy Statement on *Urban development 2020*. ~~Clause (d) should be considered in conjunction with Policy UD.3:~~

Urban development beyond the region's urban areas has the potential to reinforce or undermine a compact and well designed regional form. The region's urban areas (as at March 2009) include urban, residential, suburban, town centre, commercial, community, business and industrial zones identified in the Wellington city, Porirua city, Lower Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans:

Urban development is subdivision, use and development that is characterised by its planned reliance on reticulated services (such as water supply and drainage) by its generation of traffic, and would include activities (such as manufacturing), which are usually provided for in urban areas. It also typically has lot sizes of less than 3000 square metres:

Examples of growth and/or development frameworks or strategies in the region are:

- The Upper Hutt City Council Urban Growth Strategy
- Wellington City Northern Growth Management Framework
- Porirua City Development Framework


- Kapiti Coast: Choosing Futures Development Management Strategy and local outcome statements contained in the Kapiti Coast Long Term Council Community Plan

Policies 54 and 56 also need to be considered in conjunction with policy 55. In addition, there are also a range of ‘related policies’ in the Regional Policy Statement that set out matters to be considered in order to manage effects on natural and physical resources. Structure planning integrates land use with infrastructure – such as transport networks, community services and the physical resources. Structure planning should also deliver high quality urban design. The content and detail of structure plans will vary depending on the scale of development. Notwithstanding this, structure plans, as a minimum, should address:

- Provision of an appropriate mix of land uses and land use densities
- How environmental constraints (for example, areas at high risk from natural hazards) and areas of value (for example, indigenous ecosystems, rivers, streams and ephemeral streams, wetlands, areas or places with historic heritage, outstanding landscapes, or special amenity landscapes) are to be managed
- Integration with existing and proposed infrastructure services, such as, connections to existing and proposed transportation systems and provision of public and active transport linkages by undertaking an integrated transport assessment
- The integration of the development with adjoining land use activities including measures to avoid, remedy or mitigate reverse sensitivity effects
- Integration of social infrastructure and essential social services as necessary
- Development staging or sequencing
- How the region’s urban design principles will be implemented

3.13 Policy UD.3: Developments that provide for significant development capacity – consideration

289. As notified, proposed Policy UD.3 stated:

Policy UD.3: Responsive planning to developments that provide for significant development capacity – consideration	
<p><u>When considering a change of a district plan for a development in accordance with clause (d) of Policy 55, particular regard shall be given to whether the following criteria is met:</u></p> <p>(a) <u>the location, design and layout of the proposal:</u></p> <p style="margin-left: 20px;">(i) <u>contributes to establishing or maintaining the characteristics and qualities of a well-functioning <i>urban environment</i> identified in Policy 55(a)(ii) and Objective 22.</u></p> <p style="margin-left: 20px;">(ii) <u>is well-connected to the existing or planned urban area, particularly if it is located along existing or planned transport corridors.</u></p> <p style="margin-left: 20px;">(iii) <u>for housing will apply a <i>relevant residential zone</i> or other urban zone that provides for <i>high density development</i> or <i>medium density residential development</i>.</u></p> <p>(b) <u>the proposal makes a significant contribution to meeting a need identified in the latest Housing and Business Development Capacity Assessment, or a shortage identified in monitoring for:</u></p> <p style="margin-left: 20px;">(i) <u>a variety of housing that meets the regional, district, or local shortages of housing in relation to the particular type, size, or format.</u></p> <p style="margin-left: 20px;">(ii) <u>business space or land of a particular size or locational type, or</u></p> <p style="margin-left: 20px;">(iii) <u>community, cultural, health, or educational facilities, and</u></p> <p style="margin-left: 20px;">(iv) <u>the proposal contributes to housing affordability through a general increase in supply or through providing non-market housing, and</u></p> <p>(c) <u>when considering the significance of the proposal's contribution to a matter in (b), this means that the proposal's contribution:</u></p> <p style="margin-left: 20px;">(i) <u>is of high yield relative to either the forecast demand or the identified shortfall,</u></p> <p style="margin-left: 20px;">(ii) <u>will be realised in a timely (i.e., rapid) manner,</u></p> <p style="margin-left: 20px;">(iii) <u>is likely to be taken up, and</u></p> <p style="margin-left: 20px;">(iv) <u>will facilitate a net increase in district-wide up-take in the short to medium term.</u></p> <p>(d) <u>required development infrastructure can be provided effectively and efficiently for the proposal, and without material impact on planned development infrastructure provision to, or reduction in development infrastructure capacity available for, other feasible, likely to be realised developments, in the short-medium term.</u></p> <p><u>Explanation</u> <u>Policy UD.3 provides for responsiveness in considering significant development capacity under Policy 55(d) and outlines the criteria that need to be met for a development to be considered to provide 'significant development capacity' as required by Subpart 2 of the National Policy Statement on Urban Development 2020.</u></p>	

3.13.1 Submissions, Evidence and Analysis

290. Policy UD.3 gives effect to Policy 8 of the NPS-UD and responds to the requirements of clause 3.8 of the NPS-UD. Policy UD.3 applies to plan changes for urban development that are unanticipated by the District Plan, or that have been brought forward from the planned land release.¹⁷² As Ms Zöllner explained at the Hearing, the provision focuses on developments in the short to medium term, as the aim of a responsive planning pathway is to be responsive to developments that can provide significant development capacity now, or soon, as opposed to the long term.¹⁷³
291. Clause 3.8(3) of the NPS-UD requires a regional council to include criteria in its RPS for determining what plan changes will be treated as adding significantly to development capacity. Policy UD.3 specifies this criteria.¹⁷⁴ Policy 3.8(2) of the NPS-UD states that the criteria developed in the RPS must be had “particular regard to” when considering the plan change.
292. We accept that Policy UD.3 is appropriately identified as a “consideration” policy that sits within Chapter 4.2 of the RPS. We also agree with the Officer that it is appropriate for the criteria to be expressed as mandatory requirements that must be met to satisfy the test of providing “significant development capacity”; and then that development capacity can be given particular regard under the responsive planning pathway.¹⁷⁵
293. The Officer recommended two additional criteria through the s 42A Report. The first seeks justification of the need for additional urban-zoned land in that location having considered existing feasible, planned and reasonably expected to be realised development capacity; and the second requires the plan change to demonstrate it will mitigate any potential adverse effects on the ability of existing urban areas and rural areas to be well-functioning, including minimising potential reverse sensitivity effects on the feasibility, affordability, or deliverability of anticipated urban development.

¹⁷² Hearing Transcript, HS4 – Urban Development, Day 1, page 7, lines 299-302.

¹⁷³ Hearing Transcript, HS4 – Urban Development, Day 1, page 30, lines 1521 - 1523.

¹⁷⁴ Ms Zöllner commented at the Hearing that Policy 55, which applies to all greenfield development, gives effect to the other two tests in Policy 3.8 of the NPS-UD (Transcript, line 586).

¹⁷⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 7, lines 304-307.

294. Mr McDonnell for HCC suggested a range of amendments to Policy UD.3 to better implement the NPS-UD and be more concise and directive.¹⁷⁶ Many of these changes were agreed to by the Officer. Some of the key differences are that Mr McDonnell sought that clauses (e) and (f) are deleted, whereas the Officer sought they be retained with amendments. Mr McDonnell considered that these clauses were not consistent with the intent of the relevant clauses in the NPS-UD, and that clause (e) presupposed the final outcome of a plan change, rather than consideration of whether it would be treated as adding significantly to development capacity.¹⁷⁷
295. At the Hearing, some submitters said the criteria were too stringent to provide for responsive planning. Mr Lewandowski for PPFL said that the NPS-UD did not express a prioritisation for development in existing urban zones, nor did it express a preference for medium density and high density housing.¹⁷⁸ Mr Jeffries for WCC also said that the words “medium and high density” should be deleted as Policy 8 of the NPS-UD requires local authorities to be responsive to plan changes without clarification on the type of housing or level of density enabled¹⁷⁹ (although we note WCC accepts it has no scope for this relief).¹⁸⁰ The Officer has recommended the addition of the words “as part of a mix of housing typologies” and Mr Lewandowski accepted at the hearing that these words are helpful.¹⁸¹ Mr Jeffries opined that the change improves the problem from his perspective but does not solve it because it could be interpreted as requiring at least medium density development which could be viewed as meaning at least three stories.
296. We think the Officer’s recommendation to note these forms as part of a mix of housing typologies, gives at least partial effect to submitter relief. The definition of “medium density development” now supported by the Officer, no longer includes reference to “a minimum building height of 3 stories”, so we think there is sufficient flexibility, and will constrain ‘responsive planning’ in the way Mr Jeffries suggests.¹⁸² Mr Jeffries said

¹⁷⁶ Statement of Evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), Hearing Stream 4 – Urban Development, 15 September 2023, para 62.

¹⁷⁷ Statement of Evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), Hearing Stream 4 – Urban Development, 15 September 2023, para 61.

¹⁷⁸ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.54.

¹⁷⁹ Hearing Transcript, HS4 – Urban Development, Day 2, page 22, lines 1077 – 1083.

¹⁸⁰ [HS4-S140-Wellington-City-Council-Memo-Expert-Planning-Evidence-080923.pdf \(gw.govt.nz\)](#).

¹⁸¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 73, lines 3736 – 3752.

¹⁸² Hearing Transcript, HS4 – Urban Development, Day 2, page 22, lines 1088 – 1094.

that it was important to not conflate “enabling” medium density development with “requiring” it and that in some circumstances, substantial housing capacity could be added at lower densities than medium.¹⁸³ We do not think that in the context of Policy UD.3(c), the words “provide for... development” (as part of a mix of housing typologies) requires that development, but rather, the plan change must enable it. We think the final wording recommended by the Officer gives appropriate effect to Policy 8 (which we note references ‘well-functioning urban environments’ in Policy 1, which are environments that have a variety of homes).

297. The Officer also recommended change to Policy UD.3(d) and (e) to refer to “feasible, reasonably expected to be realised” development. Mr Lewandowski said he was concerned that (e) overly elevated the importance of the existing environment.¹⁸⁴ In our view, the Officer’s proposed changes requiring existing feasible, reasonably expected to be realised development capacity within existing urban zones to be considered in the plan change assessment is appropriate and also aligned with clause 3.2(2)(c) of the NPS-UD regarding ‘sufficient development capacity for housing’.
298. Mr Lewandowski sought that Policy UD.3(c)(iii) (which is now (b)) refer to “long term” rather than only short-medium term given the timeframes involved with larger greenfield developments.¹⁸⁵ At the Hearing we discussed with Mr Lewandowski the timeframe in the HBA and that there needed to be a demonstrated demand in the short-medium term. Mr Lewandowski pointed to Objective 6 of the NPS-UD which requires local authorities to make strategic decisions over the medium term and long-term, and that responsive development is also part of Objective 6. In her Rebuttal Evidence, Ms Zöllner said she did not support adding in “long-term” (which is defined in the NPS-UD as between 10 and 30 years) because that creates “too much uncertainty as the Housing and Business Development Capacity Assessment and demand profile could change considerably over 30 years”. The Officer also noted that Objective 7 of the NPS-UD says local authorities have robust and frequently updated information about urban environments and use that to inform planning

¹⁸³ Hearing Transcript, HS4 – Urban Development, Day 2, page 22, lines 1095 – 1101.

¹⁸⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 75, lines 3840 – 3842.

¹⁸⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 73, lines 3722 – 3728

decisions, and PPFL's relief could allow outdated information to be used to inform decisions.¹⁸⁶

299. At the Hearing, we asked the Officer if a plan change could demonstrate that it makes a significant contribution to meeting a need identified in the latest HBA given that there is approximately more than double the capacity enabled through the various IPIs and MDRS provisions. The Officer explained that the provision has to sit independently from what the most recent HBA is saying and that the HBA needs to be reviewed every three years so different situations could arise.¹⁸⁷ That explanation is logical to us and we see no issues with the policy intent in (a). Mr Jeffries for WCC made the point that the purpose of the HBA is to find out if you have minimum capacity, but it does not set an upper limit and to stop zoning once you get to it. The competitive operation of land and development markets does provide greater opportunities for development and potentially improves affordability.¹⁸⁸
300. Mr Smeaton for PCC also cautioned at the Hearing that although the HBA is the source of truth about capacity, whether that capacity will be realised through intensification within existing urban areas is often debateable.¹⁸⁹
301. In response to questioning at the Hearing, the Officer proposed deleting the text in the Introduction which required unanticipated and unresponsive development to be "in places connected to existing urban areas".¹⁹⁰ We consider that deletion appropriate and gives effect in part to relief requested by Summerset and Peka Peka Farm.
302. We questioned the meaning of the phrase "feasible and reasonably likely to be realised developments" with Ms Zöllner at the Hearing. Ms Zöllner explained that they are NPS-UD terms, and "feasible" means commercially viable to develop, and "reasonably expected to be realised" is a smaller subset and are those developments actually expected to be developed in a short to medium term timeframe.¹⁹¹ Ms Zöllner confirmed that the provision is focussing on development capacity in the short to medium term and that is where the housing and business capacity

¹⁸⁶ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 149.

¹⁸⁷ Hearing Transcript, HS4 – Urban Development, Day 1, page 32, lines 1615-161.

¹⁸⁸ Hearing Transcript, HS4 – Urban Development, Day 2, page 23, lines 1137 – 1144.

¹⁸⁹ Hearing Transcript, HS4 – Urban Development, Day 3, page 10, lines 438 – 442.

¹⁹⁰ Hearing Transcript, HS4 – Urban Development, Day 1, page 13, lines 600-603; and see Reply version of Introduction with the text deleted.

¹⁹¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 29, lines 1456-1461.

assessment has the most detailed information. The focus was on plan changes that will be delivered beyond ten years from now.¹⁹² We prefer the drafting in the Officer’s Reply Evidence, repeating the phrase “feasible, reasonably expected to be realised” in both clauses (d) and (e)

303. There was a discussion about the words “in that particular location” in (e). PPFL wanted a broader reference to “in the urban area” which the Officer considered was too broad. We agree with that. The Officer explained that the words “in that particular location” are referring to the level of spatial detail that the HBA and other information sources are referring to.¹⁹³ We are comfortable with that explanation and the phrase “in that particular location”.
304. We also queried whether the phrase “responds to demonstrated demand for housing or business types proposed” in (b)(iii) was broad enough to cover all the types of development acknowledged in the NPS-UD.¹⁹⁴ The Officer supports the wording “land use types proposed” and we agree that is more appropriate.
305. Mr Smeaton presenting PCC’s planning evidence said that in his view, clause (e) was not appropriate as it presupposed the final outcome of a plan change rather than setting out a criterion for whether it adds significantly to development capacity.¹⁹⁵ Mr Smeaton accepted that the NPS-UD requires the Regional Council to set criteria for responsive planning but at the Hearing, he said that Policy UD.4 was setting a “bottom line” that had to be met, and clause 3.8 of the NPS-UD allowed “criteria” to be set, ie “things that you would score against”.¹⁹⁶ We understand the point and consider that this is a matter of the interpretation of clause 3.8(3), which we do consider to be directive. We were assisted by Counsel for the Council’s legal submissions on this point which stated that the use of the words “must be met” is consistent with clause 3.8 of the NPS-UD which directs the Council to set “criteria” for determining what constitutes significant development capacity. As Counsel said, “By their very nature,

¹⁹² Hearing Transcript, HS4 – Urban Development, Day 1, page 30, lines 1515-1519 (Reporting Officer, Ms Zöllner);

¹⁹³ Hearing Transcript, HS4 – Urban Development, Day 1, page 31, lines 1541 - 1542 (Reporting Officer, Ms Zöllner);

¹⁹⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 31, lines 1550 - 1553 (Reporting Officer, Ms Zöllner);

¹⁹⁵ Statement of Evidence of Rory Smeaton on behalf of Porirua City Council (Planning), 15 September 2023, Hearing Stream 4 – para 74.

¹⁹⁶ Hearing Transcript, HS4 – Urban Development, Day 3, page 9, lines 422 – 430.

criteria are something that need to be met”.¹⁹⁷ We agree with Counsel’s submissions that Policy UD.4 gives effect to the NPS-UD by providing a pathway for out-of-sequence or unanticipated development and sets criteria for determining what plan changes will be treated as adding significantly to development capacity.

306. We are satisfied that Policy UD.3 gives effect to the NPS-UD and other relevant direction and it is appropriate that it sets a high bar for out-of-sequence and unanticipated plan changes in order to achieve Objective 22.

3.13.2 Finding

307. We agree with the Reporting Officer’s recommendations on Policy UD.3 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.13.3 Recommendation

Policy UD.3: ~~Responsive planning to P~~plan changes developments that provide for significant development capacity – consideration

~~For local authorities with jurisdiction over part, or all, of an urban environment, W~~when determining ~~considering whether~~ a plan change ~~of a district plan for a urban~~ development in accordance with clause (d) of Policy 55, particular regard shall be given to ~~whether will be treated as adding~~s significantly to development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release, the following criteria ~~is must be met~~:

- ~~(i) — contributes to establishing or maintaining the characteristics and qualities of a well-functioning urban environment identified in Policy 55(a)(ii) and Objective 22;~~
- ~~(ii) — is well-connected to the existing or planned urban area, particularly if it is located along existing or planned transport corridors;~~

~~(a) (b)~~the plan change proposal makes a significant contribution to meeting a need identified in the latest Housing and Business Development Capacity Assessment, or a shortage identified ~~in through~~ monitoring or otherwise for:

- (i) a variety of housing that meets the regional, district, or local shortages of housing in relation to the particular type, size, or format, or
- (ii) business space or land of a particular size or locational type, or
- (iii) community, cultural, health, or educational facilities; and

¹⁹⁷ Legal submissions in reply on behalf of Wellington Regional Council – Hearing Stream 4, 23 November 2023, para 16.1.1.

~~(b) (c)~~ a plan change will make a significant ~~when considering the significance of the proposal's~~ contribution to a matter in ~~(ba)~~ if it ~~;~~; this means that the ~~proposal's~~ contribution:

- (i) is of high yield relative to either the forecast demand or the identified shortfall,
- (ii) will be realised in a timely ~~(i.e., rapid)~~ manner ~~and earlier than any urban development anticipated by the district plan,~~ and
- (iii) ~~responds to demonstrated demand for housing or business~~ the land use types proposed, for the short-medium term in that ~~particular~~ location ~~is likely to be taken up;~~ and
- ~~(iv) will facilitate a net increase in district-wide up-take in the short to medium term;~~

~~(c) (b)~~ ~~(iii)~~ where it provides for housing, the plan change proposal will:

- ~~(i)~~ will apply a relevant residential zone or other urban zone that as part of a mix of housing typologies, provides ~~s~~ for high density development or medium density residential development, and
- ~~(ii)~~ ~~(iv)~~ the proposal contributes ~~s~~ to increasing housing affordability through a general increase in housing choice and supply or through providing non-market housing, and

~~(d)~~ the required ~~development~~ infrastructure can be provided effectively and efficiently for the proposal, and without material impact on ~~the capacity provided by existing or committed development infrastructure~~ ~~planned development infrastructure provision to,~~ or reduction in ~~development infrastructure capacity available for,~~ other feasible, reasonably expected ~~likely~~ to be realised developments, in the short-medium term, and

~~(e)~~ the plan change proposal justifies the need for additional ~~urban-zoned land in that particular location as the most appropriate option to meet housing and business demand,~~ demonstrating ~~including consideration of existing~~ feasible, reasonably expected to be realised ~~realisable~~ development capacity ~~enabled within existing urban zones~~ the urban area, and

~~(f)~~ the plan change proposal can demonstrate it will mitigate any potential adverse effects on the ability of existing ~~urban areas and rural areas to be well-functioning,~~ including by minimising potential ~~reverse sensitivity effects~~ land use conflicts and impacts on the feasibility, affordability, or deliverability of ~~urban development anticipated by the district plan.~~

Explanation

Policy UD.3 ~~provides for responsiveness in considering significant development capacity under Policy 55(d) and~~ outlines the criteria that need to be met for a development to be considered to provide 'significant development capacity' as required by ~~Subpart 2 clause 3.8 (3)~~ of the National Policy Statement on *Urban development* 2020. ~~Responsive planning applies to both greenfield and brownfield (infill/intensification) developments. All of Policy~~

55 will also need to be considered for any out-of-sequence or unanticipated plan change for greenfield development.

For proposals that are providing for housing, they can provide for *high density development* or *medium density development* through a relevant residential zone, a centre zone or a mixed use zone, and by clustering housing to suit the site characteristics if necessary. Development *infrastructure* as referred to in clause (f) includes but is not limited to three waters *infrastructure* and transport *infrastructure*, including low or zero carbon, multi-modal and public transport *infrastructure*.

3.14 Policy UD.5: Contributing to well-functioning urban areas - consideration

308. Policy UD.5 was proposed for inclusion in the s 42A Report. The proposed Policy stated:

Policy UD.5: Contributing to well-functioning urban areas – consideration

When considering applications for a resource consent, or a change, variation or review of a district plan for urban development, including housing and supporting infrastructure, seek to achieve well-functioning urban areas by:

- (a) providing for the characteristics of well-functioning urban environments, in a way that uses urban-zoned land efficiently and, where providing housing, improves housing affordability, quality and choice, including providing for a diversity of housing typologies in close proximity, and
- (b) providing for safe access between housing, employment, services, amenities, green space, and local centres, preferably within walkable catchments and using low and zero-carbon emission transport modes, and
- (c) providing for and protecting mana whenua / tangata whenua values and sites of significance to mana whenua / tangata whenua, and
- (d) avoiding or mitigating potential adverse effects, including cumulative effects, of urban development on the natural environment and the ability to manage, use, and operate existing infrastructure, and
- (e) protecting and enhancing the quality and quantity of freshwater, and
- (f) protecting the operation and safety of regionally significant infrastructure from potential reverse sensitivity effects.

Explanation

Policy UD.5 articulates what contributing to well-functioning urban areas, as sought in Objective 22, means in the Wellington Region. This policy applies to all areas zoned residential, commercial or industrial and all local authorities in the region, and seeks to support the efficient use of urban-zoned land and infrastructure.

Clause (a) references the characteristics of well-functioning urban environments as defined in Policy 1 of the National Policy Statement on Urban development 2020. Meeting clause (a) involves providing for a range of housing typologies, particularly including modest (i.e. small footprint) and multi-unit housing, to contribute to housing affordability and choice. This also includes non-market or partially subsidised affordable housing. Using land in urban areas efficiently means that both brownfield and greenfield development demonstrate compact development patterns.

Clause (d) provides for environmentally responsive and integrated urban development, which uses existing infrastructure efficiently, while also ensuring that the impacts of urban development on existing infrastructure are anticipated and appropriately managed. It requires consideration of how the pattern and location of development might affect the natural environment and provide population densities necessary to the ability to continue to maintain infrastructure.

3.14.1 Submissions, Evidence and Analysis

309. Policy UD.5 sets out the key attributes of well-functioning urban areas. The Policy applies to urban development in “urban areas”, and not just larger areas that meet the definition of “urban environments”.
310. The Policy is a consideration policy that supports the implementation of Objective 22 and the regulatory policy (Policy 31).
311. Policy UD.5 was introduced through the s 42A Report and the Officer explains that it responds to submissions from KCDC and the Regional Council stating that Objective 22 is written more like a policy rather than an objective. The s 42A Report explains the Officer’s view of the social, environmental, cultural and also economic benefits that will stem from the Policy, including through achieving more coordinated and integrated development.¹⁹⁸
312. The Policy sets out the characteristics of well-functioning urban areas that should be ‘sought to be achieved’ in consenting, NoRs, and plan changes/reviews/variations. These characteristics include:
- a. integration with infrastructure (including considering how the pattern and location of development might affect existing infrastructure)
 - b. land use and transport integration
 - c. housing affordability and variety
 - d. safe, multi modal access between housing, employment, services, amenities, green space and local centres
 - e. providing for and protecting mana whenua / tangata whenua values
 - f. protecting regionally significant infrastructure from reverse sensitivity effects
 - g. compact (efficient) use of land.
313. Ātiawa supported the inclusion of clause (c), which has now been renumbered to (d). They also considered that para (e) about “protecting and enhancing the quality and quantity of freshwater” did not fully

¹⁹⁸ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 319.

recognise Te Mana o te Wai, and that urban development must meet the Objective in the NPS-FM to prioritise the health and well-being of water bodies and freshwater ecosystems.¹⁹⁹ The Officer has proposed deleting (e) regarding freshwater, because:

- a. the freshwater policies provide the necessary nuance in implementing NPS-FM direction and this cannot be captured in Policy UD.5
- b. clause (e) is not necessary to support implementation of the freshwater policies in Change 1, and
- c. clause (d), which is now renumbered (e), directs that adverse effects of urban development on the natural environment (which includes freshwater) is avoided or mitigated.

314. While we agree in part, we also consider that ‘avoiding or mitigating adverse effects’ does not give adequate effect to Te Mana o te Wai. We were influenced on this point by Ms Hapeta’s comments provided on behalf of Ngā Hapū o Ōtaki²⁰⁰ and also Ms McCormick’s evidence seeking that Te Mana o te Wai is provided for in the Policy.²⁰¹

315. Therefore, we recommend an amendment to clause (e) referring to Policy 42 (which is in the Freshwater Planning Instrument and is about managing the effects on freshwater and receiving environments from urban development).

316. We appreciated Ms Horrox’ explanation at the Hearing of examples of what would be considered under clause (e) in terms of avoiding or mitigating adverse effects on the natural environment. Mr Horrox referred to stormwater capacity, impacts on flooding and increases in permeable surfacing in the development among other examples.²⁰²

317. Transpower requested that clause (f) refer to “protecting the operation and safety of RSI including from potential reverse sensitivity effects”. The Officer did not support this relief on the basis that the general protection of RSI from direct effects is addressed in Policy 8 of the Operative RPS. We

¹⁹⁹ Ātiawa ki Whakarongotai Charitable Trust, Speaking notes to HS 4, Urban Development – presented by Melanie McCormick, page 2.

²⁰⁰ Hearing Transcript, HS4 – Urban Development, Day 2, page 44, lines 2205 – 2207.

²⁰¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 56, lines 2837 – 2840.

²⁰² Hearing Transcript, HS4 – Urban Development, Day 2, page 40, lines 2002 – 2014.

also note the amendments we have recommended to Policies 7 and 39 as part of HS3.

318. We consider that it is useful to separate infrastructure from clause (e) and provide for it in a separate clause. This could also refer to prioritising the use of existing infrastructure although we have recommended that this is also included in Policy UD.4.
319. Mr Smeaton, presenting planning evidence for PCC, sought that Policy UD.5 be deleted on the basis that it lacks clarity and does not seem to provide additional direction beyond what is already in the RPS. He also thought that it set the bar too high for future urban development, to the extent that most, if not all, development may struggle to meet the Policy.²⁰³ At the Hearing, Mr Smeaton acknowledged that the Officer's changes had improved the Policy and he supported some changes such as the deletion of clause (3) regarding freshwater.²⁰⁴
320. We agree with the Officer that it is important the Policy is retained as there is no consideration policy applying to urban development within existing urban areas to support the implementation of Policy 31.
321. We support the amendment proposed by the Officer to (d) to better recognise s 6, RMA matters – the relationships of mana whenua/tangata whenua to their culture, ancestral lands, water, sites, wāhi tapu and other taonga.

3.14.2 Finding and s 32AA Evaluation

322. We largely agree with the Reporting Officer's recommendations on Policy UD.5 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend a minor drafting amendment in the chapeau to clarify that an 'application' is not made for an NoR. We also recommend a reference to Policy 42 in clause (e) to bring in a stronger focus on freshwater impacts from urban development (which are assessed under Policy 42). We finally recommend that infrastructure is removed from clause (e) and located in a separate clause which also refers to the need to prioritise existing infrastructure where possible. We consider that these amendments are primarily drafting amendments that improve the clarity of the existing policy. The prioritisation of existing infrastructure over new infrastructure is already

²⁰³ Statement of Evidence of Rory Smeaton on behalf of Porirua City Council (Planning), 15 September 2023, para 77.

²⁰⁴ Hearing Transcript, HS4 – Urban Development, Day 3, page 9, lines 396 – 402.

provided for the Officers' Right of Reply recommendations to Policy UD.4 but that is a regulatory policy applying to plan-making, and we consider it helpful to include the provision in the consideration policy.

3.14.3 Recommendation

Policy UD.5: Contributing to well-functioning *urban areas* – consideration

When considering an applications for a resource consent, a notice of requirement, or a change, variation or review of a district plan for *urban development*, including housing and supporting *infrastructure*, seek to achieve well-functioning *urban areas* by:

(a) providing for the characteristics of *well-functioning urban environments*, in a way that uses *urban-zoned land* efficiently; and;

(b) where providing housing, seeks to improve housing affordability, quality and choice; and provide including providing for a diversity of housing typologies in close proximity; and

~~(b)~~(c) providing for safe multi-modal access between housing, employment, services, amenities, green space, and local centres, preferably within *walkable catchments* and using low and zero-carbon emission transport modes; and

~~(e)~~(d) providing for and protecting *mana whenua / tangata whenua values*, and sites of significance to *mana whenua / tangata whenua*, and their relationship to their culture, ancestral lands, water, sites, *wāhi tapu* and other *taonga*; and

(e) avoiding or mitigating potential adverse effects, including cumulative effects, of *urban development on the natural environment*, including in accordance with Policy 42 and the ability to manage, use, and operate existing *infrastructure*; and

(ee) coordinating development with infrastructure while prioritising, where possible, the effective and efficient use of existing infrastructure; and

~~(e)~~ protecting and enhancing the quality and quantity of freshwater; and

(f) protecting the operation and safety of *regionally significant infrastructure* from potential *reverse sensitivity* effects.

Explanation

Policy UD.5 articulates what contributing to well-functioning *urban areas*, as sought in Objective 22, means in the Wellington Region. This policy applies to all areas zoned residential, commercial or industrial and all local authorities in the region, and seeks to support the efficient use of urban-zoned land and *infrastructure*.

Clause (a) references the characteristics of well-functioning *urban environments* as defined in Policy 1 of the National Policy Statement on *Urban development 2020*. Meeting clause (a) involves providing for a range of housing typologies, particularly including

modest (i.e. small footprint) and multi-unit housing, to contribute to housing affordability and choice. This also includes non-market or partially subsidised affordable housing. Using land ~~in urban areas~~ efficiently means that both brownfield and greenfield development demonstrate compact development patterns.

Clause ~~(de)~~ provides for *environmentally responsive* and integrated *urban development*, which manages impacts on freshwater in accordance with Policy 42. Clause (ee) requires ~~uses~~ existing *infrastructure to be used* efficiently, while also ensuring that the impacts of *urban development* on existing *infrastructure* are anticipated, *coordinated* and appropriately managed. It requires consideration of how the pattern and location of development might affect the natural environment and provide population densities necessary to the ability to continue to maintain *infrastructure*.

3.15 Policy 56 – Managing development in *rural areas* – consideration

323. The notified amendments to Policy 56 stated:

Policy 56: Managing development in rural areas – consideration
<p>When considering an application for a resource consent or a change, variation or review of a district plan, in <i>rural areas</i> (as at March 2009 August 2022), particular regard shall be given to whether:</p> <ul style="list-style-type: none">(a) the proposal will result in a loss of productive capability of the rural area, including cumulative impacts that would reduce the potential for food and other primary production and reverse sensitivity issues for existing production activities, including extraction and distribution of <i>aggregate</i> minerals;(b) the proposal will reduce aesthetic and open space values in <i>rural areas</i> between and around settlements;(c) the proposals location, design or density will minimise demand for non-renewable energy resources; and(d) the proposal is consistent with <u>any Future Development Strategy, or the city or district regional or local strategic growth and/or development framework or strategy that addresses future rural development, should the Future Development Strategy be yet to be released</u>; or(e) in the absence of such a framework or strategy, the proposal will increase pressure for public services and infrastructure beyond existing infrastructure capacity.
<p><u>Explanation</u></p> <p><u>Policy 56 recognises the tension that exists between urban and rural development on the fringe of urban areas and seeks to manage this tension such that well-functioning urban environments and urban areas are established and maintained.</u></p> <p>Policy 56 addresses development in the region’s rural areas. This policy relates to urban development and rural residential development.</p> <p>Rural areas (as at March 2009) include all areas not defined as the region’s urban areas (as at March 2009).</p> <p>The region’s urban areas (as at March 2009) include urban, residential, suburban, town centre, commercial, community, business and industrial zones identified in the Wellington city, Porirua city, Lower Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.</p>
<p>Settlements are clusters of residential lots.</p> <p>Demand for non-renewable energy resources can be minimised by locating residential developments close to public transport services, through energy efficient design and on-site use of renewable energy resources.</p>

3.15.1 Submissions, Evidence and Analysis

324. Policy 56 applies to urban development in the rural area (ie urban development beyond existing urban areas), and also rural development in rural areas.²⁰⁵ It focuses on the effects of urban and rural residential development in rural areas. The policy applies to consent applications or district plan changes, variations or reviews. It is appropriate for the policy to sit within Chapter 4.2 as a regulatory “consideration” policy.
325. UHCC stated that mixed use development can happen, particularly in settlement zones in rural areas. Settlement zones come within the definition of “rural areas” and the explanatory text to Policy 56 says that the Policy applies to urban development and rural residential development, including potential mixed-use development within a settlement zone. This text is not within the Policy itself, but given the Policy applies broadly to “subdivision, use, and development” it would apply to a wide range of proposals and activities. Ms McGruddy for WFF said that the Policy was intended to be about rural residential development and the wording should clarify this intent, or otherwise retain the operative version which adequately manages development in rural areas.²⁰⁶
326. We do not agree that it is not appropriate for Chapter 3.9 to address development in rural areas. The chapter is about regional form, and the amendments relating to managing development in *rural areas*, are not just about ensuring “compact form” but also “function” (see the amendments proposed by the Officer to Issue 5). As part of its integrated management function, the Regional Council is able to include provisions to achieve well-functioning *rural areas*. We disagree with Ms McGruddy that the focus of the provisions is “density done well”²⁰⁷ as they respond to a broader range of issues including urban development in rural areas.
327. KCDC had sought for the reference to the FDS to be deleted from the Policy. We agree with the Officer that the reference to the FDS should be retained. The FDS informs strategic planning to achieve well-functioning urban environments including in future urban areas (clause 3.13 of the NPS-UD), therefore it is relevant to rural residential growth and tier 1 and 2 local authorities are required to have regard to it under clause 3.17 of the

²⁰⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 15, lines 613-614 (Reporting Officer, Ms Zöllner)

²⁰⁶ Hearing Transcript, HS4 – Urban Development, Day 2, pages 26 - 27, lines 1312 – 1392.

²⁰⁷ Hearing Transcript, HS4 – Urban Development, Day 2, page 30, lines 1487 – 1491.

NPS-UD. We understand that this development is development “other than urban development” and therefore agree with the Officer’s recommended amendments in his Rebuttal evidence to delete “rural residential” from Policy 56(i)i and replace it with “other development”. We also agree with the recommendations in the Officer’s response to Minute 27 to update references to the FDS in clause (i)i.

328. We considered whether the Policy should apply to NoRs and could, therefore relate to irrigation infrastructure. We accept the Officer’s view that there is no scope to make this change.²⁰⁸
329. We support the reframing in (b) to “minimises the potential for reverse sensitivity issues” on production activities including extraction of aggregate, and note this is supported by Ms Clarke in her planning evidence for Winstone Aggregates.²⁰⁹
330. HortNZ [S128.049] sought that Policy 56 is amended to enable the use of highly productive land. PPFL sought that clause (a) be deleted on the basis that the NPS-HPL provisions have immediate effect and provide an interim framework until the RPS maps highly productive land.²¹⁰ We acknowledge the Officer’s careful consideration of HortNZ’s relief in Reply Evidence which notes that while the NPS-HPL must be given effect to in the RPS, not doing so through Change 1 does not pose a significant risk given the interim protection provided in the NPS.²¹¹ We have addressed this issue in various other provisions in Proposed Change 1 and consider that Policy 56(a) is appropriate in this context. However, we recommend amending the clause to refer to “productive capacity” rather than “productive capability” as we consider this is more aligned with the recommendation we have suggested to Issue 2, Objective 22 and also the language in the Officers’ Reply which refers to “productive capacity in the context of subdivision, use and development”.²¹²

²⁰⁸ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 108.

²⁰⁹ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, Hearing Stream 4 – Urban Development, 19 September 2023, para 8.0.

²¹⁰ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peka Farm Limited – Hearing Stream 4 – Urban Development, October 2023, para 5.32.

²¹¹ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, paras 19 – 32.

²¹² Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, paras 30, 26, 28.

3.15.2 Finding and s 32AA Evaluation

331. We largely agree with the Reporting Officer’s recommendations on Policy 56 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend a minor drafting amendment to clause (a) to refer to the productive “capacity” of the rural area. This is a minor drafting amendment that does not change the policy intent but is more aligned with the amendments we recommended to Issue 1 and Objective 22 which both refer to “productive capacity”. We also recommend the word “and” is included at the end of clause (e) to continue the same sentence structure as the other clauses in the Policy.

3.15.3 Recommendation

Policy 56 – Managing development in rural areas - consideration

When considering an application for a resource consent or a change, variation or review of a district plan for subdivision, use, and development in rural areas ~~(as at March 2009)~~August 2022, seek to manage impacts-adverse effects on rural areas by considering whether the proposal: particular regard shall be given to whether:

- (a) ~~the proposal will result in a loss of~~ retains the productive ~~capability~~ capacity of the rural area, including cumulative impacts that would reduce the potential for food and other *primary production* ~~and reverse sensitivity issues for existing production activities, including extraction and distribution of aggregate minerals; and~~
- (b) minimises the potential for results in ~~reverse sensitivity issues, including on existing production activities, and extraction and distribution of aggregate minerals operations; and~~
- (c) ~~(b) the proposal will reduce~~ retains or enhances the amenity aesthetic, cultural and open space values in rural areas between and around settlements; and
- (d) provides for mana whenua / tangata whenua values, including the relationship with their traditions, ancestral lands, water, sites, wāhi tapu and other taonga; and
- (e) ~~(c) the proposal’s location, design or density will~~ supports reductions in greenhouse gas emissions ~~minimises demand for non-renewable energy resources through appropriate location, design and density of development; and~~ and
- (f) is climate-resilient; and
- (g) gives effect to Te Mana o Te Wai; and
- (h) for urban development, is consistent with Policy 55; and
- (i) ~~(d) for other development rural residential, the proposal~~
 - i. has regard to is consistent with any the Future Development Strategy, or, if the Future Development Strategy has not been notified, the city or district Council’s regional or local strategic growth and/or development framework or strategy that addresses future rural development urban development in that

- ~~district or region, should the *Future Development Strategy* be yet to be released;~~ or
- ii. ~~where inconsistent with the *Future Development Strategy* in the absence of a framework or strategy, the proposal would~~ increase pressure for public services and *infrastructure* beyond existing *infrastructure* capacity; and
(j) for urban development, is consistent with Policy 55.

Explanation

Policy 56 ~~considers *urban development* and rural residential development within the region's *rural areas*, including potential *mixed use development* within a settlement zone. The policy seeks to ensure rural development occurs in a manner that maintains the rural environment's character and values, and recognises that development in the rural area can lead to the cumulative erosion of the productive capability of the rural area if not appropriately managed.~~

~~The policy also seeks to ensure that reverse sensitivity issues are appropriately considered, and that the amenity, open space, and mana whenua values of the rural area are maintained. Where development in the rural area occurs, it should be consistent with the relevant growth strategy or framework to ensure that rural residential development achieves well-functioning *rural areas* and aligns with the desired *regional form*. Development should also be *climate-resilient* to ensure that rural communities and future urban communities are able to respond to the effects of climate change.~~

~~recognises the tension that exists between urban and rural development on the fringe of *urban areas* and seeks to manage this tension such that well-functioning *urban environments* and *urban areas* are established and maintained.~~

Policy 56 addresses development in the region's rural areas. This policy relates to *urban development* and rural residential development.

Rural areas (as at March 2009) include all areas not defined as the region's *urban areas* (as at March 2009).

The region's *urban areas* (as at March 2009) include urban, residential, suburban, town centre, commercial, community, business and industrial zones identified in the Wellington city, Porirua city, Lower Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.

3.16 Policy 57 – Integrating land use and transportation

332. As notified, Policy 57 reads:

Policy 57: Integrating land use and transportation – consideration
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, for subdivision, use or development, <u>require land use and transport planning within the Wellington Region is integrated in a way which:</u></p> <ul style="list-style-type: none">(a) <u>supports a safe, reliable, inclusive and efficient transport network;</u>(b) <u>supports connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity;</u>(c) <u>minimises private vehicle travel and trip length while supporting mode shift to public transport or active modes and support the move towards low and zero-carbon modes;</u>(d) <u>encourages an increase in the amount of travel made by public transport and active modes;</u>(e) <u>provides for well-connected, safe and accessible multi modal transport networks while recognising that the timing and sequencing of land use and public transport may result in a period where the provision of public transport may not be efficient or practical;</u>(f) <u>supports and enables the growth corridors in the Wellington Region, including:</u><ul style="list-style-type: none">(i) <u>Western Growth Corridor – Tawa to Levin;</u>(ii) <u>Eastern Growth Corridor – Hutt to Masterton;</u>(iii) <u>Let’s Get Wellington Moving Growth Corridor.</u> <p><u>to the following matters, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy:</u></p> <ul style="list-style-type: none">(a) whether traffic generated by the proposed development can be accommodated within the existing transport network and the impacts on the efficiency, reliability or safety of the network;(b) connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;(c) whether there is good access to the strategic public transport network;(d) provision of safe and attractive environments for walking and cycling; and(e) whether new, or upgrades to existing, transport network infrastructure have been appropriately recognised and provided for. <p>Explanation</p> <p><u>Progress towards the Wellington Regional Land Transport Plan key outcomes cannot be achieved by that Strategy alone. Subdivision, use and development decisions also</u></p> <p><u>need to consider impacts on the Strategy’s outcomes. Policy 57 lists matters that need to be given particular regard when considering all proposals that affect land transport outcomes. It seeks to align with the Wellington Regional Land Transport Plan and support decarbonising the transport system in the Wellington Region.</u></p> <p>Progress towards the Wellington Regional Land Transport Strategy key outcomes cannot be achieved by that Strategy alone. Subdivision, use and development decisions also need to consider impacts on the Strategy’s outcomes.</p>

~~Policy 57 lists matters that need to be given particular regard when considering all proposals in terms of their effect on land transport outcomes.~~

~~The Wellington Regional Land Transport Strategy key outcomes are:~~

- ~~• Increased peak period passenger transport mode share~~
- ~~• Increased mode share for pedestrians and cyclists~~
- ~~• Reduced greenhouse gas emissions~~
- ~~• Reduced severe road congestion~~
- ~~• Improved regional road safety~~
- ~~• Improved land use and transport integration~~
- ~~• Improved regional freight efficiency~~

~~The strategic public transport network is those parts of the region's passenger transport network that provide a high level of service along corridors with high demand for public transport.~~

~~Locations with good access to the strategic public transport network include those:~~

- ~~• Within reasonable walk times to stops or stations on the strategic public transport network (research indicates a walk time of up to 10 minutes is 'reasonable')~~
- ~~• With frequent and reliable public transport services~~
- ~~• With accessibility, by public transport, to key destinations in the region~~
- ~~• Without physical barriers to public transport (for example, busy roads, lack of footpaths or crossing facilities, steep hills)~~

3.16.1 Submissions, Evidence and Analysis

333. Parents for Climate Aotearoa [S71.002], Finn Hall [S74.004], Steven Ensslen [S19.002, VUWSA [S75.002] and several other submitters sought integration between urban development and transport to reduce transport emissions associated with new urban development.
334. In the s 42A Report, the Reporting Officer explains that Policy 57 intends to ensure development is occurring in the appropriate areas to minimise private vehicle travel and promote connectivity to the public transport network,²¹³ whereas Policy 58 has a broader focus on all development infrastructure including transport infrastructure.
335. In Minute 14 we asked the Officer to liaise with the Climate Change Transport subtopic Officer to discuss whether any integration-related amendments were required to Policy 57 and/or Policy CC.9. The Officer recommended some minor drafting amendments only, but stated the following regarding the relationship between the two provisions:²¹⁴

²¹³ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 854.

²¹⁴ Reporting Officer Right of Reply of Mika Zöllner and Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4 – 24 November 2023, para 120.

I acknowledge that Policy CC.9 speaks to maximising mode shift from private vehicles to public transport whilst Policy 57(f) speaks to minimising private vehicle use and trip length whilst supporting mode shift to public transport. However, I consider that the wording of Policy 57 is appropriate to be retained. In my opinion minimising private vehicle use and trip length is appropriate direction when considering the integration of land use and transport, including from a spatial perspective where development should be located where the connectivity with public services or activities and key centre of employment and retail activity is supported, as per clause (e). This contributes to achieving well-functioning urban environments.

I do not consider that the policy should be exclusively focused on maximising public transport use as per the wording of Policy CC.9, which is more appropriate given the purpose of Policy CC.9 in reducing greenhouse gas emissions from transport, which maximising public transport use can achieve as well as supporting mode shift to walking and cycling which is also addressed through Policy CC.9.

336. On the basis of this advice, we consider there is an important and distinct role for Policy 57 that is focused on integration with low and zero-carbon modes, integration with the wider transport network and minimising private vehicle travel and trip length.
337. Various submitters opposed the proposed amendments to Policy 57 and said that it duplicated other policies in the RPS or addressed matters outside the control of TAs. Some submitters said it would be too onerous to require the Policy apply to resource consent applications and that integration of land use and transport planning can best occur at the plan provision level. Mr Smeaton on behalf of PCC clarified at the Hearing that while he did not have too many concerns with the concepts in Policy 57, there were other regulatory policies which covered this and so it would be unnecessary duplication and add to the consenting burden to require a consent application to also set out the assessment required in this Policy.
338. Mr Heale for Kāinga Ora supported the addition of “well-designed” to Policy 57(d). We agree with this amendment. DAST [S116.002 and S116.004] sought that the Policy be amended to require a quantitative assessment of mode shift options and a health assessment of transport.

215

²¹⁵ Hearing Transcript, HS4 – Urban Development, Day 3, pages 7- 8, lines 325 – 343; 363 – 371.

The Officer said it would be up to the consent processing officer to determine if the information provided with an application is sufficient to address the matters in Policy 57 commensurate with scale/location, and that a health assessment is beyond the scope of the RMA. We agree with this assessment but note that we have recommended amendments to Policy CC.1 in the Climate Change provisions to require council take into account the health benefits of active transport modes when developing provisions to meet the requirements of Policy CC.1.

339. Kāinga Ora had sought inclusion of the Johnsonville Rail Line in Policy 57(e). The Officer has recommended “rapid transport network” be included, and Mr Heale accepts that this includes the Johnsonville Rail line.²¹⁶ We understand this change incorporates Kāinga Ora’s relief satisfactorily.
340. The Officer explained in the s 42A Report that there are no regulatory policies under the regional form chapter of Change 1 or the operative RPS which relate to integrating land use and transport, although Policies CC.2 and CC.3 in the Climate Change provisions relate to transport demand from new development. The Officer said that until district plans give effect to these climate change provisions, Policy 57 will provide this direction at the resource consent level and this is an important function of consideration policies in the RPS.²¹⁷ The Officer further explained the policy intent in this way:²¹⁸

When a district or city council receives a resource consent application, I consider that the matters detailed under this policy are relevant considerations to ensure growth in the region is not only achieving well-functioning urban environments and areas, but also ensuring that where development occurs, the opportunities for integration with the transport network are being realised. I consider this also applicable for notices of requirement, for example a new designation for a school, which should be integrated with the wider transport network.

341. In terms of application to the Wairarapa Councils, the Officer acknowledged that the public transport network within the Wairarapa is not as extensive as in other areas but that public transport is still available

²¹⁶ Speaking Notes of Matt Heale for Kāinga Ora, HS4 RPS – 4 October 2023, para 22.

²¹⁷ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 841.

²¹⁸ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 842.

and development in these areas should still be seeking to achieve integration with the public transport network that does exist with benefits including access for people to a range of transport modes which can support additional investment in the network. The Officer also notes the flexibility in application of the Policy and that this meant it did not only need to apply to urban areas or areas proposed for urban expansion as proposed by WFF.

342. In his Rebuttal Evidence, the Officer recommended accepting the amendments proposed by Ms Heppelthwaite on behalf of Waka Kotahi to set out the different statutory considerations / weighting that apply to resource consents, NoRs and plan changes in the chapeau. We do not recommend these amendments are made as they make the phrasing and structure of the Policy very different from other policies in Chapter. We consider that the amendments recommended by the Officer in HS2 to the Introduction to Chapter 4.2 appropriately sets out the statutory requirements for consideration policies. The Officer says that the amendments he supports will provide for stronger direction at the change, variation or review of a district plan level for integrating land use and transport planning with positive social, environmental and economic effects associated with achieving integration.²¹⁹
343. However, we consider that the policy intent can be retained using the same construction as other consideration policies. It may lead to interpretation issues if Policy 57 takes a different construction in the chapeau. The RMA statutory assessments apply so that a plan change must give effect to Policy 57 in accordance with s 75(3) of the RMA. In addition, as there is no ‘application’ for a NoR or change, variation or review, we recommend the chapeau read: “When considering an application for a resource consent, a notice of requirement, or a change, review or variation of a district plan, seek to achieve...”. We also consider that the Officer’s recommendation to include the word “require” in Policy 57(3) conflicts with evidence in the s 42A Report where the Officer notes (in relation to Policy 58) that using “require” in consideration policies conflicts with the direction provided in the amended introductory text to Chapter 4.2.²²⁰

²¹⁹ Statement of Rebuttal Evidence of Owen Jeffreys on behalf of Wellington Regional Council, Hearing Stream 4 – Urban Development, 25 September 2023, para 58.

²²⁰ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 884.

344. We also recommend some drafting amendments to provide clearer direction on what we consider is needed to achieve integrated transport and land use. We consider these amendments give better effect to Objective 3 of the NPS-UD which refers to areas of an urban environment being well-serviced by existing or planned public transport, and Policy 1 regarding characteristics of well-functioning urban environments, including that planning decisions support reductions in greenhouse gas emissions and have “good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport” (Policy 1(c)). We consider that reference should be made in the Policy to public services and amenities, rather than activities, as we understand the intent is to refer to schools, libraries, etc as public services, and parks, sports venues, galleries, cinemas, etc as amenities. We recommend this wording is used consistently in new clause (ba) and (d).
345. We understand that the ‘Let’s Get Wellington Moving’ Corridor referred to in clause (e) is no longer an active programme of work. We do not consider there is scope to remove this from the clause, although Council may be able to make that amendment under clause 16(2), Schedule 1.

3.16.2 Finding and s 32AA Evaluation

346. We largely agree with the intent of the Reporting Officer’s recommendations on Policy 57 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend drafting amendments to the chapeau to align the policy with the drafting in other consideration policies, and to simplify the drafting in the clauses so they express the policy intent more clearly and concisely while retaining the key elements and alignment with the NPS-UD (in particular Objectives 3, 6 and Policy 1). We do not consider that the amendments we recommend change the policy intent. We consider the word “amenities” is more consistent in new clause (d) and should replace “activities” and we support retaining the reference to ‘maximising mode shift’ in the Policy but including the concept in clause (a).

3.16.3 Recommendation

Policy 57 – Integrating land use and transportation – consideration

~~When considering an application for:~~

~~(a) (1) a resource consent have regard to, or:~~

~~(b) (2) A notice of requirement have particular regard to, or;~~

~~(c) (3) a change, variation or review of a district plan, for subdivision, use or development, require, seek to achieve~~

When considering an application for a resource consent, a notice of requirement, or a change, review or variation of a district plan, seek to achieve integrated land use and transport integration between land use and transport planning within the Wellington Region ~~is integrated in a way which to by:~~

~~(a) locating development in areas near centres and well-served by existing or planned public transport, to minimise where private vehicle travel and trip length and maximise mode shift to public transport or active modes is minimised; and~~

~~(b) maximising mode shift from private vehicles to public transport or active modes; and~~

~~(b) supporting connectivity with, and accessibility to or provision of access to, public services or activities amenities, key centres of employment activity or retail activity via public and active transport networks; and~~

~~(c) supporting a safe, reliable, equitable, inclusive and efficient transport network including through connections with the wider transport network; and~~

~~(c) minimises private vehicle travel and trip length while supporting mode shift to public transport or active modes and support the move towards low and zero-carbon modes; and~~

~~(d) encourages an increase in the amount of travel made by public transport and active modes;~~

~~(d)(e) provides for well-connected, well-designed, safe and accessible multi-modal transport networks while recognising that the timing and sequencing of land use and public transport may result in a period where the provision of public transport may not be efficient or practical; and~~

~~(e) Providing safe and accessible multi-modal transport networks along connected routes that are designed for public and active transport, while recognising that the delivery of public transport services may not always be efficient or practical;~~

~~(e)(f) supports and enables the rapid transport network and the growth corridors in the Wellington Region as illustrated in Figure 3, including:~~

- ~~i. Western Growth Corridor – Tawa to Levin;~~
- ~~ii. Eastern Growth Corridor – Hutt to Masterton;~~
- ~~iii. Let's Get Wellington Moving Growth Corridor; and~~

~~(f) (f) minimising the potential for reverse sensitivity effects on the safe and efficient operation of transport corridors.~~

to the following matters, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy:

- a. whether traffic generated by the proposed development can be accommodated within the existing transport network and the impacts on the efficiency, reliability or safety of the network;
- b. connectivity with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;
- c. whether there is good access to the strategic public transport network;
- d. provision of safe and attractive environments for walking and cycling; and
- e. whether new, or upgrades to existing, transport network *infrastructure* have been appropriately recognised and provided for.

Explanation

Progress towards the Wellington Regional Land Transport Plan key outcomes cannot be achieved by that Strategy alone. Subdivision, use and development decisions also need to consider impacts on the Strategy's outcomes. Policy 57 lists matters that need to be given particular regard when considering all proposals that affect land transport outcomes. It seeks to align with the Wellington Regional Land Transport Plan and support de-carbonising the transport system in the Wellington Region.

~~Progress towards the Wellington Regional Land Transport Strategy key outcomes cannot be achieved by that Strategy alone. Subdivision, use and development decisions also need to consider impacts on the Strategy's outcomes.~~

~~Policy 57 lists matters that need to be given particular regard when considering all proposals in terms of their effect on land transport outcomes.~~

~~The Wellington Regional Land Transport Strategy key outcomes are:~~

- ~~• Increased peak period passenger transport mode share~~
- ~~• Increased mode share for pedestrians and cyclists~~
- ~~• Reduced greenhouse gas emissions~~
- ~~• Reduced severe road congestion~~
- ~~• Improved regional road safety~~
- ~~• Improved land use and transport integration~~
- ~~• Improved regional freight efficiency~~

~~The strategic public transport network is those parts of the region's passenger transport network that provide a high level of service along corridors with high demand for public transport.~~

~~Locations with good access to the strategic public transport network include those:~~

- ~~• Within reasonable walk times to stops or stations on the strategic public transport network (research indicates a walk time of up to 10 minutes is 'reasonable')~~
- ~~• With frequent and reliable public transport services~~

- ~~With accessibility, by public transport, to key destinations in the region~~

~~Without physical barriers to public transport (for example, busy roads, lack of footpaths or crossing facilities, steep hills)~~

3.17 Policy 58 – Co-ordinating land use with development and operation of *infrastructure* – consideration

347. The notified amendments to Policy 58 stated:

<p>Policy 58: Co-ordinating land use with development and operation of infrastructure – consideration</p>
<p>When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan for subdivision, use or development, <u>require all new urban development including form, layout, location, and timing is sequenced in a way that:</u></p> <p>(a) <u>the development, funding, implementation and operation of infrastructure serving the area in question is provided for; and</u></p> <p>(b) <u>all infrastructure required to serve new development, including low or zero carbon, multi modal and public transport infrastructure, is available, or is consented, designated or programmed to be available prior to development occurring.</u></p>
<p>particular regard shall be given to whether the proposed subdivision, use or development is located and sequenced to:</p> <p>(a) — make efficient and safe use of existing infrastructure capacity; and/or</p> <p>(b) — coordinate with the development and operation of new infrastructure.</p> <p>Explanation</p> <p><u>Policy 58 requires development to be sequenced such that infrastructure that is necessary to service the development will be provided before the development occurs. This includes both three waters infrastructure and transport infrastructure that would be necessary to support the development.</u></p> <p>Subdivision, use and development, (including infrastructure) decisions have a direct bearing upon or relationship to the sequencing and development of new infrastructure, including new infrastructure for the electricity transmission network and the region’s strategic transport network. The region’s strategic transport network is described in the Wellington Regional Land Transport Strategy 2007-2016.</p>

3.17.1 Submissions, Evidence and Analysis

348. There were 23 original submissions and 7 further submissions on the Policy.

349. The focus in the Policy is on ensuring urban development is supported by the necessary infrastructure.

350. Ātiawa wanted to ensure that all infrastructure, whether for an existing or new development, needs to be provided in a way that is sequenced appropriately for the development.²²¹ At the Hearing, Ms McCormick seemed to acknowledge that the provision needed to have some balance

²²¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 58, lines 2958 – 2959.

as infrastructure for new developments may not always be provided ahead of the development occurring.²²² We consider the amendments the Officer supports provide an appropriate balance and Ms McCormick supported the rationale.

351. Mr Lewandowski raised concerns about a new development needing to be serviced by all *infrastructure* which, given the broad definition of the term in the Operative RPS, would include public transport, and that was something essentially out of a developer’s hands.²²³ Mr Jeffreys confirmed in his Reply that the definition of *Infrastructure* includes “structures for transport on land by cycleways, rail, roads, walkways, or any other means” and the explanation to Policy 58 refers to “low or zero carbon, multi modal and public transport infrastructure”, so this is included in the scope of the Policy.
352. Various submitters questioned whether the direction in the Policy was beyond the functions of TAs or consent applicants. The Officer said in the s 42A Report that the Policy does not require public transport or other infrastructure to be delivered by either a council or applicant, but TAs are “responsible for ensuring that urban development is located where it can be supported by the appropriate infrastructure”.²²⁴ The Officer also said that Objective 6 of the NPS-UD seeks to ensure decisions on urban environments are integrated with infrastructure planning and funding decisions, and Objective 3, Policy 1 and Policy 3 also support urban development to be serviced by infrastructure and intensification to occur in locations which are supported by existing and planned public transport.
353. The Officer said that although the Policy applies to all urban development of any scale, including infill development, if there is existing servicing in place then the policy direction would be met.²²⁵
354. Ms Horrox for WWL sought that Policy 58(a) refer to “optimising”. The Officer considered that the addition of the word “effective” was clearer. We agree with that change and it was supported by Ms Horrox at the Hearing.²²⁶ Mr Slyfield presenting legal submissions for WWL queried whether Policy 58(b) added any benefit and the words “provides for” may

²²² Hearing Transcript, HS4 – Urban Development, Day 1, page 58, lines 2962 – 2967.

²²³ Hearing Transcript, HS4 – Urban Development, Day 1, page 71, lines 3617 – 3637.

²²⁴ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 881.

²²⁵ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 887.

²²⁶ Hearing Transcript, HS4 – Urban Development, Day 2, page 36, lines 1792 – 1793.

not be appropriate. The Officer recommends retaining (b) as clause (c) does not encompass funding or operation of infrastructure, but proposes an amendment so it is clearer that ‘provision must be made’ for these matters, rather than requiring that they must be provided for.²²⁷ We consider that change appropriate.

355. Ms Penfold for Wellington Water provided some useful context at the Hearing regarding the way in which Wellington Water works with developers to ensure as far as possible, alignment between development and the provision of three waters infrastructure. Ms Penfold said that if there was a situation where infrastructure could not be delivered in a timeframe appropriate to service the development, those concerns could be expressed through the process and Policy 58 provides a policy backdrop to encourage Council to take a firm stance.²²⁸

356. Ms Hapeta’s statements at the hearing on the issue of infrastructure provision were also insightful:²²⁹

Ōtaki is not ready for the major planned urban growth in our district. With instruction from central government to enable urban growth without appropriate infrastructure place first is a terrible way to work. To increase housing and bank on the revenue of rates to put infrastructure in place later, or to catch-up with infrastructure is too late in our opinion. We cannot be assured that measures will happen in time. It is neglectful to entire communities. Our schools are at maximum numbers, let alone parks where children play etc. We are requesting that urban development is prohibited where adequate infrastructure is not in place. It feels like developers and councils lead the direction of planning, which we would like to see change. We urge the Regional Policy Statement and subsequent plans ensures the wellbeing of the community, taiao, wai are in place first to cope with anticipated numbers. We ask you to support our request to do things in the right sequence and care for our taiao first. That is the responsible thing to do.

357. We consider that this evidence summarises the key issues the Policy is seeking to address. For the reasons set out under Policy 57, we do not consider it appropriate, or that it aids interpretation, to set out the RMA

²²⁷ Statement of Rebuttal Evidence of Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4, 25 September 2023, paras 76 – 77.

²²⁸ Hearing Transcript, HS4 – Urban Development, Day 2, pages 38 – 39, lines 1926 – 1951.

²²⁹ Hearing Transcript, HS4 – Urban Development, Day 2, page 46, lines 2302 – 2318.

statutory tests in the chapeau. We recommend similar amendments to Policy 57 and that the introductory text to Chapter 4.2 (in HS2) summarise the RMA requirements. We recommend the word “application” is deleted from the chapeau as there are no applications for NoRs or plan reviews etc.

358. We consider the Officer’s amendments appropriately capture infrastructure that has been programmed to be delivered, but we recommend one further amendment to reflect the Officer’s statement in his Rebuttal Evidence (in response to Mr Smeaton’s evidence) that there can be “significant timeframes between development and infrastructure delivery”.²³⁰ We recommend clause (c) acknowledge the timing and staging of development that may occur.

3.17.2 Finding

359. We largely agree with the Reporting Officer’s recommendations on Policy 58 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend amendments to the chapeau to align the policy with the drafting in other consideration policies, and to amend clause (c) to refer to timing and staging considerations which were discussed by some submitters. We consider this aligns the clause with Policy 57(g) which refers to the timing and sequencing of land use and public transport. We do not consider that the amendments we recommend change the policy intent.

3.17.3 Recommendation

Policy 58 - Co-ordinating land use with development and operation of *infrastructure* – consideration

~~When considering an application for:~~

~~(a) (1) a resource consent have regard to, or;~~

~~(b) (2) Aa notice of requirement have particular regard to, or;~~

~~(c) (3) a change, variation or review of a district plan, for subdivision, use or development, require, seek to achieve~~

~~When considering an application for a resource consent, a notice of requirement, or a change, review or variation of a district plan, seek to achieve development that is integrated with infrastructure, for subdivision, use or development, require, seek to the co-~~

²³⁰ Statement of Rebuttal Evidence of Owen Jeffreys on behalf of Wellington Regional Council – Hearing Stream 4, 25 September 2023, para 73.

ordination of *urban development* and *infrastructure* integration including form, layout, location, and timing is sequenced in a way that:

- (d) (a) makes effective, efficient and safe use of existing *infrastructure* capacity; and
- (e) (b) makes provisiones is made for the development, funding, implementation and operation of *infrastructure* serving the area in question is provided for; and
- (f) (c) all *infrastructure* required to serve new development; including low or zero carbon, multi modal and public transport *infrastructure*; is available, or is able to be delivered in a timeframe appropriate to service the development and this may require timing or staging development accordingly. or is consented, designated or programmed to be delivered, through a long-term plan, transport plan or Infrastructure Strategy commensurate to the scale and type of infrastructure. available. prior to development occurring.

particular regard shall be given to whether the proposed subdivision, use or development is located and sequenced to:-

(a) make efficient and safe use of existing *infrastructure* capacity; and/or

(b) coordinate with the development and operation of new *infrastructure*.

Explanation


Policy 58 seeks to avoid isolated ensure *urban development* which is not is appropriately serviced by *infrastructure* necessary for that development. The policy seeks that requires *urban development* to be is sequenced to ensure existing *infrastructure* capacity is efficiently and effectively used and such that *infrastructure* that is necessary to service the development will be provided before the development occurs. This includes both all *infrastructure*, such as three waters *infrastructure* and transport *infrastructure*, including low or zero carbon, multi modal and public transport *infrastructure*, that would be necessary to support the development.

The delivery of publicly funded infrastructure should be planned for through a long-term plan, transport plan, or Infrastructure Strategy, whilst privately funded infrastructure can be delivered through other mechanisms, such as developer agreements and financial contributions. To avoid significant delays between development occurring and infrastructure being provided, the delivery of infrastructure should be appropriately timed to service development.

Subdivision, use and development, (including *infrastructure*) decisions have a direct bearing upon or relationship to the sequencing and development of new *infrastructure*; including new *infrastructure* for the electricity transmission network and the region's strategic transport network. The region's strategic transport network is described in the Wellington Regional Land Transport Strategy 2007-2016.

3.18 Policy 67: Establishing and maintaining the qualities and characteristics of well-functioning urban environments – non regulatory

360. As notified, Policy 67 reads:

<p>Policy 67: Establishing and maintaining the qualities and characteristics of well-functioning urban environments and enhancing a compact, well designed and sustainable regional form – non-regulatory</p>	
<p>To establish and maintain and enhance the qualities and characteristics of well-functioning urban environments a compact, well designed and sustainable regional form by:</p>	
<p>(a) implementing the New Zealand Urban Design Protocol and any urban design guidance that provides for best practice urban design and amenity outcomes, including for high density development and medium density residential development;</p> <p>(b) promoting best practice on the location and design of rural residential development;</p> <p>(c) recognising and enhancing the role of the region’s open space network;</p> <p>(d) encouraging providing for a range of housing types and developments to meet the community’s social, cultural, and economic needs, including affordable housing and improve the health, safety and well-being of the community;</p>	
<p>(e) implementing the actions in the Wellington Regional Strategy for the Regional Focus Areas Future Development Strategy, or the regional and local strategic growth and/or development framework or strategy that describes where and how future urban development should occur in the region; and</p> <p>(f) work together and partner with mana whenua / tangata whenua to prepare papakāinga design guidelines that are underpinned by kaupapa Māori.</p> <p>(g) safeguarding the productive capability of the rural area.</p>	
<p>Explanation</p> <p>Policy 67 supports the non-regulatory measures such as urban design guidance and other best practice guidance in contributing to the qualities and characteristics a well-functioning urban environment.</p> <p>The New Zealand Urban Design Protocol promotes a national cross-sector commitment to the principles of good urban design. It provides access to resources, training and a network of signatories with a range of urban design experience. The New Zealand Urban Design Protocol plays an important role in improving the quality of urban design in the region.</p> <p>Rural residential activities offer investment, development and growth opportunities, but present challenges in terms of rural productivity, provision of infrastructure and sustainable management.</p> <p>Best practice guidance will look at how districts and cities can benefit from rural residential activities while:</p> <ul style="list-style-type: none"> • Maintaining rural economies that are functioning and productive • Managing sensitive environmental and amenity values • Avoiding natural hazards • Considering infrastructure limitations and requirements • Managing urban development and protecting future urban development areas 	

The region's open space network has helped define the region's existing urban form and is a fundamental element of quality of life for residents. The region's open space is managed by a number of organisations, including Wellington Regional Council, the region's district and city councils and the Department of Conservation. Policy 67 seeks to enhance the role of the region's open space network in supporting the region's compact form. This will require authorities to work together and identify gaps and opportunities.

The location of the Regional Focus Areas is shown in Figure 3 below. These are areas predicted to either come under significant development pressure (for example, the northern Waikanae edge and Pauatahanui Inlet) or provide significant development opportunities for a range of land use activities (for example, Porirua, Aotea, Linden and Upper Hutt). They are areas of critical importance to the achievement of a compact and well designed regional form. Developing growth and/or development

....

361. Policy 67 is an operative non-regulatory Policy with amendments proposed in Proposed Change 1 to refer to urban design guidance and other best practice guidance, to contribute to achieving Objective 22. The amendments recognise that non-regulatory actions are required to support the implementation of best practice urban and rural development.

3.16.1 Submissions, Evidence and Analysis

362. A number of submitters requested that Policy 67 be retained as notified or sought no amendment (BLNZ [S78.020], Te Tumu Paeroa [S102.079], Waka Kotahi [S129.029], Fish and Game [S147.082], Kāinga Ora [S158.031], Forest and Bird [S165.091], and Taranaki Whānui [S167.0134]).
363. Other submitters sought amendments including:
- An amendment to clause (a) to include mātauranga Māori (Ātiawa [S131.0116] supported by Ngā Hapū [FS29.232])
 - An amendment to clause (f) to refer to “partnering with mana whenua / tangata whenua” (Rangitāne [S168.0181])
 - Amendment to recognise Muaūpoko connections to Te Whanganui-a-Tara (Muaūpoko [S133.075])
 - Reference to the values of highly productive land, including long-term for food production (HortNZ [S128.054])
 - Amendments to the Explanation to refer to all urban areas in the Region and inclusion of the word “improve” in the Policy (Wellington Regional Council [S137.037]), and
 - Amendments to recognise that intensification should be focused around major centres and rapid transit nodes to support efficient use of infrastructure and create well-functioning and sustainable urban environments (Investore [S154.007] and Stride [S155.005]).

364. HCC [S115.090] opposed the inclusion of non-regulatory policies and methods applying to territorial authorities and sought amendments to make clear that Policy 67 does not apply to city or district councils. PCC [S30.088] sought the deletion of the Policy or its amendment to provide clear and appropriate direction. KCDC [S16.083] thought that the references to high density development and medium density residential development were inconsistent with both the NPS-UD and their Intensification Planning Instrument and growth/ development frameworks and sought that clauses (a) and (e) be deleted.
365. The Reporting Officer considers that Policy 67 provides useful recognition of the role of non-regulatory measures to achieve Objective 22, and considers it should be retained.²³¹ The Officer notes that the RPS has many non-regulatory methods that apply to city and district councils to contribute to delivery of policies. In addition, the Officer says the implementation of Policy 67 through Methods UD.1 and UD.2 is through the Wellington Regional Leadership Committee which includes territorial authorities. The Officer recommends several wording amendments to make it clear that the actions to be implemented through the Policy are non-regulatory only.
366. The Officer considered that some submitter relief was addressed in other (regulatory) policies and some relief sought was not appropriate for a non-regulatory policy. The Officer has responded to other submissions with some rewording of Policy 67, including:
- Inclusion of mātauranga Māori in clause (a)
 - An added paragraph to the Explanation
 - Addition of enhancing to the chapeau and expansion of the chapeau to be more descriptive of sustainable regional form.
367. At the Hearing, Ātiawa sought that Policy 67(f) be amended to refer to “and other urban design guidelines” as mana whenua may have interests in urban development that go beyond papakāinga.²³² We agree with this amendment.

3.16.2 Finding

368. We largely agree with the Reporting Officer’s recommendations on Policy 67 for the reasons above, and otherwise as set out in the Officer’s s 42A

²³¹ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 617.

²³² Hearing Transcript, HS4 – Urban Development, Day 1, page 57, lines 2871 – 2874.

Report, or the Officer's Rebuttal and Reply Evidence. We recommend an amendment to clause (f) to include reference to "other urban design guidelines". This is a minor amendment that we consider does not have any cost implications but will better implement Objective 22(b) as requested by mana whenua / tangata whenua.

3.18.1 Recommendation

Policy 67: Establishing, ~~and m~~Maintaining ~~the qualities and characteristics of well-functioning urban environments and enhancing a compact, well designed, climate-resilient, accessible, and environmentally responsive regional form~~ and sustainable regional form – non-regulatory

To establish, ~~and~~ maintain ~~and enhance a compact, well-designed, climate-resilient, accessible, and environmentally responsive regional form with well-functioning urban areas and rural areas~~ ~~the qualities and characteristics of well-functioning urban environments~~ and sustainable regional form by:

- (a) implementing the New Zealand Urban Design Protocol and any urban design guidance, including mātauranga Māori, that provides for best practice urban design and amenity outcomes, including for *high density development and medium density residential development*; ~~and~~
- (b) promoting best practice on the location and design of rural residential development; ~~and~~
- (c) recognising and enhancing the role of the region's open space network; ~~and~~
- (d) ~~encouraging~~ providing for supporting the provision of a range of housing types and developments to meet the community's social, cultural, and economic needs, including affordable housing, and to improve the health, safety and well-being of the community; ~~and~~
- (e) implementing ~~the non-regulatory~~ actions in the ~~Wellington Regional Strategy for the Regional Focus Areas~~ Wellington Region Future Development Strategy or, the regional and local strategic growth ~~and/or~~ development framework or strategy that describes where and how future *urban development* ~~should will~~ occur in ~~the that district or~~ region; ~~and~~
- (f) ~~work together and~~ partnering with mana whenua / tangata whenua to prepare papakāinga design guidelines and other urban design guidelines that are underpinned by kaupapa Māori; ~~and~~

(g) safeguarding the productive capability of rural areas.

Explanation

Policy 67 supports the non-regulatory measures, such as urban design guidance and other best practice guidance, to in ~~contributing to~~ achieving Objective 22 the qualities and characteristics a well-functioning urban environment.

Policy 67 recognises that non-regulatory actions are required to support the

implementation of best practice urban and rural development. The policy outlines the actions that local authorities in the Wellington Region can undertake to ensure that the way development occurs achieves a compact, well-designed, *climate-resilient*, accessible, and *environmentally responsive regional form*, with well-functioning urban and rural areas.

The *New Zealand Urban Design Protocol* promotes a national cross-sector commitment to the principles of good urban design. It provides access to resources, training and a network of signatories with a range of urban design experience. The *New Zealand Urban Design Protocol* plays an important role in improving the quality of urban design in the region:

Rural residential activities offer investment, development and growth opportunities, but present challenges in terms of rural productivity, provision of infrastructure and sustainable management. Best practice guidance will look at how districts and cities can benefit from rural residential activities while:

- Maintaining rural economies that are functioning and productive
- Managing sensitive environmental and amenity values
- Avoiding natural hazards
- Considering infrastructure limitations and requirements
- Managing urban development and protecting future urban development areas

The region's open space network has helped define the region's existing urban form and is a fundamental element of quality of life for residents. The region's open space is managed by a number of organisations, including Wellington Regional Council, the region's district and city councils and the Department of Conservation. Policy 67 seeks to enhance the role of the region's open space network in supporting the region's compact form. This will require authorities to work together and identify gaps and opportunities.


The location of the *Regional Focus Areas* is shown in Figure 3 below. These are areas predicted to either come under significant development pressure (for example, the northern Waikanae edge and Pauatahanui Inlet) or provide significant development opportunities for a range of land use activities (for example, Porirua, Aotea, Linden and Upper Hutt). They are areas of critical importance to the achievement of a compact and well designed regional form. Developing growth and/or development frameworks or strategies, as identified in the Wellington Regional Strategy, for each of the *Regional Focus Areas* is therefore an important action to be carried out by the relevant district and city councils.

Housing design and the quality of housing developments can have a significant role in improving housing choice and affordability. Different housing types, particularly those that are less land intensive, can offer greater opportunities for more affordable housing. Likewise, housing developments that incorporate, or are well connected to, transport infrastructure and services, employment opportunities and community centres are likely to enhance the social and economic wellbeing of residents.

At present housing in the region generally becomes more affordable with distance from the regional central business district and other places of work. This has negative implications in terms of travel demand, associated living costs, access to employment and community networks. It can also limit economic development opportunities by reducing the ability of businesses to attract and retain a workforce with appropriate skills.

3.19 Method UD.1: Development manuals and design guides

369. As notified, proposed new Method UD.1 reads:

<u>Method UD.1: Development manuals and design guides</u>		
<u>Prepare the following development manuals and design guidance:</u>		
(a)	<u>Urban design guidance to provide for best practice urban design and amenity outcomes in accordance with Policy 67(a);</u>	
(b)	<u>Papakāinga design guidance that are underpinned by Kaupapa which is Māori in partnership with Mana Whenua in accordance with Policy 67(f);</u> <u>and</u>	
(c)	<u>Urban design guidance and development manuals to assist developers in meeting Policy CC.14 and Policy FW.3.</u>	
<u>Implementation: Wellington Regional Council and city and district councils (via the Wellington Regional Leadership Committee)</u>		

370. Method UD.1 is intended to support the policies in Change 1 providing direction to urban design and environmental integration through urban development. Clause (c) recognises the need for guidance to assist with the implementation of new policies in Change 1 on climate-resilience and freshwater.

3.19.1 Submissions, Evidence and Analysis

371. Several submitters requested that Method UD.1 be retained as notified or sought no amendments (eg Te Tumu Paeroa [S102.080], Fish and Game [S147.090], Forest and Bird [S165.0103], WCC [S140.099], MDC [S166.081] (although noting a need for further clarity), and Rangitāne [S168.0183]).

372. Mana whenua submitters generally supported Method UD.1 but sought amendments to clarify the role and involvement of iwi, hapū and Māori, and clarification of mana whenua involvement (Ngāti Toa [S170.074], Ngā Hapū [FS29.188] & [FS29.329], Ātiawa [S131.0122], Taranaki Whānui [S167.0149]. Ātiawa sought a partnership model for the entirety of Method UD.1. Taranaki Whānui [S167.0149] sought that the Method should not restrict mana whenua involvement to papakāinga, which does not represent the full range of Māori interest in development. Ātiawa also sought reference to adequate funding and resourcing.

373. The Reporting Officer agreed with the submissions of Ātiawa, Ngāti Toa and Taranaki Whānui and recommended that that the Method direct partnership with mana whenua / tangata whenua across all matters and

not just for papakāinga design guidance. This amendment would better reflect Policy 9 of the NPS-UD as well as Policy UD.2 and new Objective 22 of the RPS.²³³ The Officer has also added iwi authorities to the Implementation section of the Method.

374. In regard to the request by Ātiawa for reference to funding and resourcing to support the Method, the Reporting Officer advises that funding for work programmes where Council and mana whenua / tangata whenua are working as partners is supplied through Kaupapa Funding Agreements and that it was not necessary for resourcing and funding to be referred to in the Method.
375. Other submitters sought amendments relating to the guidance and development manuals referred to in the Method and that manuals and guides should be prepared where appropriate. The Reporting Officer agrees that the addition of “where appropriate” is useful for clarity and implementation of the Method. The Officer recommends other amendments to support the implementation of Policies CC.4A, CC.14A and through development manuals and design guides. At the Hearing Ātiawa sought a change in the Method to “Kaupapa Māori” rather than “Kaupapa which is Māori”.²³⁴ The Officer has supported this change in the Reply provisions.

3.19.2 Finding

376. We agree with the Reporting Officer’s recommendations on Method UD.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.19.3 Recommendation

Method UD.1: Development manuals and design guides

In partnership with mana whenua / tangata whenua, pPPrepare the following development manuals and design guidance where appropriate:

- (a) Urban design guidance to provide for best practice urban design and amenity outcomes in accordance with Policy 67(a); and
- (b) Papakāinga design guidance that are underpinned by Kaupapa ~~which is Māori~~ in partnership with Mana Whenua in accordance with Policy 67(f);

²³³ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 645.

²³⁴ Hearing Transcript, HS4 – Urban Development, Day 1, page 59, lines 2981 – 2983.

and

- (c) Urban design guidance and development manuals to assist developers to in meeting ~~climate-resilience and freshwater~~ direction outlined in Policy CC.4, Policy CC.4A, Policy CC.14, CC.14A and Policy FW.3, as well as direction to reduce transport emissions associated with subdivision, use and development in Policy CC.9.

Implementation: Wellington Regional Council, ~~and~~ city and district councils ~~and iwi~~ authorities (via the Wellington Regional Leadership Committee)

3.20 Method UD.2: Future Development Strategy

377. As notified, proposed Method UD.2 reads:

Method UD.2: Future Development Strategy
<p><u>Prepare a <i>Future Development Strategy</i> for the Wellington Region in accordance with Subpart 4 of the National Policy Statement for Urban Development 2020. The</u></p>
<p><u><i>Future Development Strategy</i> will set out the high-level vision for accommodating urban growth over the long term, and identifies strategic priorities to inform other development-related decisions, such as:</u></p> <ul style="list-style-type: none">(a) <u>district plan zoning and related plan changes;</u>(b) <u>priority outcomes in long-term plans and infrastructure strategies, including decisions on funding and financing; and</u>(c) <u>priorities and decisions in regional land transport plans.</u> <p><u>The <i>Future Development Strategy</i> will provide a framework for achieving Well-Functioning Urban Environments in the Wellington Region, including specifying how and where future growth will occur to provide for sufficient capacity to meet future growth needs over the next 30 years.</u></p> <p><u><i>Implementation: Wellington Regional Council and city and district councils (via the Wellington Regional Leadership Committee)</i></u></p>

3.20.1 Submissions, Evidence and Analysis

378. The Method directs that a FDS for the Wellington Region is developed in accordance with the NPS-UD.
379. Some submitters supported the Method and asked that it be retained. MDC [S166.080] sought clarification on how the Method applies to tier 3 councils. The Regional Council [S137.056] sought express reference to the impacts of climate change and some iwi submitters sought clarification about the impact on iwi, hapū and Māori.
380. The Officer did not think any amendments were needed in relation to MDC's relief as clause 3.12(4) of the NPS-UD allows tier 3 councils to prepare an FDS if they choose. The purpose of an FDS is to achieve well-functioning urban environments which includes resilience to effects of climate change. The Officer recommends an amendment that identifies that the FDS should support reductions in GHGe.
381. Ātiawa [S131.0135] sought the Method is amended to include reference to hapū and iwi values as well as requiring that the FDS includes provision for Ātiawa tino rangatiratanga and a review of the strategy on the Ātiawa settlement with the Crown. The Officer considered that specific reference to mana whenua / tangata whenua values and aspirations was not needed given the cross-reference in the Method to the NPS-UD which requires the

Council engage with hapū and iwi in preparation of the FDS. The Officer also considered that the other relief sought was not appropriate to be provided for through the Method which directs the preparation of the FDS.

382. As discussed earlier in this Report, we heard a useful presentation at the start of the Hearing about the FDS and also received comprehensive advice from Ms Zöllner in response to questions we asked in Minute 27 about the implications for the Change 1 provisions as a result of the adoption of the FDS earlier this year. We do not consider any amendments are required to this Method in light of that advice and the Method recognises the iterative nature of the FDS.

3.20.2 Finding

383. We agree with the Reporting Officer's recommendations on Method UD.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.20.3 Recommendation

Method UD.2: Future Development Strategy

Prepare a *Future Development Strategy* for the Wellington Region in accordance with Subpart 4 of the National Policy Statement for *Urban development 2020*. The *Future Development Strategy* will set out the high-level vision for accommodating urban growth over the long term, and identifies strategic priorities to inform other development-related decisions, such as:

- (a) district plan zoning and related plan changes;
- (b) priority outcomes in long-term plans and *infrastructure* strategies, including decisions on funding and financing; and
- (c) priorities and decisions in regional land transport plans.

The *Future Development Strategy* will provide a framework for achieving ~~W~~*Well-Functioning Urban environments* in the Wellington Region, including specifying how and where future growth will occur to provide for sufficient capacity to meet future growth needs over the next 30 years, *support reductions in greenhouse gas emissions and provide for climate-resilience.*

Implementation: Wellington Regional Council and city and district councils (via the Wellington Regional Leadership Committee)

3.21 Method UD.3

384. Proposed Method UD.3 was included through the s 42A Report. It read:

Method UD.3: Opportunities for Kaupapa Māori based frameworks for urban development

Partner with mana whenua / tangata whenua to identify opportunities for enabling the development and adoption of Kaupapa Māori based frameworks for urban development.

Implementation: Wellington Regional Council

3.21.1 Submissions, Evidence and Analysis

385. Method UD.3 was proposed by the Officer in the s 42A Report in response to Rangitāne seeking opportunities to apply Kaupapa Māori based frameworks to future urban development.

386. The Officer said that the Method was required to give effect to Policy UD.2 and the NPS-UD, and there were synergies with implementing Method UD.1. In addition, the Officer noted that the outcome of Method UD.3 could potentially feed into future urban development projects such as the FDS which will result in cultural benefits and improve the efficiency and effectiveness of implementation.

387. Ms McCormick for Ātiawa spoke about the Method in this way at the Hearing:²³⁵

that's how we can as mana whenua feed into these processes to ensure that our values and those section 6(3) matters are provided for through urban development... I think that by including this it provides the pathway for mana whenua to be actively involved or to put forward their own developments that support kaupapa Māori or are based in kaupapa Māori or mātauranga Māori.

388. No other evidence was presented on the proposed Method.

3.21.2 Finding

389. We agree with the Reporting Officer's recommendations on Method UD.3 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.21.3 Recommendation

Method UD.3: Opportunities for Kaupapa Māori based frameworks for urban development

²³⁵ Hearing Transcript, HS4 – Urban Development, Day 1, page 59, lines 3002– 3008.

Partner with mana whenua / tangata whenua to identify opportunities for enabling the development and adoption of Kaupapa Māori based frameworks for *urban development*.

Implementation: Wellington Regional Council

3.22 Method UD.4

3.22.1 Submissions, Evidence and Analysis

390. The Officer recommended this Method be included in the RPS through the s 42A Report.

Method UD.4: Definitions of marae and papakāinga

City and district councils will develop a definition of marae and papakāinga in partnership with mana whenua / tangata whenua and include these in their district plans.

Implementation: City and district councils

The Method requires TAs to develop a definition of marae and papakāinga in partnership with mana whenua / tangata whenua. These definitions support Policies UD.1 and UD.2, and the Officer noted in the s 42A Report that some councils had already defined these terms in their plans.²³⁶

3.22.2 Finding

391. We agree with the Reporting Officer's recommendations on Method UD.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.22.3 Recommendation

Method UD.4: Definitions of marae and papakāinga

City and district councils will develop a definition of marae and papakāinga in partnership with mana whenua / tangata whenua and include these in their district plans.

Implementation: City and district councils

²³⁶ Discussed during the Hearing, Hearing Transcript, HS4 – Urban Development, Day 1, page 15, lines 741-749 (Reporting Officer, Mr Jeffreys).

3.23 Table 9

392. Table 9 did not receive any submissions but consequential amendments are necessary as a result of amendments to other provisions, including the addition of new policies (such as Policy UD.4).
393. We recommend that the version of Table 9 in Council's Reply Evidence is adopted with any further consequential amendments required as a result of our recommendations on provisions. We include this version in Appendix 1 which sets out a collated version of the amendments we recommend to the Change 1 provisions.

3.24 Methods 40 – 47

394. Other than Method 46, these Methods were all proposed to be deleted in Proposed Change 1.

3.24.1 Submissions, Evidence and Analysis

395. There were either no submissions on most of the proposed deletions, or where there were some submissions, they supported deletion.

396. There were various submissions on Method 46. Ātiawa sought a reference in the Method to mana whenua / tangata whenua being included as partners, Forest and Bird [S165.0110] sought inclusion of the words “and engaging with stakeholders and the community”, and HCC [S115.0108] opposed the Method including on the basis that the definition of *complex development opportunities* was inadequate and the method was not appropriately support by higher order objectives and policies.

397. The Officer said that complex development opportunities are led by the Wellington Regional Leadership Committee and various projects had been identified in the Region to go through the process and the RPS could not effectively influence them at this stage.²³⁷ The Officer agreed with submitters that the process is underway via a third-party entity and the RPS did not add any value to it. Complex development opportunities may also be replaced by other future growth partnership projects in the future. The Officer recommended Method 46 be deleted and we agree with that recommendation.

398. Ātiawa opposed the deletion of Method 47 and sought that it is retained and amended to include a reference to working in partnership with mana whenua. The Method provided for a regional analysis of the range and affordability of housing in the Region and Ātiawa considered that this was important to understand the concept of well-functioning urban environment. The Officer agreed in principle but said that the Method was not required as an assessment of housing affordability and the competitiveness of housing markets had already been considered through the Regional Housing and Business Capacity Assessment required under the NPS-UD.²³⁸ We agree and recommend that the Method is deleted.

²³⁷ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, paras 632 – 633.

²³⁸ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, para 961.

3.24.2 Findings

399. We agree with the Reporting Officer's recommendations on Methods 40 – 47 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.24.3 Recommendations

Method 40: Sign the New Zealand Urban Design Protocol

Become a signatory to the New Zealand Urban Design Protocol and develop a joint local authority urban design action plan.

Implementation: Wellington Regional Council and city and district councils

Method 41: Integrate public open space

Identify gaps and opportunities to improve integration and use of public open space and develop a regionally agreed action plan.

Implementation: Wellington Regional Strategy

Method 42: Develop visions for the regionally significant centres

Develop a vision for each regionally significant centre identified in policy 30, and formulate a statement about the role that each plays in contributing to an overall vision for the region.

Implementation: Wellington Regional Strategy

Method 43: Develop principles for retail activities

Develop regional principles to manage the location of retail activities that are consistent with the provisions of Policy 30.

Implementation: Wellington Regional Strategy

Method 44: Analysis of industrial employment locations

Analyse factors and trends affecting supply and demand of industrial based employment locations.

Implementation: Wellington Regional Strategy

Method 45: Develop principles for rural residential use and development

Develop regional principles to guide the identification of areas suitable for rural residential development and promote best practice rural residential use and design.

Implementation: Wellington Regional Strategy

Method 46: ~~Develop complex development opportunities~~ ~~Develop strategies or development frameworks for each Regional Focus Area.~~

~~Jointly develop and implement plans and a framework for each Complex Development Opportunity with central government agencies.~~

~~*Implementation: Wellington Regional Council and city and district councils (via the Wellington Regional Leadership Committee)*~~

~~Develop growth and/or development frameworks or strategies for each Regional Focus Area.~~

~~*Implementation: Wellington Regional Strategy*~~

Method 47: ~~Analysis of the range and affordability of housing in the region~~

~~Complete a regional analysis of housing, including range and affordability, and explore with private sector developers innovative housing design and/or developments that increase the range of types and affordability in the region.~~

~~*Implementation: Wellington Regional Strategy*~~

3.25 Anticipated Environmental Results

400. As notified, the anticipated environmental results (AERs) read:

Anticipated environmental results (AER)
<p>1. District plans:</p> <p>(a) contain policies, rules and/or other methods that encourage a range of land use activities to maintain and enhance the viability and vibrancy of the regionally <u>and locally</u> significant centres, including the regional central business district; and</p> <p>(b) identify and contain policies and methods to <u>enable a range of building heights and density, including high and medium density development, encourage higher density and mixed-use activities around key centres and locations with good access to the strategic public transport network.</u></p>
<p>2. There is a <u>typology of housing provided including medium and high density residential, an increase in the density and mix of land use activities in and around the regionally significant centres.</u></p>
<p>3. City and District councils <u>plans contain policies, rules and/or other methods that identify and protect key industrial employment locations, have determined if they have key industrial employment locations, and if they have, they have been identified and protected in district plans.</u></p>
<p>4. <u>High quality, affordable housing and infrastructure is developed in a timely manner to meet growth projections.</u></p> <p>The percentage of residents who agree that "I feel a sense of pride in the way my city looks and feels" is:</p> <p>(a) over 80 per cent in Wellington city; and</p> <p>(b) over 65 per cent for the rest of the region's city's and districts.</p>
<p>5. <u>Urban expansion is carefully planned including occurring in locations and ways that are well connected, support the protection of freshwater ecosystems and improve resilience to the effects of climate change</u></p> <p>5. All new urban development is within the region's urban areas (as at February 2009); or in areas identified for urban development in a district growth frameworks or strategies; or in accordance with a structure plan.</p>
<p>6. <u>Subdivision, use and development assists and supports in the delivery of the key outcomes sought by the Wellington Land Transport Plan.</u></p> <p>6. There is a positive trend towards the 'key outcomes' in the Regional Land Transport Strategy.</p>
<p>7. <u>Actions of the Wellington Regional Growth Framework are enabled and implemented.</u></p> <p>7. All the 'good regional form' actions identified in the Wellington Regional Strategy are implemented.</p>

3.25.1 Submissions, Evidence and Analysis

401. Ātiawa supported the AERs in part and sought additional AERs to align with Objective 22 (enable Māori to express their cultural and traditional norms for providing for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga). Taranaki Whānui [S167.0190] sought the AERs are amended in partnership with mana whenua and that they should include mātauranga Māori. HortNZ [S128.062] sought reference in para 5 to highly productive land.
402. The Officer recommended various amendments in the s 42A Report including in relation to HortNZ’s relief regarding the productive capability of land in para 5. We agree with this amendment but recommend that the words “productive capacity” are used for consistency with Objective 22 and Policy 56. The Officer did not agree with Kāinga Ora’s relief seeking the levels of urban intensification enabled, including building heights around specific centres. We agree with the Officer that this is too prescriptive for an RPS.
403. We note Ms McCormick for Ātiawa supported para 7 in the AER at the Hearing.²³⁹
404. In Minute 23 we asked Council officers to review the AERs across Proposed Change 1. The Officers recommended various amendments to the AERs for Objective 22 in light of amendments recommended to the Objective.²⁴⁰ We agree with these recommendations and consider they are appropriate in light of the further amendments we have recommended in this chapter to Objective 22.

3.25.2 Finding and s 32AA Evaluation

405. We agree with the Reporting Officer’s recommendations on the AERs for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. This does not change the intent or the expression of the outcome intended, but it does use wording that is consistent with Objective 22 and Policy 56 which promotes the interpretation and application of the provisions.

²³⁹ Hearing Transcript, HS4 – Urban Development, Day 1, page 57, lines 2898 – 2900.

²⁴⁰ Response to Questions in Minute 23 and Minute 27, 30 May 2024 and Appendix 1, Assessment of AERs, pages 10 -12.

3.25.3 Recommendations

Chapter 5: Monitoring the Regional Policy Statement and progress towards anticipated environmental results

1. *District plans:*

~~(a) provide sufficient development capacity; and~~

~~(b) (a) contain policies, rules and/or other methods that enable and manage encourage a range of land use activities subdivision, use and development to maintain and enhance the viability and vibrancy of the regionally and locally significant centres, including central Wellington as the main centre of the region the regional central business district; and~~

~~(c) (b) identify and contain policies, rules and/or methods to enable intensification by identifying a range of building heights and urban form densities, including high and medium density development.; and~~

~~(d) contain policies, rules and/or other methods that identify and protect key industrial employment locations.~~

~~encourage higher density and mixed use activities around key centres and locations with good access to the strategic public transport network.~~

2. There is a **range of housing typologies of housing** provided **within neighbourhoods**, including medium and high **density residential, to contribute to housing affordability and choice**. an increase in the density and mix of land use activities in and around the regionally significant centres:

3. City and ~~d~~District councils ~~plans contain policies, rules and/or other methods that identify and protect key industrial employment locations.~~ have determined if they have key industrial employment locations, and if they have, they have been identified and protected in district plans:

~~3. 4.~~ High quality, affordable housing and **supporting infrastructure** is developed in a timely, **integrated** manner to **contribute to well-functioning urban areas and** meet growth projections.

~~The percentage of residents who agree that “I feel a sense of pride in the way my city looks and feels” is:~~

- a. ~~over 80 per cent in Wellington city; and~~
- b. ~~over 65 per cent for the rest of the region’s city’s and districts.~~

~~4. 5.~~ Urban expansion is **compact, strategic and** carefully planned, including occurring in locations and ways that are well connected **and use existing infrastructure efficiently**, supporting the protection of **freshwater ecosystems, retain the productive capacity capability of land**, and **improve resilience** to the effects of climate change.

~~5.~~ All new urban development is within the region’s urban areas (as at February 2009); or in areas identified for urban development in a district growth frameworks or strategies; or in accordance with a structure plan:

~~5. 6.~~ Subdivision, use and development assists and supports in the delivery of the key outcomes sought by the Wellington Land Transport Plan.

6. There is a positive trend towards the ‘key outcomes’ in the Regional Land Transport Strategy:







6.7. Actions and priorities of the *Future Development Strategy Wellington Regional Growth Framework* are enabled and implemented.







7. All the ‘good regional form’ actions identified in the Wellington Regional Strategy are implemented:

7. *Mana whenua / tangata whenua live on and are sustained by their ancestral land in accordance with tikanga Māori, with development providing for the economic and social security of mana whenua / tangata whenua, and the unique history, identity and culture of mana whenua / tangata whenua are respected and given expression in the region.*

3.26 Definitions

406. As notified the Definitions read:

City centre zone	
<u>Has the same meaning as in Standard 8 of the National Planning Standards: Areas used predominantly for a broad range of commercial, community, recreational and residential activities. The zone is the main centre for the district or region.</u>	
Complex development opportunities	
<u>Urban development projects identified by the Wellington Regional Leadership Committee, that:</u>	
(a) <u>support and unlock the significant residential and employment development potential in the Greater Wellington Region.</u>	
(b) <u>will create well-functioning urban environments that are integrated, strategic and responsive, and</u>	
(c) <u>are complex, and working in partnership is required in order to deliver at the desired pace and scale.</u>	
Future Development Strategy	
<u>Means any Future Development Strategy prepared for the Wellington Regional in accordance with Subpart 4 of the National Policy Statement for Urban Development.</u>	
High density development	
<u>Means areas used predominately for commercial, residential and mixed use activities with high concentration and bulk of buildings, such as apartments, and other compatible activities with a minimum building height of 6 stories.</u>	
Marae	
<u>Communal meeting places where significant events are held and decisions made. Marae are important cultural institutions and facilities, and provide a base for hapū and iwi gatherings</u>	
Medium density residential development	
Metropolitan centre zone	
Papakāinga	
<u>A village, ancestral settlement.</u>	

Relevant Residential Zone	
<p>Has the same meaning as in Section 2 of the Resource Management Act 1991:</p> <p>(a) <u>means all residential zones; but</u></p> <p>(b) <u>does not include –</u></p> <p style="padding-left: 20px;">(i) <u>a large lot residential zone;</u></p> <p style="padding-left: 20px;">(ii) <u>an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment;</u></p> <p style="padding-left: 20px;">(iii) <u>an offshore island;</u></p> <p style="padding-left: 20px;">(iv) <u>to avoid doubt, a settlement zone.</u></p>	
Rural areas (as at March 2009)	
<p>The region's rRural areas (as at March 2009) include <u>all areas not identified in the region's urban areas (as at March 2009) rural zones identified in the Wellington city, Porirua city, Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.</u></p>	
Tier 1 territorial authority	
<p>Has the same meaning as in subpart 1.4 of the National Policy Statement for Urban Development 2020: <u>means each territorial authority listed in column 2 of table 1 in the Appendix.</u></p> <p><u>Note: In the Greater this is Wellington Region Wellington City Council, Hutt City Council, Upper Hutt City Council, Porirua City Council and Kapiti Coastal District Council.</u></p>	
Tree canopy cover	
<p>Means vegetative cover of any trees that are greater than <u>3 metres</u> in height and <u>1.5 metres</u> in diameter.</p>	
Urban areas (as at February 2009)	
<p>The region's urban areas (as at February 2009) include <u>residential zones, commercial, mixed use zones urban, residential, suburban, town centre, commercial, community, business and industrial zones identified in the Wellington</u></p> <p><u>city, Porirua city, Lower Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.</u></p>	
Urban environment	
<p>Has the same meaning as in subpart 1.4 of the National Policy Statement for Urban Development 2020:</p> <p><u>means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:</u></p> <p style="padding-left: 20px;">(a) <u>is, or is intended to be, predominantly urban in character; and</u></p> <p style="padding-left: 20px;">(b) <u>is, or is intended to be, part of a housing and labour market of at least 10,000 people.</u></p>	

3.26.1 Submissions, Analysis and Evidence

407. WFF [S163.0106] opposed all amendments to definitions in Proposed Change 1 and sought their deletion. This submission was opposed by Forest and Bird, Ātiawa and Ngā Hapū. BLNZ [S78.040] sought that the

definitions of *city centre zone*, *complex development opportunities*, *future development strategy*, *high density development*, *key centres*, *marae*, *medium density residential development*, *metropolitan centre zone*, *papakāinga*, *regional form*, *regionally significant centres*, *relevant residential zone*, *tier 1 territorial authority*, *tier 1 urban environment*, *urban areas*, and *urban environment* are retained as they are intended to give effect to the NPS-UD.

408. The definition of *tier 1 territorial authority* was inserted directly into the RPS without the use of a Schedule 1 process as required by NPS-UD clause 3.6. The Officer recommended deleting *relevant residential zone* as this was not used in any provisions as a result of amendments recommended to Policy 31 and UD.3 (which we recommend are adopted).

3.26.1.1 *Future Development Strategy, medium density development and high density development, urban environment*

409. The Officer considered it useful to include a definition for *city centre zone* to support its use in Policy 31, and for the definition to be consistent with the National Planning Standards. We agree. We also agree with the definitions proposed in the notified Change document for *Future Development Strategy*, *high density development* and *medium density development* to support the interpretation of policies in Change 1, including Policies 55, 56, UD.3, and 67. The Officer agreed with submitters requesting these definitions be defined more clearly, and be broadened.
410. HCC sought that ‘commercial, residential and industrial’ in the definition of *medium density development* be replaced with ‘urban’ to encompass recreation and community facilities and to reflect that density can be provided for through various different zones. WCC sought that the words “with a minimum building height of six storeys” be deleted from *medium density development*. The Officer agreed as medium-density development enabled by the MDRS could be less than 3 storeys and it was therefore appropriate to remove the reference to a specific number of storeys.
411. WCC and the planning evidence of Mr Jefferies said that the reference to a “minimum building height of 6 storeys” be deleted from *high density development* as this imposes unnecessary rigidity and should instead, factor in density achieved over an area rather than an individual site (which may include development of less than 6 storeys on some sites). The Officer disagreed and said that a reference to building heights is useful in the definition to distinguish it from medium density development and to

align with Policy 3 of the NPS-UD. The Officer supported HCC's suggestion to refer to 'urban activities' and 'anticipated building heights of at least 6 storeys' as this accounts for local variations made by district plans in response to specific issues or qualifying matters.

412. There was one submission from KCDC [S16.087] on the definition of *Future Development Strategy* seeking that the definition clarify that only tier 1 local authorities must prepare a Future Development Strategy. The Officer accepted this relief in part and recommended some further minor amendments to increase clarity.
413. The proposed definition of *urban environment* is the same as the definition in the NPS-UD. We recommend it is retained.

3.26.1.2 *Complex development opportunities*

414. Some submitters requested that *complex development opportunities* be deleted. The Officer agreed and considered the term was not needed as Method 46 was recommended to be deleted (which we agree with).

3.26.1.3 *Regional form*

415. The Officer had recommended that the definition of *regional form* be reinstated to support the amendments to Objective 22. PCC had suggested amendments to the definition, but the Officer preferred wording that recognised the role of transport linkages. In response to a question we posed in Minute 14 relating to linkages 'through' as well as 'between' urban and rural areas, the Officer agreed to a further amendment in Reply Evidence.

3.26.1.4 *Urban areas and urban zones*

416. The definition of *urban areas* was addressed in WCC's submission and planning evidence, and the comment made that the definition was inconsistent with the NPS-UD which, although not including a definition of 'urban areas', does state that 'urban environments' are intended to be predominantly urban in character. WCC sought that the definition of *urban area* therefore include reference to 'future urban areas' and the 'Future Urban Zone'. UHCC said that the definition (together with the definition of *rural areas* left a gap regarding settlement zones).
417. The Officer explained the role of the definition of *urban areas* in her Rebuttal Evidence saying that it had three purposes; defining the current extent of urban zones within which intensification should be enabled and prioritised under Policies 31 and UD.4; defining the current extent beyond

which urban development is considered to be greenfield (and subject to Policy 55); and referring to the Region’s urban areas in a more general sense (ie well-functioning etc).²⁴¹

418. The Officer had originally sought for the definition to focus on existing urban zones within which intensification should be encouraged, but accepted that open space and future urban zones do form part of what could be considered the ‘urban area’ in a more holistic sense. The Officer therefore recommended including a new definition for *urban zones* which lists residential, commercial, mixed use and industrial zones; and broadening the definition of *urban areas* to include open space and recreation zones, future urban zones and relevant special purpose zones. *Urban areas* would therefore be used as part of ‘well-functioning urban areas’ and whenever the concept is referred to in its more general sense. The Officer said that settlement zones are intended to be rural in the National Planning Standards and should not therefore be considered to form part of the urban area or urban zones.

3.26.1.5 *Rural areas*

419. The Officer did not agree with WFF’s submission to amend the definition to say ‘consist of’ [rural zones identified in Wellington City etc] to increase certainty. The Officer did not support using exclusive language but did support including a note with the definition to clarify particular zones were included in the definition of *rural areas*. In Rebuttal Evidence, and in light of evidence presented by UHCC, the Officer also recommended adding settlement zones into the definition.

3.26.1.6 *Walkable catchments*

420. This definition was recommended to be included through the s 42A Report on the Climate Change Transport subtopic (HS3). The Reporting Officer recommended the following definition: “A walkable catchment is an area that an average person could walk from a specific point to get to multiple destinations. A walkable catchment consists of a maximum 20-minute average walk, or as otherwise defined in District Plans”. The Officer then recommended in Rebuttal Evidence that the definition be amended to say “identified by territorial authorities” rather than defined in plans.
421. Planning experts for PCC and Kāinga Ora sought that the definition be addressed in HS4 including to ensure alignment with the NPS-UD and HS4

²⁴¹ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 52.

provisions. The HS3 Reporting Officer agreed that the definition should be further addressed in this topic. The Officer agreed with the amendments proposed by the HS3 Officer as they would improve clarity and minimise the risk of unintended consequences. If a territorial authority has identified locally specific walkable catchments as part of giving effect to NPS-UD Policy 3, the definition as amended allowed for that.

422. Mr Heale for Kāinga Ora sought an amendment to the definition so it referred to “at least a 5 minute and a maximum 20 minute average walk”, and said this would support the intent in the NPS-UD which refers to enabling building heights of at least 6 storeys within ‘at least a walkable catchment’ of various areas (Policy 3). Mr Heale said it was appropriate for the walkable catchment to be at least 5 minutes (and this would not preclude higher density within a 3-minute walk for instance). The Officer did not support Mr Heale’s suggested changes and said that simpler language which could be easily understood in contexts outside of enabling intensification was more appropriate.

3.26.1.7 *Marae and Papakāinga*

423. Proposed Change 1 proposed to delete these definitions. This was opposed by Ātiawa [S131.0160], Taranaki Whānui [S167.0194] and Te Tumu Paeroa [S102.093]. The Reporting Officer said that his understanding of the reason for the proposed deletion is that each iwi may have their own definition of these terms and that it is inappropriate to have a region-wide definition which does not reflect localised differences.²⁴² The Officer also said that Marae and Papakāinga were not in the National Planning Standards, and some district and city plans contained a definition for one or other terms but there were variations in definitions between different plans. The Officer considered that including definitions in the RPS could result in inconsistency with the various definitions used in TAs’ plans, which may have been developed in partnership with mana whenua / tangata whenua.
424. The Officer recommended that the deletions not be re-instated but instead, a new Method is included that directs TAs to develop definitions of marae and papakāinga in partnership with mana whenua / tangata whenua.

²⁴² Section 42A Hearing Report, Hearing Stream 4 – Urban Development, para 1000.

3.26.1.8 *Tree canopy cover*

425. There were no submissions on this definition and it is not discussed in the s 42A Report. The definition was coded to the HS4 topic, but the term only appears in Policy CC.14, which is part of the FPI. The clause in Policy CC.14 which refers to the term refers to urban greening at a range of spatial scales to provide urban cooling, including working towards a target of 10 percent tree canopy cover at a suburb scale by 2030, and 30 percent cover by 2050. There was some planning evidence that raise ‘tree canopy cover’ but it was in the context of the application of the term in Policy CC.14 (ie, the 10 percent tree canopy cover target)²⁴³, or a concern that canopy cover was favoured over other vegetation types as a nature-based solution in Policy CC.14.
426. On this basis, it is appropriate for the definition of *Tree canopy cover* to be considered in this section of the Report by the P1S1 panel. We recommend it is retained as notified.

8.26.1.9 *Environmentally responsive*

427. In the s 42A Report, the Officer said a key aspiration of the regional form, design and function provisions, is that development occurs in a way that is integrated with the natural environment and not at its expense, to achieve the RMA’s sustainable management purpose.²⁴⁴
428. The Officer disagreed with submitters who said the HS4 provisions would unnecessarily constrain urban development. The Officer said that while development capacity is necessary, the RPS must ensure this occurs in an environmentally responsive way.
429. The Officer said the provisions seek to achieve the integrated, sustainable management of the Region’s natural and physical resources, seek to respond to a range of pressures, and influence the way development occurs so that it is environmentally integrated and achieves multiple co-benefits and objectives, and also achieves RMA s 6 matters.²⁴⁵ The Officer recommended in the s 42A Report, amending various policies to include the words “environmentally responsive *regional form*”, including Objective 22, Policies 31, 55 and 67, but had not included a definition for ‘environmentally responsive’.

²⁴³ Statement of Primary Evidence of Victoria Woodbridge on behalf of Kāinga Ora – Homes and Communities, Hearing Stream 3, Climate Change (Planning), 14 August 2023, para 4.11.

²⁴⁴ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, para 182.

²⁴⁵ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, para 95.

430. Mr Smeaton on behalf of PCC said the words were not clear and an example of an ‘empty signifier’ that could mean anything.²⁴⁶ He said that draining a wetland may be environmentally responsive for one particular person.²⁴⁷ Mr McDonnell for HCC similarly said the term ‘environmentally responsive’ was not clear.²⁴⁸
431. In her Rebuttal Evidence, the Officer recommended including a definition of ‘environmentally responsive’, which was to be preferred over the term ‘sustainable’, which the Officer said did not “adequately capture the sensitivity for the context, constraints and features of a particular location”.²⁴⁹ The Officer also said the concept should be broader than purely responding to the environment, and should also convey the need to respond positively. The wording the Officer recommended for the definition was “Designed to respond positively to the natural and cultural values, and the landscape and climatic features, of a place.”
432. At the Hearing, Ms McCormick for Ātiawa said that the definition proposed by the Officer did not adequately recognise the integrated nature of both the natural and built environment. Ms McCormick said the words “responds positively” do not:²⁵⁰
- go far enough to provide protection or recognition of the wider environment, including ecosystem values and cultural values.
433. Ms McCormick suggested the following definition as an alternative:²⁵¹
- Recognises the integrated nature of both the physical and built environment, and provides for the cultural values, natural landscape, health and well-being of the wider environment.
434. In Reply Evidence, the Officer said they agreed the definition could better recognise the interconnectedness between built environments and natural environments, and the words ‘provides for’ are clearer than ‘responds positively’, but that the words “located, designed and implemented” were more appropriate than only “designed” as they

²⁴⁶ Statement of evidence of Rory Smeaton on behalf of Porirua City Council (Planning), 15 September 2023, para 18.

²⁴⁷ Hearing Transcript, HS4 – Urban Development, Day 2, page 8, lines 373 – 375.

²⁴⁸ Statement of evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), 15 September 2023, para 27.

²⁴⁹ Statement of Rebuttal Evidence of Mika Zöllner on behalf of Wellington Regional Council – Hearing Stream 4, 26 September 2023, para 33.

²⁵⁰ Hearing Transcript, HS4 – Urban Development, Day 1, page 57, lines 2887 – 2889.

²⁵¹ Hearing Transcript, HS4 – Urban Development, Day 1, page 57, lines 2893 – 2895.

referred to the location of built environments, and their ongoing construction, operation and change.

435. The definition the Officer recommended was:

Environmentally responsive:

Located, dDesigned and implemented in a way that recognises the inter-relationship between natural and physical resources, and provides for to respond positively to the natural and cultural values, natural landscape and climatic features, and health and wellbeing of a place and its wider environment.

436. In our view, the definition supported by the Officer seems to select particular aspects of Part 2 and not others, and this could lead to unintended outcomes. We also do not think it is necessary to include “health and well-being” in the definition as this is included in Objective 22(e) and Policy 67(d).

437. WIAL [S148.009] requested, as part of its general comments on the HS4 provisions, that the provisions need to appropriately recognise that in some situations, housing developments can be constrained by qualifying matters. Similar relief was sought by Kiwirail Holdings Limited [S124.006] although in relation to Policy 31, and also Kāinga Ora [S158.012] in relation to the Regional form, design and function introductory text.

438. We consider including ‘identified qualifying matters’ in the definition of *environmentally responsive* but considered that because the definition applies to the whole region, it was more appropriate to refer to ‘qualifying matters’ in Policy 31(a) which is specific to Tier 1 authorities. We understand that the intent of the definition of *environmentally responsive* is to ensure that development is sensitive of the context in which it is occurring, and that its adverse environmental effects are managed appropriately. We recommend the definition is amended to more clearly provide for these matters. Limitations on development from biophysical characteristics, location, recognised values and limitations of the land itself are recognised in Objective 22(f), and we consider it appropriate to bring this through into the definition of *environmentally responsive*.

439. We also consider that the words “takes into account” are more appropriate in the definition than “recognises”. In legal submissions provided during HS2, Counsel for the Council stated that ‘take into account’ requires a decision-maker to “consider a factor, and weigh it up

with other factors whilst retaining the ability to give it considerable, moderate, little, or no weight at all as considered appropriate”.²⁵² The direction to “recognise” however, although still direct, does not require a decision-maker to make provision for the factor recognised.²⁵³ On this basis, we recommend that the definition refer to ‘location, design and implementation that takes into account the inter-relationships between natural and physical resources and the context, constraints and opportunities of a place, and appropriately manages environmental effects’. We consider that makes the definition more certain rather than referring to selected values, it gives better effect to Objective 22, and also clearly requires adverse environmental effects to be managed.

3.26.2 Finding and s 32AA Evaluation

440. We largely agree with the Reporting Officer’s recommendations on the definitions coded to Hearing Stream 4 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. We recommend the definition of *environmentally responsive* be amended to refer to the stronger direction to “take into account” rather than “recognise”. We also recommend the selected values listed in the Officer-supported version of the definition be deleted, and replaced with a reference to “identified qualifying matters” which refers to qualifying matters TAs have identified in their plans. Further, we also recommend an amendment to refer to the appropriate management of adverse environmental effects as this clarifies that for something to be environmentally responsive, it must also manage adverse environmental effects. We consider that this drafting more clearly conveys the outcome sought in Objective 22 and the policies that refer to the term *environmentally responsive*.

3.26.3 Recommendation

City centre zone

Has the same meaning as in Standard 8 of the National Planning Standards: Areas used predominantly for a broad range of commercial, community, recreational and residential activities. The zone is the main centre for the district or region.

²⁵² Legal submissions on behalf of Wellington Regional Council – key terminology used and consideration policies in Hearing Stream 2, 23 June 2023, para 4.3, citing *Bleakley v Environmental Risk Management Authority* [2002] 3 NZLR 213 (HC).

²⁵³ Legal submissions on behalf of Wellington Regional Council – key terminology used and consideration policies in Hearing Stream 2, 23 June 2023, para 4.4.

Complex development opportunities:

Urban development projects identified by the Wellington Regional Leadership Committee, that:

(a) support and unlock the significant residential and employment development potential in the Greater Wellington Region;

(b) will create well-functioning *urban environments* that are integrated, strategic and responsive, and

(c) are complex, and working in partnership is required in order to deliver at the desired pace and scale.

Environmentally responsive:

Located, designed and implemented in a way that takes into account recognises the inter-relationships between natural and physical resources and the context, constraints and opportunities of a place, and appropriately manages adverse environmental effects, and provides for to respond positively to the natural and cultural values, natural landscape and climatic features, and health and wellbeing of a place and its wider environment.

Future development strategy:

Means any Future Development Strategy prepared and published for local authorities in the Wellington Region at in accordance with Subpart 4 of the National Policy Statement for *Urban development 2020*.

High density development:

Means areas used predominately for commercial, residential and mixed use urban activities with high concentration and bulk of buildings, such as apartments, and other compatible activities, with a minimum an anticipated building height of at least 6 stories.

Marae

Communal meeting places where significant events are held and decisions made. Marae are important cultural institutions and facilities, and provide a base for hapū and iwi gatherings

Medium density residential development:

Means areas used predominately for commercial, residential and mixed use urban activities with moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments, and other compatible activities; with a minimum building height of 3 stories.

Metropolitan Centre Zone

Has the same meaning as in Standard 8 of the National Planning Standards: Areas used predominantly for a broad range of commercial, community, recreational and residential activities. The zone is a focal point for sub-regional urban catchments.

Papakāinga

~~A village, ancestral settlement.~~

Primary Production:

~~means:~~

- ~~(a) any aquaculture, agricultural, pastoral, horticultural, mining, quarrying or forestry activities; and~~
- ~~(b) includes initial processing, as an ancillary activity, of commodities that result from the listed activities in (a);~~
- ~~(c) includes any land and buildings used for the production of the commodities from (a) and used for the initial processing of the commodities in (b); but~~
- ~~(d) excludes further processing of those commodities into a different product.~~

Regional form:

~~The spatial distribution, arrangement and design of the region's urban areas and rural areas and linkages through and between them, infrastructure networks, open space, and their relationship with natural environment values and features.~~

~~The physical layout or arrangement of our urban and rural communities and how they link together. For example, transport networks (e.g. roads, rail, ports), and the patterns of residential, industrial, commercial and other uses alongside or around these networks, and in relation to the topography and geography of the region (e.g. its ranges and valleys, rivers, lakes and coastline). It includes the physical appearance or urban design, housing choice and density, and the arrangement of open spaces.~~

Relevant Residential Zone:

~~Has the same meaning as in Section 2 of the Resource Management Act 1991:~~

~~(a) means all residential zones; but~~

~~(b) does not include—~~

~~(i) — a large lot residential zone;~~

~~(ii) — an area predominantly urban in character that the 2018 census recorded as having a resident population of less than 5,000, unless a local authority intends the area to become part of an urban environment:~~

~~(iii) — an offshore island:~~

~~(iv) — to avoid doubt, a settlement zone:~~

Rural areas:

The region's ~~r~~Rural areas (as at March 2009) include all areas not identified in the region's ~~urban areas (as at March 2009)~~ rural zones [and settlement zones](#) identified in the Wellington city, Porirua city, Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.

~~Note: For the avoidance of doubt, this includes the following zones under the National Planning Standards:~~

- [General rural zone](#)
- [Rural production zone](#)
- [Rural lifestyle zone](#)
- [Settlement zone](#)
- [Other relevant zones within the rural environment](#)

Tier 1 territorial authority:

~~Has the same meaning as in [subpart 1.4 of the National Policy Statement for Urban development 2020](#): means each territorial authority listed in column 2 of table 1 in the [Appendix Section 2 of the Resource Management Act 1991](#).~~

~~Note: In the [Greater this is](#) Wellington Region [this is](#) Wellington City Council, Hutt City Council, Upper Hutt City Council, Porirua City Council and [Kāpiti Coast](#) District Council.~~

Town centre zone:

~~Has the same meaning as in [Standard 8 of the National Planning Standards](#): Areas used~~

Tree canopy cover

~~Means vegetative cover of any trees that are greater than 3 metres in height and 1.5 metres in diameter.~~

Urban areas:

The region's urban areas ~~include residential zones, commercial, mixed use zones, and industrial~~ consist of the following zones as identified in the Wellington city, Porirua city, **City of Lower** Hutt **city**, Upper Hutt city, Kāpiti coast and Wairarapa ~~Combined~~ district plans:

~~Note: For the avoidance of doubt, this includes the following zones under the National Planning Standards:~~

- [Urban zones](#)
- [Future urban zone](#)
- [Open space and recreation zones](#)
- [Relevant special purpose zones in the urban area](#)

Urban environment

Has the same meaning as in subpart 1.4 of the National Policy Statement for Urban development 2020:

means any area of land (regardless of size, and irrespective of local authority or statistical boundaries) that:

- is, or is intended to be, predominantly urban in character; and
- is, or is intended to be, part of a housing and labour market of at least 10,000 people.

Urban zones:

Means the following zones as identified in the Wellington city, Porirua city, City of Lower Hutt, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans:

- [Large Lot Residential](#)
- [Low Density Residential](#)
- [General Residential](#)
- [Medium Density Residential](#)
- [High Density Residential](#)
- [Commercial and mixed use zones](#)
- [Industrial zones](#)

Walkable catchment:

~~A walkable catchment is an area that an average person could walk from a specific point to get to multiple destinations. A walkable catchment generally consists of a maximum 20 minute average walk, or as otherwise identified defined by territorial authorities in district plans.~~

Well-functioning urban environments:

~~Has the same meaning as in Policy 1 of the National Policy Statement for Urban Development 2020, that is, as a minimum:~~

- ~~(a) have or enable a variety of homes that:
 - ~~(i) meet the needs, in terms of type, price, and location, of different households; and~~
 - ~~(ii) enable Māori to express their cultural traditions and norms; and~~~~
- ~~(b) have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and~~
- ~~(c) have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and~~
- ~~(d) support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and~~
- ~~(e) support reductions in greenhouse gas emissions; and~~
- ~~(f) are resilient to the likely current and future effects of climate change.~~

Part B: Section 5

Hearing Stream 5 – Freshwater and Te Mana o te Wai (Non-Freshwater Provisions, P1S1 Process)

1. Executive Summary

1. Two provisions in Hearing Stream 5 (HS5) are not part of the Freshwater Planning Instrument as they do not implement the NPS-FM or relate directly to freshwater quality or quantity matters.
2. The two provisions are:
 - a. Method 31, and
 - b. AER 6, Objective 12.
3. Both of these provisions were considered by the P1S1 Panel.

2. Provision by provision Analysis

2.1 Method 31 - Protocol for management of earthworks and air quality between local authorities

4. Proposed Change 1 proposed deleting Method 31:

~~Method 31: Protocol for management of earthworks and air quality between local authorities~~

~~With interested parties prepare protocols and definitions to guide changes to district and regional plans to avoid gaps, uncertainty and unnecessary overlaps in the regulation of:~~

- ~~(a) earthworks, including vegetation disturbance, cultivation and harvesting; and~~
- ~~(b) management of odour, smoke and dust.~~

~~Implementation: Wellington Regional Council* and city and district councils~~

2.1.1 Submissions, Evidence and Analysis

5. Most submissions on this Method supported its deletion. However, there was a concern raised by Ātiawa [S131.0128] that deletion of this method would result in these effects not being addressed and properly managed.

6. The s42A Reporting Officer states that: ¹

In relation to earthworks, vegetation disturbance, cultivation and harvesting, I consider that Policy 15 and Policy 41 and my recommended amendments to these policies in section 3.12 will have a greater impact on managing these effects than existing Method 31 provides for. However, in relation to the second clause of Method 31, I consider that deleting this could have unintended consequences. Method 31 links to objectives and policies within both the Freshwater and Air Quality chapters. Change 1 appears to have inadvertently proposed the deletion of this method on the basis of its relationship to freshwater, without consideration of the implications for the Air Quality provisions.

7. Ms Pascall recommends² reinstating Method 31 and clause (b) only, as the matters in clause (a) (earthworks, vegetation disturbance and cultivation) are addressed in Policies 15 and 41. The Officer recommends amending the title of the Method to refer only to air quality.

2.1.2 Finding

8. We agree with the Reporting Officer's recommendations on Method 31 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

2.1.3 Recommendation

Method 31: Protocol for management of ~~earthworks and~~ air quality between local authorities

With interested parties prepare protocols and definitions to guide changes to district and *regional plans* to avoid gaps, uncertainty and unnecessary overlaps in the regulation of:

~~(a) — earthworks, including vegetation disturbance, cultivation and harvesting; and~~

~~(b) — management of odour, smoke and dust.~~

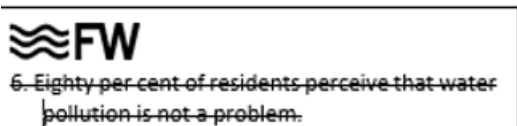
Implementation: Wellington Regional Council and city and district councils.*

¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 882-883

² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 884

2.2 Objective 12 AER 6

9. Objective 12 AER 6 was proposed to be deleted by Change 1 as follows:



10. The Reporting Officer supports replacing all of the AERs with a single, overarching AER (AER 1), which is considered in the Freshwater Planning Report (Part C). The Reporting Officer recommended that the deletion of AER 6 be assessed as part of the P1S1 process.

2.2.1 Submissions, Evidence and Analysis

11. AER 6 sets the anticipated result of 80% of residents perceiving that water pollution is not a problem. The Reporting Officer said that this AER does not relate directly to protecting and enhancing freshwater quality and quantity as there are many factors that contribute to people's perceptions of pollution.³ The AER does not relate to a specific action in the RPS or subordinate documents for the management of water quality or quantity.

2.2.2 Finding

12. We agree with the Reporting Officer's recommendation to include AER 6 in the P1S1 Report, and we also agree with the Officer's recommendation to delete the AER for the reasons above, and otherwise as set out in the Officer's s 42A Report.

2.2.3 Recommendation

13. Delete Objective 12 AER 6:

~~Eighty per cent of residents perceive that water pollution is not a problem.~~

³ Appendix 3 to the s 42A Report for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, Assessment of Categorisation of Provisions to the Freshwater Planning Instrument.

Part B: Section 6

Hearing Stream 6 - Indigenous Ecosystems

1. Executive Summary

1. The Region's indigenous ecosystems have significantly reduced in extent and become fragmented.¹ Land use continues to impact on streams, wetlands, coastal ecosystems and vegetation. The Operative RPS provisions have been ineffective in preventing indigenous biodiversity decline² and stronger direction is needed in the RPS to reverse the historic trends described in *Biodiversity in Aotearoa*.³
2. The National Policy Statement on Indigenous Biodiversity (NPS-IB) contains strong direction and decision-making principles aimed at protecting and restoring indigenous biodiversity across Aotearoa New Zealand. Although the P24
3. NPS-IB came into effect after Proposed Change 1 was notified, it is appropriate for Proposed Change 1 to give effect to it. To do so aligns with councils' functions in ss 30 and 31 of the RMA, and also appropriately recognises and provides for matters of national importance in Part 2, including protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga.
4. Having heard submitters, we recommend that Proposed Change 1 implement NPS-IB provisions where practicable and within scope, particularly where there is strong direction that leaves little flexibility in interpretation (such as the direction in clauses 3.8 to 3.11 and Appendix 1 regarding assessing and identifying significant natural areas (SNAs) in district plans, and avoiding (with limited exceptions) certain adverse effects on SNAs and otherwise managing effects by applying the effects

¹ Section 32 Report, para 70.

² Section 32 Report, para 71.

³ *Biodiversity in Aotearoa* - an overview of state, trends and pressures, the background report for the national biodiversity strategy Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy, 2020, Department of Conservation

management hierarchy). The direction for indigenous biodiversity outside SNAs is also expressed in mandatory terms (clause 3.16).

5. We consider it appropriate for Proposed Change 1 to take a non-regulatory approach to the restoration of ecosystems, habitats and indigenous biodiversity, working to support landowners, mana whenua / tangata whenua, and other key stakeholders to carry out protection, restoration and enhancement activities. This approach aligns with Policy CC.7 in the Climate Change provisions regarding ecosystems that provide nature-based solutions to climate change.
6. The technical evidence presented by the Council supported the approach in the provisions to protect SNAs, maintain indigenous biodiversity outside of SNAs, and promote restoration of indigenous biodiversity.
7. The Officers’ recommendations on the Indigenous Ecosystems provisions were modified in the course of the submissions and hearing process. We agree with the majority of the Officers’ recommendations. Our views differ from the Reporting Officers on the following provisions:

Provision	Panel’s views
Policy 24B	<p>We recommend an amendment to clause (3) to allow, in certain circumstances, the maintenance, operation and minor upgrade of <i>infrastructure</i> which is within or affects ecosystems or habitats with significant indigenous biodiversity values in the terrestrial environment.</p> <p>We recommend a minor drafting amendment in clause (2)(a) to improve readability</p>
Policy 24C	<p>We recommend an amendment to the third bullet point in the explanation to state that Policy 24CC applies to all <i>regionally significant infrastructure</i> and <i>REG activities</i></p>
Policy 24CC	<p>We recommend an amendment to include a provision enabling the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network to give effect to Policy 5 of the NPSET. We recommend an amendment in the Explanation to clarify the Policy applies to <i>ET activities</i></p>
Policy 24D	<p>We recommend amendments to apply the Policy to <i>ET activities</i>, and a new clause for new or</p>

	major upgrades of <i>ET activities</i> to give effect to Policy 4 of the NPSET
Policy 47	We recommend an amendment to enable established <i>REG activities</i> and <i>ET activities</i> that affect significant biodiversity values in the terrestrial environment to continue, to give effect to clause 3.15 of the NPS-IB. We also recommend amendments to carry through the amendments we have recommended to Policies 24A – Policy 24D.

8. A s 32AA evaluation for the amendments we support is provided below in our provision-by-provision analysis and recommendations.

2. Introduction, General Submissions and Statutory Framework

9. The Region's indigenous ecosystems are in a continuing state of fragmentation and decline.⁴ This reflects the legacy of historic loss and continued pressures from land use and management practices, development, climate change, and pressure from invasive species.⁵
10. Ms Maseyk presented technical evidence for the Council, which no submitter contested, on the state of the Region's indigenous biodiversity. Citing recent research, Ms Maseyk said that a high proportion of the Region's indigenous species are regionally threatened or at risk of local extinction, including 100% of bat, 85% of reptile, 79% of bird, 67% of freshwater fish, and 22% of plant species. Less than 3% of former wetland extent remains, 58% of forest types are regionally threatened, and 74% of naturally uncommon ecosystems are nationally threatened.⁶
11. The identification and protection of significant terrestrial sites (significant natural areas) has yet to be completed for more than half of the Region, despite being required by the RMA since 1991 and the RPS since 2013.⁷
12. As Ms Maseyk said:⁸

It is evident that adverse effects on indigenous biodiversity from development are occurring and contribute to indigenous biodiversity degradation and declines. Outcomes for indigenous biodiversity from consenting processes has been inconsistent, and in many instances poor.¹³ Improving outcomes for indigenous biodiversity from consenting processes is therefore critical when considered in this context.

⁴ Section 32 Report, para 70.

⁵ Section 32 Report, para 70; Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 18.

⁶ Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 18.

⁷ Section 32 Report, para 71.

⁸ Statement of Evidence of Fleur Maseyk on behalf of Wellington Regional Council, Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, para 20.

13. Having reviewed the information in the s 32 Report and the technical evidence of Ms Maseyk and Dr Crisp on behalf of the Council, we agree with the Reporting Officer that:⁹
- the loss and degradation of indigenous biodiversity presents a significant challenge to the long-term well-being of our communities and requires immediate action if the Region’s indigenous biodiversity is to be in a healthy functioning state, with the resilience to persist in the long-term.
14. We did not hear any compelling evidence contradicting this position or the expert evidence presented by Council or cited in the Officer’s evidence saying that extensive restoration and conservation efforts are required to shift indigenous ecosystems and species out of Threatened categories.¹⁰
15. Proposed Change 1 proposed various amendments to Chapter 3.6: Indigenous Ecosystems including to:
- a. align the RPS with the (at the time draft) NPS-IB
 - b. amend policies 23 and 24 to specify a completion date for the identification of sites with significant biodiversity values, directing regional and district councils to have plan provisions in place to protect these sites by June 2025
- and
- c. set out new matters relevant to consent applications, NoRs, and plan changes, variations or reviews that may affect indigenous ecosystems and habitats with significant indigenous biodiversity values.
16. There were 574 original submissions and 521 further submissions on this topic.
17. All of the HS6 provisions were categorised to the Freshwater Planning Instrument. Some submitters challenged this approach. Forest and Bird said that while the provisions have some connection to freshwater or the concept of Te Mana o te Wai, the link is tenuous and the provisions have not been designed to “regulate activities in the catchment or receiving

⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 4.

¹⁰ See for instance Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 33 and the research cited.

environment, because of their effect on the quality of quantity of freshwater”.¹¹

18. There were two Reporting Officers for this topic, Ms Guest and Mr Wyeth, each focussing on specific provisions in the topic.
19. In the s 42A Report, the Officers agreed that the focus in the NPS-IB is on maintaining, restoring and enhancing indigenous biodiversity which will have direct or consequential benefits for freshwater ecosystems but the overall outcomes sought are broader than addressing matters that impact on freshwater quality or quantity. It was therefore appropriate in the Officer’s view, to assess all HS6 provisions through the P1S1 process.
20. We agree with the Officer’s reasoning and, as noted in Part A, the Panels recommend that the provisions are re-categorised and heard through the Standard Schedule 1 process. We recommend that as a consequential amendment, the Freshwater symbol is removed from each of the HS6 provisions.
21. Council Officers conducted pre-hearing discussions on HS6. The Reporting Officer summarises in the s 42A Report the key concerns submitters raised in these discussions.¹²
22. Some territorial authorities in particular were concerned that the Regional Council’s proposed approach does not give effect to the engagement requirements of the NPS-IB, and in particular clause 3.2 (decision-making principles). They also considered that giving effect to the NPS-IB through Proposed Change 1 could give rise to natural justice issues. PCC did not take part in pre-hearing discussions, but Mr Rachlin filed a statement questioning whether sufficient engagement had taken place to meet the requirements of the NPS-IB.¹³
23. The Reporting Officer Mr Wyeth did not consider this was a reason to defer implementation or renotify the provisions through a variation, as these submitters sought. One of the central reasons for this is that the provisions give effect to existing statutory requirements in the RMA

¹¹ Legal submissions on behalf of Royal Forest and Bird Protection Society of New Zealand Incorporated, 13 June 2023, Hearing Stream 1, para 10 citing *Otago Regional Council v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2022] NZHC 1777 at [200].

¹² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 97 – 99.

¹³ Response to request for pre-hearing discussion on Implementation of the NPS-IB, Michael Rachlin, 3 November 2023.

including ss 6(c) and 6(e). This is discussed further in the following section.

24. A range of General Submissions are discussed in the s 42A Report and relief is recommended throughout the Officer's Evidence in response, including further reference to mana whenua values and relationship with their culture, land, water, sites and other taonga (Ātiawa [S131.005]). Rangitāne [S168.0157] requested a definition of "indigenous ecosystems" but this was rejected by the s 42A Officer as there is no generally agreed definition available.
25. Muaūpoko [eg S133.019] supported the indigenous ecosystem provisions but requested specific mention of their relationship with indigenous ecosystems or alternative relief to ensure their connection to Te-Whanganui-a-Tara is recognised. As we have said in other chapters of this Report, the Panel is unable to make any determination on mana whenua status.
26. Fish and Game in various submission points (eg [S147.029] sought protection for valued species. We agree with the Officer that this relief is best addressed in the Freshwater provisions and various amendments have been recommended there in response as HS7 is focused on aquatic and terrestrial indigenous ecosystems. The Officer did not agree with the request by NeoLeaf Global to replace the concept of restoration with 'enhancement and improvement' on the basis that restoration is included in the provisions as part of a package of measures eg "protect, enhance and restore" in Objective 16, and the approach to restoration is a non-regulatory one in the provisions. We agree with the Officer that the term 'restore/restoration' need not be replaced with 'enhance' or 'improvement' throughout the provisions in response to NeoLeaf Global' submission.
27. We directed expert planners' caucusing on "regionally significant infrastructure" provisions with the aim of reaching consensus, or at least narrowing the issues in contention relating to the appropriateness and drafting of pathways for infrastructure in ecosystems and habitats with significant indigenous biodiversity values. The caucusing did reach a consensus position on some provisions and the main remaining issue of contention concerned the application of the Policy 24 suite to electricity transmission activities. We discuss this in some detail below and recommend some amendments which we consider align with RMA Part 2 direction and also reconcile the NPSET, NZCPS and NPS-IB. We agree with Mr Brass for the DGC and Reporting Officer Ms Guest that it is not

appropriate to provide a blanket exemption for the National Grid from the provisions implementing the NPS-IB.

28. Ms Heppelthwaite, Waka Kotahi's planner, was unable to attend caucusing but we offered her the opportunity to provide written comments on the Joint Witness Statement. Ms Heppelthwaite raised some important points and we have taken these into account in our Report as we discuss below.

2.1.1 Statutory Framework and implementing the NPS-IB

29. The legal framework that applies to Proposed Change is described in Part A. The following section discusses the specific tests and statutory principles applying to HS6.
30. The protection and management of indigenous biodiversity, and the indigenous vegetation, ecosystems and habitats that sustain and safeguard the life-supporting capacity of this biodiversity, are recognised and provided for in the RMA. The HS6 provisions in Proposed Change 1 are intended to give better effect to the statutory requirements in the RMA, including ss 6(c), 30(1)(c)(iiiia) and (ga), 31(b)(iii) and s 62(3).
31. The Operative RPS meets these statutory obligations at least in part by requiring district and regional plans to identify and evaluate “indigenous ecosystems and habitats with significant indigenous biodiversity values” (with assessment criteria provided in the RPS: Policy 23).
32. Te Mana o te Taiao Aotearoa New Zealand Biodiversity Strategy provides the overall strategic direction for managing biodiversity in Aotearoa New Zealand for the next 30 years.
33. Relevant to the discussion regarding Policy 24A and Appendix 1A, s 104(1)(ab) of the RMA requires consent authorities to consider any positive effects arising from offsetting or compensation measures from allowing a proposed activity.
34. The NPS-IB was gazetted on 7 July 2023 and came into force on 4 August 2023, almost one year after Proposed Change 1 was notified.

2.1.1 The NPS-IB

35. We agree with legal submissions from Counsel for the Council on the relevance to Proposed Change 1 of an NPS gazetted post-notification of the Change.¹⁴ The key points in our view are:
 - a. When considering amendments to Proposed Change 1 to respond to changes in national direction, we are limited by scope, regardless of the requirements in ss 61(1)(da) and 62(3) to change an RPS in accordance with a NPS, and give effect to a NPS.

¹⁴ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 9.

- b. Any changes to implement the NPS-IB must follow a Schedule 1 process (ie there are no provisions that the NPS requires are implemented directly without a Schedule 1 process)
 - c. Amendments to give effect to the NPS-IB must be made “as soon as practicable” or within the time period specific in the NPS (s 55(2D) of the RMA)
 - d. Clauses 4.1 and 4.2 of the NPS-IB state that: a local authority must give effect to the NPS-IB “as soon as reasonably practicable”
 - e. any changes required to an RPS must be publicly notified within eight years after the commencement of the NPS (i.e by 4 August 2031), and
 - f. any changes required to give effect to subpart 2 of Part 3 (significant natural areas) and clause 3.24 (information requirements) must be publicly notified within five years after the commencement date (i.e by 4 August 2028).
36. Part 3 of the NPS-IB sets out the implementation requirements. Clauses 3.1(1) and (2) state that Part 3 sets out a non-exhaustive list of things that must be done to give effect to the Objective and Policies in part 2 of the NPS-IB, but this does not limit the general obligation under the RMA to give effect to the NPS-IB, or limit the Council’s functions and duties under the RMA in relation to indigenous biodiversity.
37. In terms of paragraph d. above, there is no ‘bright line test’ for determining what is, and is not, considered to be “reasonably practicable”, and a case-by-case assessment and value judgement is required. We accept Counsel’s submissions on this point as set out in their Rebuttal legal submissions for HS3¹⁵, and summarised in the HS6 opening legal submissions.¹⁶
38. Counsel concluded their submissions on this point by saying:¹⁷

¹⁵ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 3, 22 August 2023, para 8.3.

¹⁶ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 10.

¹⁷ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, paras 12 – 14.

[the] obligation on [the Council] to give effect to the NPS-IB ... is to make changes as soon as reasonably practicable, and this obligation is still limited by scope...

... it is only where amendments are within the scope of Proposed Change 1 and [for 'non-freshwater provisions] within scope of submissions on Proposed Change 1, that they can be made by the Panels in this process.

This means a further change process will be required for GWRC to give full effect to the NPS-IB, unless there is scope within Proposed Change 1 to fully give effect to the wide ranging NPS-IB provisions now.

39. We are satisfied that it is appropriate for Proposed Change 1 to give effect to the NPS-IB where reasonably practicable and within scope and where there is limited discretion in the implementation of specific NPS-IB provisions. No submissions were presented to us persuading us that, where these criteria are met, a delay in implementation is justified. As we noted in Part A, a recent Bill introduced to Parliament seeking to delay the timeframe for the mandatory identification of SNAs by territorial authorities is not yet law, and so has not affected our recommendations.
40. Proposed Change 1 sought to align with the publicly released draft NPS-IB. Numerous submitters supported this alignment and requested amendments to update the provisions in line with the notified NPS-IB.
41. At times, the direction in the gazetted NPS-IB differed from the exposure version. The Reporting Officer provided a helpful Appendix (Appendix 3 to the s 42A Report) assessing the Proposed Change 1 provisions against the NPS-IB and recommending changes in certain circumstances and in accordance with the following guiding principles:¹⁸
 - a. NPS-IB provisions should be given effect to where reasonably practicable and within scope.
 - b. The NPS-IB provisions that specifically require changes to RPS's within limited discretion in how these are implemented should be given effect to as a priority.
 - c. Where the NPS-IB provisions need to be given effect to following partnering with mana whenua/tangata whenua, engaging with communities and landowners, and/or require further technical work (e.g. identifying highly mobile fauna areas), it is more

¹⁸ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 93.

appropriate for these to be given effect to through a future RPS change.

- d. The scope to give effect to the NPS-IB is generally limited to indigenous biodiversity in the terrestrial environment.

42. Mr Wyeth went on to explain that in his view, of the different drafting approaches available to implement the highly directive provisions in the NPS-IB, he recommended:¹⁹

- a. Repeating or paraphrasing NPS-IB provisions where the implementation requirements for RPS’ “are more straightforward and succinct and can be more readily incorporated into Proposed Change 1 provisions without significant amendments”, and
- b. Cross-referencing NPS-IB provisions for more detailed NPS-IB implementation requirements that would require significant amendments through Proposed Change 1 (such as clauses 3.10, 3.11 and associated appendices and definitions).
- c. As set out in the s 42A report, while broad scope is provided by Proposed Change 1, parts of the NPS-IB implementation (being those that require engagement and additional technical work to identify and support such changes) will still need to be subject to a subsequent Schedule 1 process. However, where there is scope to amend Proposed Change 1, to give effect to parts, or in part, the NPS-IB and where the relevant information is available in order for the Panels to be satisfied that making those changes now is appropriate, then doing so now would comply with the direction in the NPS-IB to give effect to it as soon as reasonably practicable.

43. In the Officers’ Rebuttal Evidence, it was recommended that the Panels consider a different drafting approach for Policies 23 and 24, namely to essentially repeat the relevant NPS-IB provisions and NZCPS Policy 11 with minor wording modifications.²⁰ This is discussed further below.

44. Submitters presented differing views in their evidence and legal submissions on the approach to implementing the NPS-IB. There was

¹⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 94 – 95.

²⁰ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 26; Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2024, para 76.

general consensus that the RMA contains clear direction for the protection of indigenous biodiversity and the NPS-IB has to be given effect to as soon as reasonably practicable. However, submitters said:

- a. The NPS-IB is comprehensive and there is little need to reinterpret or provide additional direction at the RPS level (Mr McDonnell on behalf of HCC)
- b. Proposed Change 1 provisions should not repeat, paraphrase or cross-reference national direction for the sake of it as that adds unnecessary length and complexity (Mr McDonnell on behalf of HCC)
- c. If the NPS-IB is repealed, any cross-referenced provisions would require a further RPS change which is inefficient and leads to regulatory uncertainty (Mr McDonnell on behalf of HCC)
- d. The Proposed Change 1 amendments largely paraphrase or repeat NPS-IB provisions without adding regional specific direction, which should be the core purpose of the RPS (Ms Cook on behalf of WCC)
- e. There has not been sufficient evaluation of whether the changes are necessary or add value in giving effect to the NPS-IB objective (Ms Cook on behalf of WCC)
- f. Some provisions in the NPS-IB which are fundamental to achieving a robust regional policy framework for managing indigenous biodiversity and therefore require amendments to the RPS, have not been given effect through Proposed Change 1, and it is more appropriate to delay all amendments and implement the NPS-IB in full through a separate process (Ms Cook on behalf of WCC)
- g. Amendments that give effect to 'new' provisions (ie that were not in the exposure draft, such as the decision-making principles) are problematic as these have not been subject to full and meaningful community engagement (Ms Clarke on behalf of Winstone Aggregates)
- h. The Proposed Change 1 amendments are appropriate to achieve the purpose of the RMA and 'partial' effect can be given to the NPS-IB now – it does not require an "all or nothing" compliance/implementation approach (Mr Brass on behalf of the DGC).

45. The Reporting Officer said the evidence presented did not change his view that Proposed Change 1 should give effect to NPS-IB provisions where practicable and within scope.²¹ He also said that the majority of submitters that provided evidence supported his recommended approach to give effect to certain NPS-IB provisions now. In response to Ms Cook, the Officer says the s 42A Report explains that further technical work and engagement is needed before the RPS can give effect to clauses 3.20, 3.22 and 3.23 in the NPS-IB.²²
46. The NPS-IB includes principles stating when biodiversity offsetting and compensation may be inappropriate, that is, when the indigenous biodiversity affected is irreplaceable or vulnerable or there are no technically feasible options to secure gains within acceptable timeframes.
47. We agree with the Officer that it is appropriate for the RPS to give effect to the NPS-IB where practicable and within scope. We also agree that for directive provisions, such as clause 3.10 of the NPS-IB, there is limited scope to add regional context to the avoid policy direction. Clause 3.10 is a provision that must be implemented “as soon as reasonably practicable” (clause 4.1) and states that “Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause”. The direction in clauses 3.8 to 3.11 and Appendix 1 regarding assessing and identifying SNAs in district plans and avoiding (with limited exceptions) adverse effects on an SNA of any new subdivision, use or development, or otherwise managing effects by applying the effects management hierarchy, uses strong language that leaves little or no flexibility in interpretation. The direction for indigenous biodiversity outside SNAs is also expressed in mandatory terms (clause 3.16). We agree with the Officer’s approach summarised above to implement directive provisions in the NPS-IB in Proposed Change 1 where practicable and within scope.
48. We also agree that there are limited options for giving effect to highly directive provisions in the NPS-IB, and these are stay silent, cross-reference or repeat with minor amendments. We do not support ‘staying silent’ as this would not meet the Regional Council’s obligations to give effect to the NPS-IB, and it could create confusion as to whether Policy 24

²¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 19.

²² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 19.

and other policies have given effect to the NPS. It would also not fulfil the Council’s responsibilities under s 30.

49. Various parties presented legal submissions and planning evidence on the extent to which we are able to recommend amendments to provisions to give effect to the NPS-IB given that it was gazetted after Proposed Change 1 was notified. This issue also arose in relation to recent amendments to the NPS-FM and also the NPS-HPL. We commissioned independent legal advice on this issue from Brookfields. The advice was in broad agreement with the legal submissions of both the Regional Council and Winstone Aggregates, namely that amendments can be made to give effect to an NPS or any update to a NPS post-dating notification of Proposed Change 1:²³

- a. Where there is scope to do so (i.e. where an amendment is within the scope of the Change itself, and for P1S1 provisions, within the scope of submissions); and
- b. Subject to consideration of any specific implementation and transitional arrangements.

50. As set out in legal submissions for the Council, the NPS-IB requires implementation “as soon as reasonably practicable” with public notification by 4 August 2031 of changes to the RPS that are necessary to give effect to the NPS-IB, with an earlier implementation date of 4 August 2028 in respect of given effect to the provisions for SNAs.²⁴ The submissions also set out an interpretation of what “reasonably practicable” means, noting there is no bright line test and this depends on a case-by-case analysis and incorporates an element of reasonableness.²⁵

2.1.2 Terrestrial and coastal environments

51. The NPS-IB only applies in the terrestrial environment²⁶ (including the terrestrial coastal environment above mean-high water springs), and

²³ Procedural Advice, Plan Change 1 to the Regional Policy Statement for the Wellington Region, Brookfields, Advice provided to P1S1 / FHP Panels, 8 February 2024, para 8 (available on the Hearings Page as an attachment to Minute 23).

²⁴ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 9.7.

²⁵ Legal submissions on behalf of Wellington Regional Council – Hearing Stream 6, 19 December 2023, para 11.

²⁶ Clause 1.3(1), NPS-IB.

national direction for coastal indigenous biodiversity is provided for in the NZCPS including Policy 11.

52. Questions arose at the Hearing about the areas of the Region where the HS6 provisions apply. We sought clarification on this issue in Minute 22. The Council Officers replied to say that all the objectives, policies and methods in HS6 apply to all indigenous ecosystem domains – coastal, freshwater, and terrestrial, and that certain policies apply in specific ecosystems as identified in the policies (i.e. Policies 24B, IE.2A (which apply in the terrestrial environment) and Policies 24C and 24CC (which apply in the coastal environment)).²⁷
53. The NZCPS prevails over the NPS-IB where there is conflict between the two documents in the terrestrial coastal environment (clause 1.4(2) of the NPS-IB). Both the NZCPS and NPS-IB have a range of effects management requirements in the coastal environment. Ms Heppelthwaite provided supplementary evidence after the Joint Witness Statement which was circulated following planners’ caucusing.²⁸ This helpfully identified for us that the Change 1 provisions as proposed to be amended by the Reporting Officers contain a gap regarding managing effects on significant natural areas (which are described in Change 1 as “indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna”) from established activities (including infrastructure) that are not *REG activities* or *ET activities* and outside NZCPS Policy 11 areas. We recommend the addition of a new clause to enable these activities.

²⁷ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 15.

²⁸ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1, Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024, section 5.

3. Provision by Provision Analysis

3.1 Introduction and Regionally Significant Issues

54. The notified version of the Introductory text stated:

Chapter introduction	
<p>An ecosystem may be described as a community of plants, animals and micro-organisms interacting with each other and their surrounding environment.</p> <p>As well as contributing to the region’s natural character and having their own intrinsic values, healthy ecosystems provide us with life’s essentials – such as plants and animals for food, fibre for clothing, timber for construction. This is true even in an industrialised age, although the connections are less immediately obvious. Healthy ecosystems supply us with ‘services’ that support life on this planet – such as:</p> <ul style="list-style-type: none">• Processes to purify air and water• Decomposition and detoxification of wastes• Creation and <i>maintenance</i> of productive soils• Reduction of the impact of climate extremes• Capture of carbon and <i>maintenance</i> of a functioning atmosphere <p>Ecosystems are dynamic (constantly changing) and the many diverse natural processes that drive ecosystems are as important as the biodiversity values within them. In addition, all parts of an ecosystem are interconnected. The species that make up an ecosystem, including humans, cannot exist in isolation from the other species and non-living parts of the ecosystem. The primacy of healthy ecosystems is central to Māori cultural values, whereby harm to mauri directly affects the wellbeing of the people. More specifically, degradation of ecosystems threatens mahinga kai (places where food is gathered) and other natural resources used for customary purposes.</p> <p>The Wellington region has a distinctive range of ecosystems – such as forests, mountains, wetlands, lakes, rivers and coastal and marine ecosystems. Some ecosystems have <u>retained</u> a high degree of <u>indigenou<u>sness</u> dominance</u> – such as the Tararua, Rimutaka and Aorangi ranges, while others are dominated by exotic species – such as pastoral farmlands.</p> <p>The area of indigenous ecosystems has been in decline since humans first settled in our region. This loss greatly accelerated from the time of European settlement. Around 70 per cent of the indigenous forest and more than 90 per cent of the wetlands that existed in 1840, have been cleared for agriculture and urban development. Most of the remaining forest and wetlands and dune ecosystems have been degraded or modified in some way. In addition, many of the processes that ensure ecosystems remain healthy and viable into the future have been compromised, including reproduction, recruitment, dispersal and migration.</p> <p>Human actions that continue to impact on the remaining indigenous ecosystems include:</p> <ul style="list-style-type: none">• Modification and, in some cases, destruction of ecosystems by pest plants and animals grazing animals and clearance of indigenous vegetation• Contamination of aquatic ecosystems by sediment, pollutants and nutrients	

- Destruction of ecosystems as a result of development
- Modification of natural waterways, such as draining wetlands and channelling, constraining or piping of natural waterways-rivers and streams
- Contamination of coastal ecosystems by stormwater and sewage discharges

Although New Zealand has an extensive network of public conservation land (comprising over a third of the country), this does not adequately represent all types of indigenous ecosystem. With few options to expand the public conservation estate, the restoration of ecosystems relies upon the good will and actions of landowners. There are a number of individuals, iwi, community groups and organisations throughout the region that are working to restore indigenous ecosystems. Public support for restoring indigenous ecosystems on public land and landowners retiring farmland has led to the regeneration of indigenous bush in rural gullies, along riparian margins, in regional parks and in urban backyards. This has led to increases in some indigenous habitats, such as in the hills around Wellington City, with sanctuaries such as Zealandia and pest control efforts increasing the number and variety of native birds and invertebrates around the city. However, there is still much work to be done to improve the conservation status of many native ecosystems and species. The restoration of indigenous ecosystems on public, iwi and private land provides both public and private benefit.

Ecosystem health can be measured in a number of ways, including the composition, richness and indigenous dominance of communities, function of ecosystem processes (e.g., degree to which it is connected or fragmented), or the extent of the ecosystem remaining. loss of individual species, loss of overall diversity of species, loss of an ecosystem's ability to function on an ongoing basis, and loss of complete ecosystems and types of ecosystems. While the dramatic collapse of species or whole ecosystems can capture attention, the gradual erosion of ecosystems' sustainability is also a significant issue.



The regionally significant issues and the issues of significance to the Wellington region's iwi authorities for indigenous ecosystems are:

1. The region's indigenous ecosystems are reduced in extent



The region's indigenous ecosystems have been significantly reduced in extent and are being increasingly fragmented. Loss of area, ecological integrity and ecological connectivity reduce the resilience of ecosystems to respond to ongoing pressures, threatening their persistence and that of the indigenous biodiversity and mahinga kai they support. The indigenous ecosystems most reduced in extent are specifically:

- wetlands
- lowland forests
- lowland streams
- coastal duneslands and escarpments
- estuaries
- eastern 'dry land' forests.

<p>2. The region’s remaining indigenous ecosystems are under threat</p> <p><u>The region’s remaining indigenous ecosystems, and the ecosystem processes that support them, continue to be degraded or lost due to ongoing pressure from invasive species, human use and development, and the effects of climate change.</u></p>	
<p>3. <u>Iwi and landowner values and roles are not adequately recognised and supported</u></p> <p><u>Mana whenua /tangata whenua values, including kaitiakitanga, are not adequately recognised and supported by the current approach to managing indigenous biodiversity. The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.</u></p>	

3.1.2 Submissions, Evidence and Analysis

55. Some submitters supported the introductory text and sought it be retained as notified. Meridian [S100.009] sought that references to “native” be replaced with “indigenous”. It also sought changes to reflect the regulatory response to “natural wetlands”. Taranaki Whānui [S167.034 and 167.036] supported Issues 1 and 3 in full, and Issue 2 in part [S167.035], and requested that reference to the damage done to indigenous ecosystems by farming practices, in particular grazing animals/land clearance, be included. This was opposed by BLNZ [FS15.019]. WFF [S163.028] requested that the proposed amendments to the Introduction are deleted and deferred to the full review of the RPS in 2024. It also said that the data referred to was out of date, did not show the level of protection for significant sites provided by district plans, and there was insufficient evidence in the s 32 Report.
56. Ātiawa [S131.030] supported the intent of Chapter 3.6, but requested amendments to recognise whānau and hapū as well as iwi, and that a distinction be drawn between mana whenua and landowners to recognise the difference in values and roles. Ngāti Toa [S170.016] also sought that this distinction be made in the Introduction and Issue statements. Taranaki Whānui [S167.033] sought amendments to reflect the partnership with mana whenua / tangata whenua and the intrinsic value and mauri of indigenous biodiversity and people’s connections and relationships to it.
57. The Officer recommended various amendments to the Introduction and Issue statements, including to replace “native” with “indigenous” for consistency, including additional text to explain the “decision-making principles for indigenous biodiversity” as set out in the NPS-IB (which replaced the term Te Rito o te Harakeke in the draft NPS-IB), and to

separate Issue Statement 3 into two Issue statements to better differentiate between iwi and landowner values and roles. The Officer did not recommend including reference to farming in Issue 2 as this was already captured through the reference to “human use and development”. We agree with the Officer’s recommendations on these matters. In particular, we agree with including references to whānau and hapū to better recognise the levels of tangata whenua engagement and involvement as kaitiaki of indigenous biodiversity. This appropriately reflects clauses 3.3 and also 1.5(3)(c) of the NPS-IB, while still recognising the stewardship role of communities including landowners.

58. The Officer disagreed with some of WFF’s assertions and referred to research confirming that ecosystems in the Region continue to be lost or fragmented, and a significant proportion of the Region’s indigenous biodiversity is at risk or threatened with extinction.²⁹ The Officer agreed that, while all of the territorial authorities in the Region have carried out some form of assessment of significant indigenous ecosystems and habitats, only three of the district plans in the Region (Kāpiti, Porirua and Wellington) include schedules of sites identified in accordance with the RPS and protected as required by s 6(c) of the RMA.³⁰ At the Hearing, Mr Matich on behalf of WFF considered that the Council had overstated the urgency of a need for a regulatory response to require restoration at a regional level and that there is a fairly stable situation for remnant regional indigenous biodiversity in the Region. Mr Matich said:³¹

In my experience, regulation pursuing restoration is a costly pursuit for consent authorities, enforcement agencies and consent holders, and the wider community of interested parties. In my opinion, reliance on regulatory implementation provides little or no guarantee of biodiversity restoration outcomes.

59. At the Hearing, Ms McGruddy for WFF said she supported a non-regulatory approach for restoration but felt that this intent should be more “front and centre” and clear in the RPS.³² The Officer stated that the policies and methods to give effect to the restoration outcomes in the objectives are all non-

²⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 152 – 153.

³⁰ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 154.

³¹ Statement of Evidence of Peter Matich on behalf of Wairarapa Federated Farmers (Planning), 30 January 2024, para 4.12.

³² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 24, lines 1182 – 1183.

regulatory, but said in Reply Evidence that the Introduction could be amended to say:³³

Restoration of indigenous ecosystems will be achieved by working collaboratively with landowners and in partnership with mana whenua/tangata whenua, rather than through the use of a regulatory approach.

60. We agree with this recommendation and consider it addresses Ms McGruddy’s concerns on this issue.
61. The Officer did not agree with Meridian’s request to replace all references to “wetlands” with “natural inland wetlands” on the basis that the RMA provides protection to all wetlands in s 6(a). Ms Foster, in her planning evidence for Meridian, explained that the amendment was to ensure the RPS protection provisions do not apply to constructed wetlands, consistent with s 6(a). The Officer agreed with this request to the extent it applied to provisions directing a regulatory response (consistent with the NPS-FM and NRP). The Officer recommended amendments in Policies 23 and 47 to refer to “natural wetlands”, but said that:³⁴
- a. the RPS was not only concerned with natural wetlands
 - b. the RPS approach to restoration is non-regulatory
 - c. it was appropriate that the policies and methods in the RPS supporting restoration and enhancement apply to wetlands generally
 - d. there are only 3% of the Region’s wetlands remaining, and
 - e. areas that were previously fully functioning wetlands present important opportunities for restoration.
62. We agree with the Officer’s approach to this issue and recommendations.
63. Ms McCormick, on behalf of Ngā Hapū o Ōtaki sought that the decision-making principles prioritise the mauri and intrinsic value of indigenous biodiversity and recognise that the health and wellbeing of people and communities depends on the health and wellbeing of indigenous biodiversity. In return, people have a responsibility to care for and nurture indigenous biodiversity.

³³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 75.

³⁴ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 18 - 19.

64. In Minute 22, we asked the Officers whether the Introductory text could better reflect the decision-making principles in clause 1.5(3) of the NPS-IB. Ms Guest recommended amending the text to better align with clause 1.5, and to acknowledge the priority to be given to *mauri*, intrinsic values and well-being of indigenous biodiversity, and the connections and relationships of people with indigenous biodiversity. We agree with Ms Guest’s recommendations and think that these changes provide useful context in the Introduction that accurately reflects the NPS-IB.

3.1.3 Finding

65. We agree with the Reporting Officer’s recommendations on the Introduction and Issues Statements for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.1.4 Recommendation

Chapter introduction

An *ecosystem* may be described as a community of plants, animals and micro-organisms interacting with each other and their surrounding environment.

As well as contributing to the region’s natural character and having their own *intrinsic values*, healthy ecosystems provide us with life’s essentials – such as plants and animals for food, fibre for clothing, timber for construction. This is true even in an industrialised age, although the connections are less immediately obvious. Healthy ecosystems supply us with ‘services’ that support life on this planet – such as:

- Processes to purify air and water
- Decomposition and detoxification of wastes
- Creation and *maintenance* of productive soils
- Reduction of the impact of climate extremes
- Capture of carbon and *maintenance* of a functioning atmosphere.

Ecosystems are dynamic (constantly changing) and the many diverse natural processes that drive ecosystems are as important as the biodiversity values within them. In addition, all parts of an *ecosystem* are interconnected. The species that make up an *ecosystem*, including humans, cannot exist in isolation from the other species and non-living parts of the *ecosystem*. The primacy of healthy ecosystems is central to Māori cultural values, whereby harm to *mauri* directly affects the wellbeing of the people. More specifically, degradation of ecosystems threatens *mahinga kai* (places where food is gathered) and other natural resources used for customary purposes.

The Wellington region has a distinctive range of ecosystems – such as forests, mountains, *wetlands*, *lakes*, *rivers* and coastal and marine ecosystems. Some ecosystems have retained a high degree of *indigenouness dominance* – such as the Tararua, Reimutaka and Aorangi ranges, while others are dominated by exotic species – such as pastoral farmlands.

The area of *indigenous* ecosystems has been in decline since humans first settled in our region. This loss greatly accelerated from the time of European settlement. Around 70 percent of the *indigenous* forest and more than 90 percent of the *wetlands* that existed in 1840, have been cleared for agriculture and *urban development*. Most of the remaining ~~forest and wetlands and dune~~ ecosystems have been degraded or modified in some way. In addition, many of the processes that ensure ecosystems remain healthy and viable into the future have been compromised, including reproduction, recruitment, dispersal and migration. Human actions that continue to impact on the remaining *indigenous* ecosystems include:

- Modification and, in some cases, destruction of ecosystems by pest plants and animals, grazing animals and clearance of *indigenous* vegetation
- Contamination of aquatic ecosystems by sediment, pollutants and nutrients
- Destruction of ecosystems as a result of development
- Modification of natural waterways, such as dDraining wetlands and channelling, constraining or piping of natural waterways ~~rivers and streams~~
- Contamination of coastal ecosystems by stormwater and sewage discharges

Although New Zealand has an extensive network of public conservation *land* (comprising over a third of the country), this does not adequately represent all types of *indigenous ecosystem*. With few options to expand the public conservation estate, ~~the~~ *restoration* of ecosystems relies upon the good will and actions of landowners. There are a number of individuals, *whānau*, *hapū*, *iwi*, and community groups and organisations throughout the region that are working to restore *indigenous* ecosystems. Public support for *restoring indigenous ecosystems on public land and landowners retiring farmland* has led to the regeneration of *indigenous* bush in rural gullies, along *riparian* margins, in regional parks and in urban backyards. This has led to increases in some *indigenous habitats*, such as in the hills around Wellington City, with sanctuaries such as Zealandia and pest control efforts increasing the number and variety of *native indigenous* birds and invertebrates around the city. However, there is still much work to be done ~~to improve the conservation status of for many native of the region's indigenous ecosystems and species so that to be in a healthy functioning state, with the resilience to persist in the long-term.~~ *The restoration of indigenous*

ecosystems on public, *whānau, hapū, iwi* and private *land* provides both public and private benefit. Restoration of indigenous ecosystems will be achieved by working collaboratively with landowners and in partnership with mana whenua/tangata whenua, rather than through the use of a regulatory approach.

The decision-making principles for indigenous biodiversity prioritise the mauri, intrinsic value and well-being of indigenous biodiversity and recognise people's connections and relationships with indigenous biodiversity. They recognise that the health and well-being of people and communities depend on the health and well-being of indigenous biodiversity and that, in return, people have a responsibility to care for and nurture it. The principles acknowledge the interconnectedness between indigenous species, ecosystems, the wider environment, and the community, at both a physical and metaphysical level. These principles must inform and be given effect to when managing indigenous biodiversity across the Wellington Region, ensuring that te ao Māori, mātauranga, and tikanga Māori are applied appropriately to protect, maintain and restore indigenous biodiversity.

Ecosystem health can be measured in a number of ways, including the composition, richness and indigenous dominance of communities, function of ecosystem processes (e.g., degree to which it is connected or fragmented), or the extent of the ecosystem remaining. ~~loss of individual species, loss of overall diversity of species, loss of an ecosystem's ability to function on an ongoing basis, and loss of complete ecosystems and types of ecosystems.~~ While the dramatic collapse of species or whole ecosystems can capture attention, the gradual erosion of ecosystems' sustainability is also a significant issue.

The regionally significant issues and the issues of significance to the Wellington region's *iwi* authorities for indigenous ecosystems are:

1. The region's indigenous ecosystems are reduced in extent

The region's indigenous ecosystems have been significantly reduced in extent and are being increasingly fragmented. Loss of area, *ecological integrity* and *ecological connectivity* reduce the *resilience* of ecosystems to respond to ongoing pressures, threatening their persistence and that of the *indigenous biodiversity* and *mahinga kai* they support. The indigenous ecosystems most reduced in extent are specifically:

- (a) wetlands
- (b) lowland forests
- (c) lowland streams
- (d) coastal duneslands and escarpments
- (e) estuaries
- (f) eastern 'dry land' forests.

2. The region's remaining *indigenous* ecosystems are under threat.

The region's remaining *indigenous* ecosystems, and the *ecosystem processes* that support them, continue to be degraded or lost due to ongoing pressure from invasive species, human use and development, and the effects of climate change.

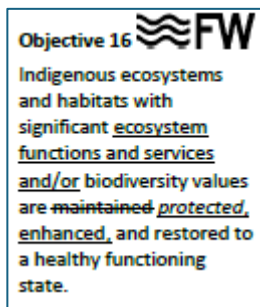
3. ~~Mana whenua /tangata whenua tui and landowner~~ values and roles are not adequately recognised and supported.

~~Mana whenua /tangata whenua values and roles, including kaitiakitanga, are not adequately recognised and supported by the current approach to managing indigenous biodiversity. The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.~~

4. ~~Landowner values and roles are not adequately recognised and supported. The conservation efforts of landowners, as stewards of their land, and local communities could be better recognised and supported.~~

3.2 Objective 16

66. The proposed amendments to Objective read:



67. Objective 16 is in the Operative RPS. The Change 1 amendments express the desired environmental outcome for the Region to regain significant biodiversity, rather than just retain the current low levels present.³⁵ The Objective also acknowledges that indigenous ecosystems and habitats can have significant values that are broader than for indigenous biodiversity (such as increasing resilience). In addition, the amendments recognise that protecting significant ecosystems and habitats also requires protection of the underpinning ecosystem functions.³⁶

68. The s 32 Report says replacing “maintained” with “protected” improves certainty in the outcome sought and achieves better alignment with s 6(c) of the RMA.³⁷ As noted earlier, this section requires protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance that must be recognised and provided for. The Report goes on to state that “protection” is already used in Operative Policy 24 which requires plans to include provisions to protect indigenous ecosystems and habitats with significant indigenous biodiversity values.

3.2.1 Submissions, Evidence and Analysis

69. Some submitters supported the Objective and NZ Centre for Sustainable Cities (NZCSC) [S151.016] sought stronger supporting policies and methods. Forest and Bird [S165.021] sought better alignment with s 6(c) of the RMA, noting that exotic forest could be important habitat for indigenous fauna. Other submitters said the direction to “protect” and “enhance” went beyond what was required under the RMA (e.g. DairyNZ

³⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 40.

³⁶ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 186.

³⁷ Section 32 Report, page 95.

[S136.006]), would be difficult to achieve with limited resources (e.g. KCDC [S16.057] and UHCC [S34.072], and should not go beyond a requirement to “maintain”.

70. Waka Kotahi [S129.021] supported the intent but said “protection” was too strong a directive. UHCC sought the addition of the words “and where possible enhanced” instead of “protected, enhanced”, and DairyNZ [FS15.024] sought alternative relief to focus the Objective on significant indigenous habitats. SWDC [S79.009] said enhancement should be allowed to occur “over time”, and Meridian [S100.010] said it should occur “where appropriate”. Powerco [S134.003] also said enhancement and restoration may not be appropriate in all circumstances and WIAL [S148.039] sought that the Objective recognise that restoration occur “where appropriate”. WFF [S164.030] requested the Objective be deleted.
71. The Officer did not agree with submitters seeking deletion of “protection” from the Objective, on the basis that this direction was consistent with the current policy settings, specifically s 6(c) of the RMA, Policy 7 of the NPS-IB (which provides for protection of SNAs), and Operative Policy 24 of the RPS which requires plans to include provisions to protect indigenous ecosystems and habitats with significant indigenous biodiversity values.³⁸
72. The Officer also did not agree that qualifiers were appropriate in Objective 16 as:³⁹

The role of an objective at the level of a RPS is to provide a clear outcome or end point that policies seek to achieve at a regional scale. In my opinion, the use of general qualifiers in objectives acts to weaken the objective, leaving it open to debate and making it difficult to monitor its effectiveness.

73. We agree with the Officer’s statement. The Objective recognises that a range of measures is required to achieve the desired outcome with articulation of the ‘what’ and ‘how’ (including in relation to infrastructure projects), to come through policies, methods and lower-order plans. The RPS is reviewed every ten-years so we also agree with the Officer that there is no need to include the words “over time” in the Objective. Ms Hunter for WIAL sought reference to the effects management hierarchy in the Objective, but we agree with the Officer that the implementation or achievement of the Objective is a matter for the cascading policies.

³⁸ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 178 – 179.

³⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 181.

74. The RPS does not require a regulatory response for the enhancement and restoration of indigenous biodiversity⁴⁰ and the NPS-IB recognises this supportive rather than directive approach. For instance, Policy 13 says “Restoration of indigenous biodiversity is promoted and provided for” and clause 3.21 also refers to promoting restoration. Clause 1.7(b) says that maintaining indigenous biodiversity requires “where necessary, the restoration and enhancement of ecosystems and habitats”. Various submitters interpreted the notified and recommended s 42A recommendations as signalling a regulatory response to restoration and enhancement. We therefore agree with the Officer’s recommendation in her Rebuttal evidence to include the qualifier “where appropriate” in relation to enhancement and restoration.
75. We also agree with the Officer that a qualifier is not justified in Objective 16 in relation to “protection”. While Objective 2.1(b)(iii) of the NPS-IB refers to “protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity”, and this could be used to argue that a qualifier is justified for “protection”, based on the evidence we heard and mandatory direction in the NPS for SNA protection, we consider that “protection” is a clear and justified outcome for the Region. We agree with the Officer that “protect” implies retaining what is already present and “enhance and restore” seek to improve something or return it to its previous (healthy functioning) state.⁴¹
76. The Officer agreed that an amendment to Objective 16 is appropriate to protect significant habitats of indigenous fauna, not just indigenous habitats, to give effect to RMA s6(c). In response to DairyNZ and WFF’s relief, and as further refined in Reply Evidence, the Officer recommended replacing “ecosystem functions and services” with a defined term for “ecosystem processes”. Mr Matich for WFF had said in evidence that neither the RMA nor the NPS-IB requires protection or enhancement of indigenous ecosystems and habitats with “significant ecosystem functions and services”. The Officer agreed but noted research by Maseyk and Parlato stating that the threat status of many of the indigenous species and ecosystems in the Region will continue to worsen if

⁴⁰ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 24 – 25, and also see Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para s 534 – 536.

⁴¹ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 40.

ecosystem processes, connectivity, and condition, are not addressed.⁴²
Based on this research the Officer said:⁴³

Protecting these underpinning ecosystem processes is essential to protect significant habitats and ecosystems and enable them to adjust to pressures, such as climate change.

77. Also based on the research the Officer recommended that Objective 16 refer to “ecosystem processes” rather than functions, and that this should be defined to assist the interpretation of Objective 16. The definition the Officer recommended is “Ecosystem processes: The physical, chemical and biological processes that link organisms and their environment.”
78. We understand that among other things, Objective 16 gives effect to s 6(c) of the RMA and clause 3.10 of the NPS-IB which provides specific direction on managing adverse effects of subdivision, use and development on SNAs. Clause 3.10 is referred to in the s 42A analysis of Objective 16.⁴⁴ Clause 3.10(7) of the NPS-IB states that “Every local authority must make or change its policy statements and plans to be consistent with the requirements of this clause” (emphasis added). In our view, this clause, together with s 6(c), provide higher order support for including the proposed amendments to Objective 16 in Proposed Change 1.

3.2.2 Finding

79. We agree with the Reporting Officer’s recommendations on Objective 16 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

2.1.3 Recommendation

Objective 16

Indigenous ecosystems and habitats with significant ecosystem functions and services and/or indigenous biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes functions that support these ecosystems and habitats, are ~~maintained~~ protected and, where appropriate, enhanced, and restored to a healthy functioning state.


⁴² Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 39.

⁴³ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 39.

⁴⁴ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 178.

3.3 Objective 16A

80. As notified the Objective read:

Objective 16A 
The region's indigenous ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving their resilience to increasing environmental pressures, particularly climate change, and giving effect to Te Rito o te Harakeke.

81. The intent of this new Objective is to recognise the wider values of maintaining, enhancing and restoring indigenous biodiversity generally (in accordance with s 7(f) and s 30(ga) of the RMA.⁴⁵ The Objective also recognises that healthy ecosystems are more resilient to increasing environmental pressures.

3.3.1 Submissions, Evidence and Analysis

82. Some submitters sought that the Objective be deleted. Others raised similar concerns as with Objective 16, stating that enhancement and restoration were not always the most appropriate response (e.g. Meridian [S100.011] and Powerco [S134.004]). In his planning evidence, Mr McDonnell for HCC said that Objective 16A is not achievable as it is not possible to restore the region's biodiversity without reverting entire urban and rural catchments back to indigenous vegetated landscapes.⁴⁶

83. Ātiawa [S131.032] sought reference to the attributes of ecosystem health, ecological integrity and ecological connectivity of indigenous ecosystems. WCC [S140.019] supported the Objective but said it should refer to indigenous biodiversity rather than ecosystems. Meridian also sought that giving effect to Te Rito o te Harakeke should be addressed by the policy suite. DairyNZ [S136.007] was concerned that the meaning of "restoring to a healthy functioning state" was unclear and would depend on the outcome of the freshwater regional planning process.

84. The Officer supported WCC's requested relief and also recommended a definition of "indigenous biodiversity" be included to align with the NPS-IB.

⁴⁵ Section 32 Report, page 96.

⁴⁶ Statement of evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), 30 January 2024, para 33.

The Officer also agreed with removing reference to Te Rito o te Harakeke from the Objective as the “decision-making principles” that replaced this concept in the NPS-IB are process focused. The Officer agreed with including the words “where appropriate” in relation to restoration and enhancement, for similar reasons as in Objective 16⁴⁷ and considered that this would also address the concerns raised by HCC. The Officer recommended retaining the reference to “healthy functioning state” as this set a clear desired outcome and the details of ‘how’ would be set through cascading provisions. The Officer also recommended retaining resilience and environmental pressures to align with Policies 4 and 7 of the NPS-IB, and respond to direction in the Biodiversity Strategy, the NAP and ERP. The Officer did not think referencing particular attributes was necessary as requested by Ātiawa as these were provided for in the definition of “maintenance of indigenous biodiversity”.

85. In Minute 22 we asked the Officer about the policies and methods that give effect to Objective 16A to provide for the maintenance of indigenous biodiversity outside of areas with significant indigenous biodiversity values. The Officer responded in Reply Evidence to list the provisions that give effect to the Objective, including Policies 61, IE.1, IE.2A, IE.3 and Method 54.⁴⁸ The Officer also referenced relevant provisions in both the Climate Change (HS3) and Freshwater (HS5) suite of provisions.

3.3.2 Finding

86. We agree with the Reporting Officer’s recommendations on Objective 16A for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.3.3 Recommendation

Objective 16A

The region’s indigenous ~~biodiversity is ecosystems are~~ maintained and, where appropriate, enhanced, and restored to a healthy functioning state, improving ~~its their~~ resilience to increasing environmental pressures, particularly climate change, and giving effect to the Te Rito o te Harakeke.

⁴⁷ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 49.

⁴⁸ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 67.

3.4 Objective 16B

87. As notified the Objective read:

Objective 16B
Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.

88. The s 32 Report says that's the intent of this new Objective is to recognise and provide for Māori values for indigenous biodiversity and their role as kaitiaki.⁴⁹

3.4.1 Submissions, Evidence and Analysis

89. Submitters generally supported the Objective and its principles. Amendments were sought including in relation to resourcing for mana whenua / tangata whenua (Taranaki Whānui [S167.039 and Ātiawa [S131.033]) and incorporation of community values (Fish and Game [S147.030]). Some submitters opposed the Objective on the basis that its outcome was not clear (PCC [S30.015]) and it recreated NPS-FM policy [Wellington Water [FS19.094].

90. The Officer said that funding for work programmes where Council and mana whenua / tangata whenua are working as partners is provided through Kaupapa Funding Agreements and this detail did not need to be included in the RPS.⁵⁰ Community values were provided for in Objective 16C and it is appropriate for Objective 16B to focus on mana whenua / tangata whenua as kaitiaki of indigenous biodiversity as recognised in the NPS-IB.

91. The Officer considered that the outcome sought by Objective 16B is clear, measurable and gives effect to s 6(e) of the RMA and the NPS-IB, and should be retained as notified.⁵¹ Section 6(e) requires that the relationship

⁴⁹ Section 32 Report, page 96.

⁵⁰ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 218.

⁵¹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 221 – 222; Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 56 – 57.

of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga are recognised and provided for as a matter of national importance.

3.4.2 Finding

92. We agree with the Reporting Officer’s recommendations on Objective 16B for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.4.3 Recommendation

Objective 16B

Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.

3.5 Objective 16C

93. As notified the Objective read:

Objective 16C
Landowner and community values in relation to indigenous biodiversity are recognised and provided for and their roles as stewards are supported.

94. This new Objective seeks to better recognise the important role that landowners have as stewards for indigenous biodiversity.

3.5.1 Submissions, Evidence and Analysis

95. DairyNZ [S136.008] opposed the Objective in part, requesting that reference to the role of landowners as ‘stewards’ is deleted as this infers a responsibility of landowners to deliver ‘community values’, with no clarity about what this may mean in a practical sense. The Officer did not agree with removing the word “steward” as the Objective aims to support community and landowners’ roles as stewards rather than placing undue burden on them.⁵² In addition, the Objective aligns with ss 5 and 7(aa) of the RMA, the direction in ss 30 and 31 to maintain indigenous biodiversity and NPS-IB Objective 2.1(1)(b)(ii) and clause 1.5(3)(e) which recognise people and communities, including landowners, as stewards of indigenous biodiversity.

3.5.2 Finding

96. We agree with the Reporting Officer’s recommendations on Objective 16C for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.5.3 Recommendation


Objective 16C

Landowner and community values in relation to *indigenous biodiversity* are recognised and provided for and their roles as stewards are supported.

⁵² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, paras 221 – 222.

3.6 Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

97. The notified amendments to Policy 23 stated:

Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans	
<p>By 30 June 2025, district and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:</p> <ul style="list-style-type: none"> (a) Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and: <ul style="list-style-type: none"> (i) are no longer commonplace (less than about 30% remaining); or (ii) are poorly represented in existing protected areas (less than about 20% legally protected). (b) Rarity: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare. (c) Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area. (d) Ecological context of an area: the ecosystem or habitat: <ul style="list-style-type: none"> (i) enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or (ii) provides seasonal or core habitat for protected or threatened indigenous species. (e) <u>Mana whenua / t</u>angata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to <u>mana whenua / tangata whenua</u>, identified in accordance with tikanga Māori. 	
<p>Explanation</p> <p>Policy 23 sets out criteria as guidance that must be considered in identifying indigenous <i>ecosystems</i> and <i>habitats</i> with significant <i>biodiversity</i> values. <u>This evaluation is to be undertaken by 30 June 2025.</u></p> <p>Wellington Regional Council, and district and city councils are required to assess indigenous ecosystems and habitats against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an indigenous ecosystem or habitat must fit one or more of the listed criteria. Wellington Regional Council and district and city councils will need to engage directly with landowners and work collaboratively with them to identify areas, undertake field evaluation, and assess significance. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.</p> <p>Indigenous ecosystems and habitats can have additional values of significance to <u>mana whenua / tangata whenua</u>. There are a number of indigenous ecosystems and habitats across the region that are significant to tangata whenua for their ecological characteristics. These ecosystems will be considered for significance under this policy if they still exhibit the ecosystem functions which are considered significant by <u>mana whenua / tangata whenua</u>. Access and use of any identified areas would be subject to landowner agreement. Wellington Regional Council and district and city councils will need to <u>partner engage directly with mana whenua / tangata whenua</u> and work collaboratively with them and other stakeholders, including landowners, to identify areas under this criterion.</p> <p>Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the <i>beds</i> of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values for all land, except the coastal marine area and the <i>beds</i> of lakes and rivers.</p>	

98. The Reporting Officer described the Operative provision in these terms:⁵³

Policy 23 in the operative RPS sets out the criteria to be used to identify “areas of significant indigenous vegetation and significant habitats of indigenous fauna” as required by RMA s 6(c). These criteria apply to indigenous biodiversity in all environments. These criteria have been operative since 2013 and have already been used by the Council to identify sites, ecosystems or habitats that have significant indigenous biodiversity values in rivers, lakes, wetlands, and the coastal marine area, which are listed in Schedule F of the NRP. The operative Policy 23 criteria have also been used by a number of district councils in the Wellington Region to identify sites of significance for indigenous biodiversity in the terrestrial environment, with these sites listed in schedules to the district plans and referred to as Significant Natural Areas (SNAs).

99. Proposed Change 1 amends Operative Policy 23 to include a June 2025 deadline for the identification in district and regional plans of ecosystems and habitats with significant indigenous biodiversity values in accordance with the Policy 23 criteria. The Officer explained that the regional council has given effect to Policy 23 to identify ecosystems and habitats with significant indigenous biodiversity values in aquatic environments including the CMA, with these listed in Schedule F of the NRP. This schedule is updated through plan changes as new information comes to hand.

3.6.1 Submissions, Evidence and Analysis

100. Various submitters sought amendments regarding the timeframe proposed (including removal of the deadline), alignment with the NPS-IB, and that the identification and protection of valued ecosystems and habitats occur in partnership with mana whenua (Ātiawa [S131.071]). The s 42A Report notes that at the time Proposed Change 1 was notified, only three of the Region’s district plans had given effect to Policy 23. Policy 6 and clause 3.8 of the NPS-IB direct a district-wide assessment using the criteria in Appendix 1 of areas of significant indigenous vegetation or significant habitat of indigenous fauna that qualify as SNAs. In accordance with clause 4.2, a TA must notify a plan or plan change by 4 August 2028 to include identified SNAs in accordance with clause 3.9 of the NPS-IB.

⁵³ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 40.

101. The Reporting Officer recommended in the s 42A Report that the timeframe in the notified amendments to Policy 23 be amended to align with the final date in the NPS-IB. Some submitters sought an earlier date be included in Policy 23, but the Officer did not support this given the directiveness of the NPS-IB requirement, the process and criteria to be followed, and the different stages in SNA identification across the Region's TAs.⁵⁴
102. Ms Cook for WCC sought amendments to clarify the respective roles of the Regional Council and TAs. Mr McDonnell on behalf of HCC thought the cross-references to the NPS-IB should be deleted as they added unnecessary length and could become redundant if the NPS-IB is subsequently repealed. Ms Hunter, WIAL's planning expert, was concerned that the criteria in Policy 23(2) were so broad that they would likely capture significant areas of the Region including potentially highly modified areas which could not sensibly be identified as SNAs.
103. The Officer recommends substantial amendments to Policy 23 to give effect to the NPS-IB. Clause 3.8 and Appendix 1 of the NPS-IB specify direction to TAs regarding the terrestrial environment and the Officer recommends that the criteria and principles in the NPS-IB are included in Policy 23. The Officer recommends that the Operative criteria continue to apply for all other environments, including the CMA and the beds of lakes, rivers, and wetlands.
104. The Officer noted the directiveness of clause 3.9 and Appendix 1 of the NPS-IB regarding the identification of SNAs by TAs and considered that the recommendations in Policy 23(1) were appropriate.⁵⁵ The Officer agreed with the suggested drafting proposed by Ms Cook for WCC clarifying the respective roles of councils.
105. The Officer did not think that the concerns Ms Hunter raised required amendments to Policy 23 as the criteria have been operative since 2013 and already used by the regional council to identify sites and habitats with significant indigenous biodiversity values in rivers, lakes, wetlands and the CMA which are listed in Schedules in the NRP (having gone through a Schedule 1 process), and by several district councils in terrestrial environments. Further, Ms Hunter's relief would not give effect to Policy 11

⁵⁴ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 251.

⁵⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 75 – 76.

of the NZCPS as it would apply only a sub-set of the criteria listed there.⁵⁶ The Officer noted that the higher order direction for Policy 23(2) derives from ss 6(c) and 30(1)(ga) of the RMA and has been reformatted to clarify the relationship between the criteria set in the NPS-IB and the RMA.⁵⁷

106. In Minute 22, we queried with the Officers whether the wording they supported in Objective 16 regarding other significant habitats of indigenous fauna should also be included in Policy 23. The Officers recommended in their Reply Evidence that this change be made in the Policy, but that it not require the identification of ecosystem processes that support habitats and ecosystems as this level of detail is too much to be expected in a plan, but instead should be considered when determining appropriate protection and restoration measures.⁵⁸
107. We consider the Officers' final recommendations on Policy 23 align with RMA, NPS-IB and NZCPS direction, and the outcomes sought by Objective 16.

3.6.2 Finding

108. We agree with the Reporting Officer's recommendations on Policy 23 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

Policy 23: Identifying *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna – district and regional plans

~~By June 2025; As soon as reasonably practicable and by no later than 4 August 2028; District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values.; Ecosystems and habitats will be considered significant if:~~

- 1) ~~District plans shall identify and map *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna in the terrestrial environment, they meet the criteria in that qualify as significant natural areas; and are identified in accordance with Appendix 1B the principles in Clause 3.8, of the National Policy Statement for Indigenous Biodiversity 2023; and~~

⁵⁶ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 74.

⁵⁷ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 42.

⁵⁸ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 17.

- 2) *Regional plans* shall identify and map *indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the coastal marine area, the beds of lakes and rivers, and natural wetlands*, ~~they that~~ meet one or more of the following criteria:
- (a) Representativeness: the *ecosystems or habitats* that are typical and characteristic examples of the full range of the original or current natural diversity of *ecosystem and habitat* types in a district or in the region, and:
 - (i) are no longer commonplace (less than about 30% remaining); or
 - (ii) are poorly represented in existing protected areas (less than about 20% legally protected).
 - (b) Rarity: the *ecosystem or habitat* has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.
 - (c) Diversity: the *ecosystem or habitat* has a natural diversity of ecological units, *ecosystems*, species and physical features within an area.
 - (d) Ecological context of an area: the *ecosystem or habitat*:
 - (i) enhances *connectivity* or otherwise *buffers* representative, rare or diverse *indigenous* ecosystems and habitats; or
 - (ii) provides seasonal or core habitat for protected or threatened *indigenous* species.
 - (e) *Mana whenua / tFangata whenua* values: the *ecosystem or habitat* contains characteristics of special spiritual, historical or cultural significance to *mana whenua / tangata whenua*, identified in accordance with *tikanga* Māori.

Explanation

Policy 23 sets out the criteria as guidance that must be met for an considered in identifying indigenous ecosystems and/or habitats to be considered to have with significant indigenous biodiversity values. This evaluation is to be undertaken completed and the ecosystems and habitats identified as having significant indigenous biodiversity values included in a district or regional plan as soon as reasonably practicable and by no later than 4 August 2028by 30 June 2025.

Wellington Regional Council, and district and city councils are required to assess *indigenous ecosystems and habitats* against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an *indigenous ecosystem or habitat* must meet fit one or more of the listed criteria in Policy 23(1) or (2). Wellington Regional Council and district and city councils will need to engage directly with landowners and work collaboratively with them to identify areas, undertake field evaluation, and assess significance. In the terrestrial environment, significance assessments must be

~~undertaken in accordance with the principles in Clause 3.8 of the National Policy Statement for Indigenous Biodiversity 2023. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.~~


Indigenous ecosystems and habitats can have additional values of significance to *mana whenua / tangata whenua*. There are a number of *indigenous ecosystems* and *habitats* across the region that are significant to *tangata whenua* for their ecological characteristics. These *ecosystems* will be considered for significance under this policy if they still exhibit the *ecosystem functions* which are considered significant by *mana whenua / tangata whenua*. Access and use of any identified areas would be subject to landowner agreement. Wellington Regional Council and district and city councils will need to ~~partner~~ ~~engage directly~~ with *mana whenua / tangata whenua* and work collaboratively with ~~them and other~~ stakeholders, including landowners, to identify areas under this criterion.

~~Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the beds of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values in the terrestrial environment for all land, except for the coastal marine area, and the beds of lakes and rivers wetlands.~~

3.7 Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

Appendix 1A: Limits to biodiversity offsetting and biodiversity compensation

109. As notified Policy 24 read:

<p>Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans</p>	
<p>By 30 June 2025, Ddistrict and regional plans shall include policies, rules and methods to <i>protect</i> indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.</p> <p><u>Where the policies and/or rules in district and regional plans enable the use of <i>biodiversity offsetting</i> or <i>biodiversity compensation</i> for an ecosystem or habitat with significant indigenous biodiversity values, they shall:</u></p>	
<p>(a) <u>not provide for <i>biodiversity offsetting</i>:</u></p> <p style="margin-left: 20px;">(i) <u>where there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset; or</u></p> <p style="margin-left: 20px;">(ii) <u>when an activity is anticipated to causes residual adverse effects on an area after an offset has been implemented if the ecosystem or species is <i>threatened</i> or the ecosystem is <i>naturally uncommon</i>;</u></p> <p>(b) <u>not provide for <i>biodiversity compensation</i> where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is <i>threatened</i> or the ecosystem is <i>naturally uncommon</i>;</u></p> <p>(c) <u>ecosystems and species known to meet any of the criteria in (a) or (b) are listed in Appendix 1A (Limits to <i>biodiversity offsetting</i> and <i>biodiversity compensation</i>);</u></p> <p>(d) <u>require that the outcome sought from the use of <i>biodiversity offsetting</i> is at least a 10 percent net biodiversity gain, or from <i>biodiversity compensation</i> is at least a 10 percent net biodiversity benefit.</u></p>	
<p>Explanation</p> <p>Policy 24 applies to provisions in regional and district plans.</p> <p><u>The policy provides clarity about the limits to, and expected outcomes from, <i>biodiversity offsetting</i> and <i>biodiversity compensation</i> for an ecosystem or habitat with significant indigenous biodiversity values. Ecosystems and species known to meet the criteria in clauses (a and b) are listed in Appendix 1A (Limits to <i>biodiversity offsetting</i> and <i>biodiversity compensation</i>).</u></p>	

Calculating a 10 percent net biodiversity gain (offsetting) or a 10 percent net biodiversity benefit (compensation) employs the same or a similar calculation methodology used to determine 'no net loss or preferably net gain' under a standard offsetting approach. The distinction between 'net gain' and 'net benefit' is to recognise that the outcomes achievable through the use of offsetting and compensation are different. An offsetting 'net biodiversity gain' outcome is expected to achieve an objectively verifiable increase in biodiversity values while a compensation 'net biodiversity benefit' outcome is more subjective and less preferable.

Table 16 in Appendix 1 identifies rivers and lakes with significant indigenous ecosystems and habitats with significant indigenous biodiversity values by applying criteria taken from policy 23 of rarity (habitat for threatened indigenous fish species) and diversity (high macroinvertebrate community health, habitat for six or more migratory indigenous fish species).

Policy 47 will need to be considered alongside policy 24 when changing, varying or reviewing a regional or district plan.

Policy 24 is not intended to prevent change, but rather to ensure that change is carefully considered and is appropriate in relation to the biodiversity values identified in policy 23.

3.7.1 Submissions, Evidence and Analysis

110. Various submitters supported the Policy and sought that it be retained as notified. Some submitters were concerned about the timeframe, the interaction of the Policy with effects management hierarchies in higher order instruments, pathways for infrastructure and mineral extraction, and principles for biodiversity offsetting and compensation.⁵⁹
111. The Officer recommended the implementation timeframe be amended for consistency with the NPS-IB (as recommended for Policy 23). In terms of recognising the effects management hierarchies in other national direction, the Officer recommended in his s 42A evidence including cross-references to this direction in Policy 23. He considered this to be an effective and efficient approach which also gives effect to s 6(c).
112. Legal submissions from Forest and Bird did not support the cross-referencing in Policy 24 of the different NPS effects management hierarchies on the basis that this did not meet the requirement to give effect to the NPS-IB under s 62(3) of the RMA and created potential policy gaps if the NPS-IB is amended in the future.⁶⁰ Forest and Bird did not support infrastructure being exempt from bottom lines in higher order

⁵⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 303.

⁶⁰ Legal submissions for the Royal Forest & Bird Protection Society Inc, Hearing Stream 6 (Indigenous Ecosystems), 5 February 2024, paras 6 – 7.

direction and submitted that this would (unlawfully) override s 6 of the RMA and the policy lacuna could be filled by recourse to Part 2 in accordance with *King Salmon*.⁶¹

113. Ms Burns for Rangitāne also thought the cross-referencing approach in Policy 24 added unnecessary duplication, did not provide further clarity or interpretation at a local scale of how effects on indigenous biodiversity would be made, and would have no weight if the NPS-IB is replaced or repealed.
114. Ms Heppelthwaite for Waka Kotahi supported the amendments to Policy 24 recommended in the s 42A Report. Various other submitters continued to seek amendments, including a pathway for infrastructure with a functional, operational or technical need to locate in areas with significant biodiversity values. Ms Clarke for Winstone Aggregates noted that the approach in revised Policy 24 was inconsistent with the amendments the Officer for HS5 had recommended to Policies 40A and 40B.
115. In his Rebuttal Evidence, in response to submitters' concerns, the Reporting Officer recommends replacing clauses (a) to (c) in Policy 24 with two new policies, two new appendices for biodiversity offsetting and compensation, and some new definitions. The approach recommended was:⁶²
- (a) Policy 24B: Managing adverse effects on significant indigenous biodiversity values in the terrestrial environment (largely replicating clauses 3.10 and 3.11 of the NPS-IB, with amendments to align with RPS terminology)
 - (b) Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment (largely replicating Policy 11 of the NZCPS, with amendments to align with RPS terminology)
 - (c) Appendix 1B (Biodiversity offsetting and aquatic offsetting)
 - (d) Appendix 1C (Biodiversity compensation and aquatic compensation)
116. The Officer said that while this approach may result in some duplication with the NPS, it avoids the need to cross-reference multiple documents,⁶³

⁶¹ Legal submissions for the Royal Forest & Bird Protection Society Inc, Hearing Stream 6 (Indigenous Ecosystems), 5 February 2024, paras 13 – 15.

⁶² Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, paras 43 – 49.

⁶³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 9, lines 404 – 408; and page 8, line 381.

it helps ensure alignments with NRP terminology, and can also ensure regional specificity which is one of the main tasks for the RPS.

117. We directed expert planners' caucusing on this issue which is discussed further below. We note that Mr McDonnell for HCC queried the extent of the 'blue' Rebuttal amendments and cautioned that there may be scope and natural justice issues arising and similar concerns were raised by Ms Cook for WCC. We have considered this concern but do not share Mr McDonnell's concerns about scope. WIAL's submission [S148.043] refers to Policy 11 of the NZCPS, and various infrastructure providers (e.g. Transpower [S10.002]) sought that the provisions recognise that RSI may have a functional or operational need to locate in a particular location. The proposed new Policies 24B – 24D are an attempt to provide for Part 2 matters and reconcile national direction, including the NZCPS and NPS-IB (regarding the terrestrial coastal environment). Parties were able to further submit and become involved in these issues through the Hearings process.

3.7.1.2 Effects management hierarchy

118. Dr Maseyk explained the sequential steps to be implemented through the effects management hierarchy to manage adverse effects on indigenous biodiversity:⁶⁴

The first three steps of the effects management hierarchy ... are to avoid adverse effects in the first place, then to minimise, then remedy [the mitigation hierarchy]. Any residual adverse effects on biodiversity may then be offset or, where an offset is not possible, compensated.... The NPS-IB, the NPS-FM, and the NRP include a sixth step to the effects management hierarchy, whereby if biodiversity compensation is not possible then the activity is to be avoided.

119. The Reporting Officer explained that:⁶⁵
- a. In the coastal environment, the NZCPS requires adverse effects to be avoided where Policy 11(a) is engaged, and therefore Policy 11(a) does not allow for any residual adverse effects to be offset through an effects management approach. In other words, offsetting in this

⁶⁴ Statement of Evidence of Fleur Maseyk on behalf of Greater Wellington Regional Council Technical Evidence (Biodiversity Offsetting and Biodiversity Compensation), Hearing Stream 6 – Indigenous Ecosystems, 5 December 2023, paras 22 and 25; page 28, lines 1369 – 1370.

⁶⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 444 – 462.

environment for these species and ecosystems “is completely off the cards”,

- b. The NPS-IB requires that any adverse effects on a SNA, and any significant adverse effects on indigenous biodiversity outside of SNAs be managed via the effects management hierarchy, and
- c. The NPS-IB provides a pathway and effects management hierarchy for specified infrastructure, but
- d. Clause 1.42 of the NPS-IB says that the NZCPS prevails where there is conflict between the NZCPS and the NPS-IB, so in the terrestrial coastal environment (the CMA), the NZCPS prevails.

3.7.1.1 Offsetting and compensation: Policy 24A and Appendix 1A (Table 17)

120. Submitters raised a range of concerns about the limits and constraints on the use of biodiversity offsetting and compensation in Policy 24, including with the “at least 10 percent net biodiversity gain” or benefit in clause (d). WIAL [S148.041] said the limits were inconsistent with s 104(1)(b) of the RMA, and other submitters sought that they be deleted. Forest and Bird [S165.057] also opposed clause (d) on the basis that it added a new concept that is unnecessary, adds complexity, and is inappropriate. They said the 10% gain or benefit will require some form of calculation of losses and gains and assumes there is adequate information about the species or ecosystem, which will not always be available.

121. Dr Maseyk presenting technical evidence for the Council said:⁶⁶

biodiversity offsetting is complex, challenging and high risk, and this is something we really need to keep front and centre of our minds in the context of our dual biodiversity and climate crises. Therefore policy frameworks need to recognise this risk and take a precautionary approach. Defining limits to acceptability of offsetting and compensation is a key component of that necessary caution.

122. Dr Maseyk’s technical evidence explains why, in her expert opinion, a 10% net gain outcome from biodiversity offsetting is justifiable in the context of the poor state of biodiversity in the Region and continued biodiversity

⁶⁶ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 516 – 519.

decline from land use and development proposals. Dr Maseyk said that while:⁶⁷

no net loss returns a neutral outcome, and that means there will be no loss in that particular biodiversity element net gain outcomes do achieve positive outcomes for target biodiversity over and above that point of no net loss.

123. Dr Maseyk identified some unintended consequences with the 10% net benefit provision, and recommended some amendments to Policy 24 to clarify the concept. In reliance on Dr Maseyk’s evidence, the Officer recommend amending the requirement for a net gain from offsetting to require “at least a net gain and preferably a 10% or greater net gain”. The Officer also recommended amending the requirement for a net benefit for compensation to a requirement to achieve positive effects in indigenous biodiversity that outweigh the residual adverse effects, consistent with the NPS-IB and NPS-FM.
124. In the s 42A Report, the Officer recommended a new Policy 24A be included clarifying that offsetting and compensation can only be applied as part of an effects management hierarchy and that the principles for offsetting and compensation in the NPS-IB and NPS-FM be complied with as relevant. The proposed new Policy 24A also includes more direction on when offsetting and compensation is not appropriate. The Officer describes biodiversity offsetting as a “form of positive effect to address a residual effect that cannot be avoided.”⁶⁸ Ms Burns for Rangitāne and Mr Brass for the DGC supported Policy 24A. Mr Brass said he considered it reflected expert evidence and best practice for biodiversity offsetting and compensation and gives effect to the NPS-IB in a regional context.
125. Table 17 in Appendix 1A sets out a list of threatened and naturally uncommon ecosystems and species in the Region. Policy 24A and Appendix 1A operate together to say that biodiversity offsetting affecting one of the listed ecosystems and species is inappropriate unless a net gain can be achieved. The list was developed and updated by Dr Crisp and the Officer relies on her technical evidence. In the Officer’s view, the list of species and ecosystems in Appendix 1A is an appropriate and effective way to give effect to the principles in the NPS-IB by providing a regional interpretation of where biodiversity offsetting and compensation may be

⁶⁷ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 533 – 538.

⁶⁸ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 88.

inappropriate in the Wellington Region. The column on the far right of Table 17 identifies species or ecosystems in the coastal environment of the Wellington Region that meet the criteria set out in Policy 11(a) of the NZCPS, and within which the adverse effects of activities are to be avoided.

126. Some submitters supported Appendix 1A, with the DGC [S32.037] saying that Table 17 is an appropriate reflection of the status of the listed ecosystems and species and is useful for implementation of Policy 24, but will need to reflect the most up-to-date information which should be done prior to decisions on Change 1. Forest and Bird [S165.0148] also supported the Appendix but requested that it use the most up to date information when applying limits to offsetting and compensation. Rangitāne supported the inclusion of ecosystems and species but similarly emphasised that the list is not exhaustive and additional ecosystems or species may need to be included. Meridian [S100.027] opposed Appendix 1A and sought it be deleted, as did Winstone Aggregates [S162.018] and also WIAL [S148.043] on the basis the list of species and ecosystems in the table is too broad.
127. Ms Burns for Rangitāne and Mr Brass for the DGC supported Policy 24A. Mr Brass said he considered it reflected expert evidence and best practice for biodiversity offsetting and compensation and gives effect to the NPS-IB in a regional context. He also supported the changes to Table 17. Forest and Bird remained concerned with the reference to “preferably a 10% net gain or greater” and said the NZCPS makes no express reference to offsetting and compensation, the CMA is not within the scope of the NPS-IB and the NZCPS prevails in the event of conflict. They also raised concerns about the static nature of Appendix 1A and the ability for additional threatened species and habitats to be considered as limits to biodiversity offsetting and compensation. Ms Downing for Forest and Bird requested that the words “and coastal” are deleted from the first paragraph of the Explanation to Policy 24A⁶⁹ as offsetting and compensation is not available for residual adverse effects in areas of significant biodiversity value in the CMA.
128. Ms Foster for Meridian opposed Appendix 1A as it applies to renewable electricity generation (REG) activities and electricity transmission (ET) activities and said the effects management hierarchies in the NPS-IB, NPS-FM and draft amendments to the NPS-REG and draft NPS-ET do not

⁶⁹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 12, lines 583 – 586.

include additional limits to offsetting and compensation and therefore there was no basis for applying these to REG and ET activities.

129. Ms Heppelthwaite for Waka Kotahi was also concerned about the ‘rigid approach’ in Appendix 1A as it did not allow applicants and decision-makers to adapt to advanced information, methods and approaches. Ms Cook for WCC said the 10% net gain target was arbitrary and the phrase “at least net gain and preferably a 10% net gain or greater” target will create additional uncertainty for applicants and consent authorities as there will be no set standards to measure the biodiversity outcomes/gains from offsetting and compensation. Mr Matich for WFF said the “preferably 10% net gain or greater” target in clause (d) of Policy 24A is inconsistent with clause 3.22 of the NPS-IB and the justification for the requirement had not been established.
130. Ms Hunter for WIAL was of the view that the RPS should enable all specified or regionally significant infrastructure to access the effects management hierarchy and that this should apply across all environments – coastal, terrestrial and freshwater in part because of the general obligation in s 104(1)(ab) of the RMA for consent authorities to consider any positive effects arising from offsetting or compensation measures from allowing a proposed activity. Ms Hunter said a strict avoidance approach was not appropriate in light of the *Port Otago* Supreme Court decision, and it was well established that infrastructure activities, particularly those which are regionally significant, often have technical, functional or operational requirements and constraints that mean they may have to co-locate in areas that have significant biodiversity values. The NZCPS recognises the functional and operational needs of infrastructure and it is appropriate for the RPS to give further direction on how to resolve this tension with Policy 11 of the NZCPS.
131. Ms Hunter also said Appendix 1A prevents offsetting and compensation from being considered for species and habitats listed in Policy 11(a) of the NZCPS and potentially the species and habitats listed in Policy 11(b) of the NZCPS, and Table 17 covers a wide range of species/sites, and the potential costs of these restrictions had not been adequately justified. Ms Hunter’s view was that “there is more grey than simply saying Policy 11 with regard to regionally significant infrastructure [must take] a strict avoidance [approach]”⁷⁰ and that the structured analysis in the *Port Otago*

⁷⁰ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 41, lines 2056 – 2070.

Supreme Court decision allows a pathway to be recognised for RSI that has a functional or operational requirement to locate in the coast.

132. Ms Hunter talked about the upgrade work the Airport was planning for the seawall and that there would be mixed kelp assemblages in that environment so ‘avoidance’ is:⁷¹

just not practicable because there are safety and operational concerns if the seawall is not sufficiently upgraded.

133. Ms Dewar, counsel for WIAL, said that a court would probably have to reconcile the conflict and the RPS provisions should not preclude their ability to do that through strong directive language.⁷² Ms Dewar said that WIAL was not asking “for an easy road” but just that “there is an appropriate consenting pathway” and that *Port Otago* confirmed that ‘avoid’ is not always ‘avoid’ but “it will depend on the circumstances as to when you have to totally avoid”.⁷³

134. In response to a question we asked at the Hearing about the pathway for RSI in a Policy 11(b) NZCPS situation (that is, ecosystems/species that did not have significant biodiversity values), Ms Hunter said that if there was no ability to offset and compensate, then the consenting barrier would be too high. Ms Hunter said:⁷⁴

If you look at the seawall itself, it's probably created some sort of habitat for marine invertebrates or whatever it might be, algae or those sorts of things. I can't comment on that. I haven't seen any evidence of that. But, just for an example, they might have existed within the existing environment there and they may need to be removed. But, Wellington Airport is prepared to offset or compensate by recreating that habitat within the new seawall or somewhere else.

135. In Supplementary Evidence Ms Hunter attached technical reports on the seawall and the existing marine environment, and confirmed the presence of habitats which are listed in Table 17 of Appendix 1A. The habitats comprise mixed kelp assemblages and Giant kelp. Red algae was also discovered and Ms Hunter notes that Table 17 includes some species of red algae although those species were not described in the technical

⁷¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 43, lines 2177 – 2182.

⁷² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, pages 41 – 42, lines 2084 – 2090.

⁷³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 44, lines 2199 – 2203.

⁷⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 45, lines 2245 – 2251.

reports.⁷⁵ In addition, the reports suggested reef heron are likely to be present and orca have been sighted, being species listed in Table 17. Ms Hunter said:⁷⁶

Given the presence of these species in and around the seawall area, it is clear that the combination of the proposed policies, Appendix 1A and Table 17 will create difficulties for any seawall replacement project to meet the requirement to avoid all adverse effects. Where such habitats or species may be unavoidably adversely affected, there is also an inability to consider offsetting or compensation. This would pose a major policy obstacle for a project that is crucial to safeguard the Airport and other essential infrastructure in the area.

136. Ms Hunter also raised issues of consistency between sites of significance identified in the NRP and Appendix 1 and sought a separate provision in the RPS similar to Policy 24D for REG activities. The Policy would allow RSI to be located in areas with significant biodiversity values where there was an operational or functional need and effects were managed in accordance with the effects management hierarchy.⁷⁷ Ms Hunter said this approach would eliminate the need to modify the NRP to better comply with the RPS and would therefore be more efficient and reduce costs. Ms Hunter said a region-specific approach to RSI and existing infrastructure activities, similar to that taken in the NRP, was appropriate. Ms Hunter also noted that kelp beds are not considered in the NRP as meeting Policy 11(a) criteria, but instead they are classified under Policy 11(b) of the NZCPS.⁷⁸
137. Ms Clarke for Winstone Aggregates said Policy 24A will significantly restrict the ability to undertake biodiversity offsetting or compensation in the Wellington Region and insufficient evidence had been provided to support this approach.
138. In his Rebuttal Evidence, the Officer recommended various amendments to Policy 24A and also the introductory text to Appendix 1A. He said the words “must be considered as a minimum” in Policy 24A(b) make it clear that Appendix 1A is not an exhaustive list of threatened or naturally uncommon ecosystems and species and amendments to the introductory text of Appendix 1A ensure that the conservation status of other

⁷⁵ Supplementary Statement of Evidence by Claire Hunter, HS6, 20 March 2024, paras 8 – 9.

⁷⁶ Supplementary Statement of Evidence by Claire Hunter, HS6, 20 March 2024, para 10.

⁷⁷ Supplementary Statement of Evidence by Claire Hunter, for WIAL, 20 March 2024, paras 21 – 22.

⁷⁸ Supplementary Statement of Evidence by Claire Hunter, for WIAL, 20 March 2024, para 16.

ecosystems and species not listed in the Appendix can be considered as appropriate when assessing a particular offsetting or compensation proposal.

139. The Officer’s Rebuttal Evidence contains a discussion regarding reconciling the avoid direction in Policy 11 of the NZCPS with the NPS-IB and concludes that because the NZCPS prevails in accordance with clause 1.4(2) of the NPS-IB and the NPS-IB does not apply in the CMA, there is no clear statutory basis to accept the relief sought by Ms Hunter to allow the pathway and effects management framework for specified infrastructure in Clause 3.11(1) of the NPS-IB.⁷⁹ Policy 11 is, as the Officer describes, a “hard avoid”.⁸⁰ The Officer recommends retaining the column in Appendix 1A that lists species and ecosystems that meet the criteria in Policy 11(a) of the NZCPS and a statement that consideration of biodiversity offsetting and compensation of these ecosystems and species is not provided for. He also recommends corresponding amendments to the explanatory text to Policy 24A and Policy 24C to say that that Policy 24C prevails over Policy 24B in the coastal environment above mean high water springs when there is a conflict between the two policies that cannot be reconciled.
140. Dr Maseyk provided technical Rebuttal Evidence in response to concerns raised in submitter evidence. On the basis of this evidence, the Officer said that the concerns raised by submitters that the preferably 10% net gain or greater target will increase complexity of the calculations and reliance on technical experts were overstated and inaccurate.⁸¹ The Officer recommended retaining the direction in Policy 24A for offsetting to achieve “at least a net gain and preferably a 10% net gain or greater” outcome of indigenous biodiversity.
141. In Reply Evidence and following caucusing, the Officer supported adding in the words “but that may change over time due to changes in knowledge, methods or expertise, or mechanisms” into Policy 24(d) in response to Ms Heppelthwaite’s concerns that the provisions reflect changes in offsetting techniques which may occur in the future. The Officer emphasised that the policy direction is that offsetting is likely to be inappropriate as a

⁷⁹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 89; also see Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 451 – 456.

⁸⁰ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 10, lines 447 – 448.

⁸¹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 93.

starting point.⁸² The Officer also recommended amendments to Appendix 1A to refer to “currently (at 2024)” which recognises that changes may occur over time.

142. In Reply Evidence, the Officer said that he and Ms Guest had discussed the accuracy of Table 17 in Appendix 1A with technical experts at Council, and that he also understood that at caucusing the experts attending had recommended removing ‘Mixed kelp assemblages’ from the ecosystems/species identified as having Policy 11(a) classification.⁸³ The Officer noted that this had been incorrectly captured in the Joint Witness Statement following caucusing which said that ‘mixed kelp assemblages’ would be deleted completely from Appendix 1A.
143. We accept the technical evidence presented by the Council on the list of ecosystems and species and when offsetting and compensation may be inappropriate due to the vulnerability or irreplaceability of the species affected. The list in Appendix 1A is supported by Dr Crisp as a list of ecosystems and species that meet national criteria for nationally Threatened/naturally uncommon criteria. There is an error in the heading of the third column of Table 17. It should read: “Policy 24A(d)” rather than “Policy 24A(b)”. We recommend this is amended as a minor drafting change.
144. We agree with the Officer’s recommended changes that state the list of species in the Appendix is not static and the status needs to be considered at the time as relevant for planning and consenting processes.

3.7.1.2 Implementation of other national instruments

145. A key issue raised by submitters related to the drafting approach to give effect to higher order instruments (that is, cross-referencing or repeating higher order directions).
146. Clause 1.3 of the NPS-IB has a carve out for renewable electricity generation and transmission activities. The reason for this was to not pre-empt proposed amendments to the NPS-ET and NPS-REG which were under consultation at the time the NPS-IB came into effect. Those amendments contain a specific pathway and effects management hierarchy for electricity transmission and renewable electricity generation

⁸² Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 79.

⁸³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 83.

in “areas with significant environmental values”, including SNAs, but the amendments remain in draft form. The issue then was how Policy 24 should recognise the carve-out, also noting Forest and Bird’s caution that the carve-out “ousts” the role of s 6(c) of the RMS where there is no statutory basis to do so. Forest and Bird said that the RPS should “go to Part 2 to fill that gap”⁸⁴ caused by the carve-out, and that REG and ET activities should still be subject to the relevant effects management hierarchy to meet s 6(c) obligations. Ms Downing also took us to clause 3.1(2) of the NPS-IB which says that nothing in this Part limits a local authority’s functions and duties under the Act in relation to indigenous biodiversity.⁸⁵

147. Ms Foster’s view is that the policy intention is that SNAs affected by REG and ET activities are managed differently from the more stringent approach that the NPS-IB takes for other activities, and that the NPS-IB and proposed NPS-REG and proposed NPS-ET were intended to work together (hence the carve out), but the NPS-IB was gazetted before the draft instruments were finalised.
148. Ms Foster said that a more enabling approach for REG and ET activities should be included in the RPS as the policy intent was clear, and failing to do so would mean a more enabling approach for other specified infrastructure. Ms Whitney, providing planning evidence for Transpower, raised similar concerns but preferred for the RPS to preserve the ‘carve out’ position for ET activities. Ms Whitney sought an exemption from Policies 24 and 24A for ET activities but she did not seek a new effects management policy, saying that any such policy should be formulated once the proposed NPS-ET is finalised and gazetted, rather than pre-empting those provisions through Proposed Change 1.
149. The Officer agreed that the intent of government policy through clause 1.3(3) of the NPS-IB and the proposed NPS-REG and proposed NPS-ET is to provide a more enabling pathway for REG and ET activities recognising the need to significantly increase renewable electricity generation capacity to address climate change and meet New Zealand’s emission reduction targets. He noted there is an issue of timing and it was uncertain when these amendments would take effect but that the intent, as he understood it, was for the more enabling policy pathways to be

⁸⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 17, line 802.

⁸⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 17, lines 839 – 840.

included into regional policy statements and plans without a Schedule 1 process. Therefore, they could override any direction in the RPS.⁸⁶

150. The Officer recommended including a new specific policy for REG and ET activities (Policy 24D) that is aligned to the pathway in the proposed NPS-REG and NPS-ET. He said this was likely to be an interim policy framework until the national direction amendments come into effect. The Officer did not support a blanket exemption for ET activities as that would not meet s 6(c) obligations, but also recognised that a more stringent approach for REG and ET activities than for other specified infrastructure which has a pathway in the NPS-IB is also not appropriate. As the Officer says:⁸⁷

The clear intent from government was to still maintain those specified infrastructure pathways, but have something that's more enabling for renewable electricity generation [and for electricity transmission activities].

151. The Officer also acknowledged that while the government's intention was to amend the NPS-REG and NPS-ET as a priority, and insert provisions directly into RPS' and regional plans, the amendments to national policy had not yet been made.⁸⁸

152. We agree with the views expressed by Mr Brass for the DGC, that the carve-out in the NPS-IB for REG and ET activities may mean that the NPS-IB does not apply, but the application of Part 2 and ss 30 and 31 of the RMA means that it is appropriate to address effects from these activities on indigenous biodiversity. The issue then has to be dealt with on its merits as Mr Brass explained "as opposed to just automatically flowing from an NPS".⁸⁹

3.7.1.3 Expert Caucusing

153. In Minute 22 we directed facilitated expert caucusing on the "regionally significant infrastructure provisions" in Policies 24, 24B, 24C, 24D, 47 and IE2A in an attempt to reach agreement or narrow the points in contention in order to reconcile the relevant national direction. While Waka Kotahi, Meridian, Transpower, WIAL, the DGC and the Council were directed to attend, other experts with relief on the relevant provisions were also able to attend. Forest and Bird presented legal submissions and not planning

⁸⁶ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 112.

⁸⁷ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 30, lines 1477 – 1479.

⁸⁸ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 30, lines 1488 – 1490; 1468 – 1472.

⁸⁹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 58, lines 2940 – 2948.

evidence on the provisions, but were given the opportunity to provide comments on the Joint Witness Statement as could other submitters. Caucusing was facilitated by Jason Jones, Principal Consultant Planner with RM Group.

154. The planners attending caucusing agreed on amendments to Policies 24, 24A and 24B. There was no consensus on particular aspects in Policies 24C and 24D.
155. There was general consensus during caucusing that the key issues for discussion were whether a greater level of nuance between the provisions relating to ET and REG activities was appropriate and, if so, how the provisions should be refined in relation to the coastal environment.⁹⁰ The Joint Witness Statement records fairly broad consensus for the inclusion of *REG activities* in the policy framework.
156. Ms Whitney for Transpower raised natural justice concerns about the extent of changes, especially in relation to ET, and that a number of parties had not had the opportunity to participate in the discussions on these provisions. The Council Officers attending said they acknowledged the natural justice concerns but that the issues are about alignment with national direction or policy drafting already agreed in the NRP.
157. The experts did not agree on Policy 24A or Appendix 1A, but some issues were narrowed, including agreement on changes to the explanatory text to Policy 24A. In response to concerns raised by Ms Hunter for WIAL, the Council Officers said they had consulted with Council technical experts and agreed to delete “mixed kelp assemblages” from Appendix 1A. Ms Hunter supported this but noted that further errors may arise in the application of the Appendix. Mr Brass also agreed with the deletion of “mixed kelp assemblages” but otherwise supported retaining the Appendix. As noted earlier, the Officer clarified in Reply that it had been agreed to delete “mixed kelp assemblages” from identification as NZCPS Policy 11(a) ecosystems/species.
158. The experts agreed that the NPS-IB does not apply to ET or REG activities, but that the NPS-ET, NZCPS, NPS-REG, s 6(c) and the functions in ss 30 and 31 apply to these activities.⁹¹

⁹⁰ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 14.

⁹¹ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 36.

159. The issues of most contention seemed to be the application of the policy framework for existing and new *ET activities* and *REG activities* in the coastal environment. Ms Whitney's preference was that ET activities be removed from Policy 24C and instead Policy 47 provide for an interim regulatory approach until changes are made to the NPSET. Ms Foster, Ms Hunter and Ms Whitney said that Policy 24C does not reconcile Policy 6(a) of the NZCPS or other NPS policy direction in relation to infrastructure, energy generation and transmission. Mr Brass and Ms Guest considered that Policy 24C could be reconciled with NZCPS Policy 6(a) and other direction, and that regional and district plans would be required to reconcile these⁹² so that RPS direction was important and required.
160. The Reporting Officers considered that Policy 24A and new recommended Policy 24CC reconcile Policy 6(a) of the NZCPS and other higher order documents in relation to regionally significant infrastructure in the coastal environment, aligning with the policy approach in the operative NRP.⁹³
161. Ms Whitney's view was that Policy 24C, newly recommended Policy 24CC and Policy 24D needed to be better reconciled in terms of *ET activities* to give effect to the operative NPSET.⁹⁴ One of Ms Whitney's criticisms of the approach proposed in the Officer's Rebuttal Evidence is that it provided no structured analysis of the NPSET and NZCPS.⁹⁵ Ms Whitney's preference was for *ET activities* to be removed from Policy 24D and 24, relying instead on Policy 47 as an interim approach until changes are made to the NPSET.
162. We understand Ms Whitney's concerns with the lack of a broader policy framework in the RPS in relation to ET and comprehensive implementation of the NPSET, and we note that we have recommended a more enabling framework for both *ET activities* and *REG activities* in the Climate change provisions (eg Policy 7). Even though the NPSET may not have been implemented in full and things are in limbo until the changes are made to the operative NPSET, we do not consider it appropriate to provide a carve out in the RPS for existing *ET activities* in the coastal environment, or new *ET activities* in indigenous ecosystems and habitats with significant indigenous biodiversity values. The 'carve out' in the NPSIB cannot justify effectively ignoring s 6(a) of the RMA, the NZCPS and also the NPSET.

⁹² Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 38.

⁹³ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 39.

⁹⁴ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 40.

⁹⁵ Speaking notes of Pauline Whitney for Transpower New Zealand Ltd, 21 February 2024, page 6.

Also, despite the carve out, the Officer supports *REG activities* being included in the policy framework.

163. We agree with the views of Mr Brass and Ms Guest expressed in the Joint Witness Statement, that Policy 24C is able to be reconciled with NZCPS Policy 6(a) and other national direction in a structured analysis as directed by the Supreme Court in *Port Otago* as the approach that ought to be taken in an RPS to resolve conflicts in national direction.⁹⁶

3.7.1.4 Summary of the approach we recommend in the coastal environment

164. In summary, we recommend the provisions:
- a. Provide for an avoid adverse effects approach for Policy 11(a) ecosystems, habitats and species
 - b. Provide for an avoid significant adverse effects approach for Policy 11(b) ecosystems, habitats and species
 - c. Provide for an ‘avoid, minimise, remedy, offsetting, compensation’ sequential approach for non-significant adverse effects in Policy 11(b) ecosystems, habitats and species, and
 - d. Provide for the operation, maintenance, upgrade and extension of existing RSI and REG activities in the coast in Policy 11(a) and Policy 11(b) ecosystems, habitats and species provided certain criteria are met; but that despite this, the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network are enabled.
165. We discuss this approach and reasoning in our assessment below.

3.7.1.5 Policy 24B – Managing adverse effects in the terrestrial environment

166. We recommend a minor drafting amendment to Policy 24B(2)(a) – although if Council prefers, the reference to *REG and ET activities* could be deleted as the exclusion is captured in the heading to Policy 24B and the Explanation.
167. Ms Heppelthwaite, Waka Kotahi’s planner was not able to attend planners’ caucusing. Ms Heppelthwaite was provided the opportunity to comment

⁹⁶ *Port Otago Ltd v Environmental Defence Society In* [2023] NZSC 112.

on the JWS and did so in a supplementary statement of evidence.⁹⁷ Among other comments, Ms Heppelthwaite said that the provisions did not provide for established infrastructure outside the coastal environment and inside ‘SNAs’ and therefore did not give effect to clause 3.15 of the NPS-IB.⁹⁸ We agree and recommend amendments to Policy 24B to provide for the maintenance, operation and minor upgrade of infrastructure in accordance with clause 3.15 of the NPS-IB.

3.7.1.6 Policy 24C – Managing adverse effects in the coastal environment

168. Policy 24C applies to all RSI in the coastal environment. The Policy gives effect to Policy 11 of the NZCPS. The definition of RSI includes Transpower’s assets. In caucusing, Ms Whitney said *ET activities* should be removed from Policy 24C for the reasons set out in the Joint Witness Statement.⁹⁹ Ms Whitney said there was a carve-out in the NPS-IB for *ET activities*, and without an exclusion in the Policy, Transpower’s maintenance, upgrade and new assets would be captured which would have major implications and also not give effect to the operative NPSET. Ms Whitney said a proper structured analysis had not been undertaken of the relevant planning framework as it applies to Transpower’s assets and there was considerable risk in getting it wrong by attempting to do this analysis at this stage.

169. We agree with Ms Whitney that the NPSET provides for Transpower’s maintenance activities. Policy 5 says:

... decision-makers must enable the reasonable operational, maintenance and minor upgrade requirements of established electricity transmission assets.

170. Another Policy of note in the NPSET is Policy 8 which says:

In rural environments, planning and development of the transmission system should seek to avoid adverse effects on outstanding natural landscapes, areas of high natural character and areas of high recreation value and amenity and existing sensitive activities.

⁹⁷ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024.

⁹⁸ Supplementary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1 Hearing Stream 6 on the Wellington Regional Policy Statement, 17 May 2024, paras 5.1 – 5.2.

⁹⁹ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 41.

171. Policy 8 applies in rural environments but does not specifically refer to indigenous biodiversity values.

172. Transpower’s submission had sought:

Amend Policy 24 to recognise that regionally significant infrastructure may have a functional or operational need to locate in a particular location. This could be achieved by adding a qualifying statement: This does not apply to nationally and regionally significant infrastructure that has a functional or operational need to locate in a particular location. In the case of the National Grid, following a route, site and method selection process and having regard to the technical and operational constraints of the network, new development or major upgrades of the National Grid shall seek to avoid adverse effects, and otherwise remedy or mitigate adverse effects, on ecosystems or habitats with significant indigenous biodiversity values.

173. Ms Whitney’s preference was for Transpower’s relief in its submission to be inserted in Policy 47 and apply only to new ET assets. Mr Wyeth said he would prefer that Policy 24C applies to *ET activities*, but he said he appreciated this will cause issues due to the nature, complexity and scale of *ET activities* – especially the operation, maintenance and upgrading of ET assets. He also noted there was no scope to give effect to the NPSET in full through Change 1.

174. Mr Wyeth concluded that he would prefer for Transpower’s relief with amendments, be included as a new clause in Policy 47 for *ET activities* “recognising that this is an interim policy framework until the NPSET is given effect to in full.”¹⁰⁰

175. Mr Brass and Ms Guest preferred that ET is addressed within the 24A, 24C and 24D suite of policies, but that if it was imported to Policy 47, it should apply to both new and major upgrades of ET, and be restructured to align with Policy 14 in the NRP. Policy 14(c) of NRP says (to paraphrase) that new development or major upgrades of National Grid assets in the coastal environment that have a functional need or operational requirement to locate there, must ‘seek to avoid adverse effects’ on (among other things) indigenous biodiversity values listed in Policy 38(a), and ‘seek to avoid

¹⁰⁰ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 43.

significant adverse effects' on indigenous biodiversity values that meet the criteria in Policy P11(b) of the NZCPS.

176. Ms Whitney said that, while she would support a policy approach as provided in Policy 14 of the NRP, a future plan change is the most appropriate way to give effect to the NPSET in the context of indigenous biodiversity.
177. This is a complex issue but as we stated earlier, we did not consider it appropriate for the provisions to be completely silent on *ET activities*. To do so would not meet the Council's obligations under s 6(c) of the RMA or s 62(3) which requires that the RPS give effect to NPS', nor would it reconcile the NPSET's policies with Policies 6 and 11 of the NZCPS. As the Officer acknowledged at the Hearing, the NPS-IB has created a gap with respect to *REG* and *ET activities* "that the RPS needs to address to meet obligations under s 6(c)" and that a "new policy specific to these activities is the most effective and efficient option to address that gap".¹⁰¹
178. The Officer had initially recommended a new policy be included that is based on the draft amendments to the NPSET and NPSREG to ensure a pathway, while also ensuring that adverse effects are appropriately managed.¹⁰²
179. We do not see there to be any particular issues of scope as the application of the NPSET to the HS6 provisions was raised in Transpower's submission. For instance Transpower [S10.002] stated: "Transpower is concerned that the amendments to Policy 24 are overly broad in their application and potentially impractical to implement in practice. They do not recognise that some infrastructure has a functional or operational need to be constructed or operated in certain locations". In addition, implementation of the NZCPS was also raised in WIAL's submission.
180. We agree with Ms Foster for Meridian that the NZCPS directs an avoid adverse effects approach for Policy 11(a) sites and species, and avoid significant adverse effects for Policy 11(b) sites and species, but the NZCPS does not explicitly prevent an effects management approach being applied for the management of non-significant adverse effects on Policy 11(b) sites and species.¹⁰³ We agree with the Officer's recommendation to include a new clause in Policy 24C setting out a sequential approach to

¹⁰¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 493 – 497.

¹⁰² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 11, lines 501 – 507.

¹⁰³ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 38, lines 1912 – 1915.

manage non-significant effects where Policy 11(b) is engaged which includes offsetting and compensation in some circumstances, and management of others (i.e. non-Policy 11(a) and (b) sites/species) through the effects management hierarchy. This approach is consistent with Policy P38 of the NRP which Ms Foster, Ms Hunter and others spoke to at Hearing, and we note that Ms Anton for the DGC also supported this approach for Policy 11(b) ‘non-significant’ effects.¹⁰⁴

3.7.1.7 Policy 24CC – Existing activities in the coastal environment

181. Ms Foster on behalf of Meridian, supported Policy 24CC applying to *REG activities*. We can see no logical basis to exclude ET activities and consider that the direction in s 6(c) of the RMA to areas of significant indigenous vegetation and significant habitats of indigenous fauna must prevail over the ‘carve out’ in the NPS-IB. We could not understand how the carve out in clause 1.3(3) of the NPS-IB could apply to *ET activities* but not *REG activities*. We recommend therefore that Policy 24CC applies to *ET activities* (as Transpower’s assets and activities come within the definition of *RSI*), but that the National Grid’s reasonable operational, maintenance and minor upgrade requirements are enabled in accordance with Policy 5 of the NPS-ET.

3.7.1.8 Policy 24D

182. At the Hearing, Ms Downing for Forest and Bird accepted there were some consenting pathways in the NPS-FM (for example clause 3.24) but this required demonstration of functional need and it was important that Policy 24D be constrained to terrestrial biodiversity.¹⁰⁵ In caucusing, the planners attending either agreed that the Policy should apply to *REG activities* or they were neutral on this point.¹⁰⁶ Ms Whitney and Mr Wyeth supported *ET activities* being excluded from Policy 24D, Ms Foster and Ms Hunter were neutral, and Mr Brass and Ms Guest opposed the exclusion.
183. For the reasons we have discussed above in relation to Policy 24C, we consider it inappropriate that the National Grid is excluded, or that *REG activities* are included and the National Grid is excluded. The RMA and the Council’s functions require protection of significant indigenous vegetation and significant habitats of indigenous fauna, and excluding *ET activities* would not give effect to the NZCPS or Policies 4, 6 and 8 which all require

¹⁰⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 56, lines 2828 – 2831.

¹⁰⁵ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 2, page 13, lines 603 – 612.

¹⁰⁶ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 46.

management of new, or major or substantial upgrades of transmission infrastructure.

184. We recommend amendments in proposed Policy 24D to apply Policy 4 of the NPS-ET to new or major upgrades.

3.7.2 Finding and s 32AA Evaluation

185. We largely agree with the Reporting Officer's recommendations on Policy 24 and proposed new Policies 24A – 24D and Appendix 1A for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. However, we recommend:
- a. An amendment to Policy 24(b) to cross refer to Policy 24CC
 - b. In relation to Policy 24B:
 - i. a drafting amendment to Policy 24B(a) to clarify the intent and improve readability, and
 - ii. a new clause (e) to give effect to clause 3.15 of the NPS-IB and provide for established activities (namely maintenance, operation and minor upgrade of *infrastructure* given provision made elsewhere in Policy 24B for other activities) in SNAs and where the requirements in clause 3.15(2) of the NPS-IB are met,
 - c. An amendment to the explanation to Policy 24C to state that Policy 24CC applies to all existing RSI
 - d. An amendment to Policy 24CC to provide for the reasonable operational, maintenance or minor upgrade requirements of Transpower's assets, and
 - e. Amending Policy 24D to include specific provision for new or major upgrades of *ET activities* when certain requirements are met.
186. These recommendations reconcile, in our view, competing higher order direction (including Policy 11 of the NZCPS and Policies 2, 4, 5 and 8 of the NPSET) and s 6(c) and ss 30 and 31 of the RMA, and are the most appropriate way to achieve the purpose of the RMA. The amendments are also consistent with Policies P38 and P39 in the NRP.
187. We also recommend a minor drafting amendment to the heading of the third column in Table 17 in Appendix A, to refer to Policy 24A(d). We

recommend the rest of the Table is adopted as recommended in the Officer's Reply Evidence.

3.7.3 Recommendations (Policies 24, 24A, 24B, 24C, 24CC and 24D, Appendix 1A)

We note the entirety of Appendix 1A is not included below. The version we recommend the Council adopts is that set out in the Reporting Officer's Reply Evidence.

Policy 24: Protecting *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna – district and regional plans

~~As soon as reasonably practicable, and by no later than 4 August 2028, By 30 June 2025,~~ District and regional plans shall include policies, rules and methods to protect *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values, other significant *habitats* of *indigenous* fauna, and the ecosystem processes that support these ecosystems and *habitats*, from inappropriate subdivision, use and development, ~~including by applying:~~

- ~~(a) Policy 24B Clause 3.10 and Clause 3.11 of the National Policy Statement for Indigenous Biodiversity 2023 to manage adverse effects on significant *indigenous biodiversity* values in the terrestrial environment;~~
- ~~(b) Policy 24C and Policy 24CC 11 of the New Zealand Coastal Policy Statement 2010 to manage adverse effects on *indigenous biodiversity* values in the coastal environment; and~~
- ~~(c) Policy 24D to manage the adverse effects of REG activities and ET activities on significant *indigenous biodiversity* values (these activities are not subject to Policy 24A and Policy 24B). Policies 18A and 18B in this Regional Policy Statement to manage adverse effects on the values and extent of natural inland wetlands and rivers.~~

~~Where the policies and/or rules in district and regional plans enable the use of biodiversity offsetting or biodiversity compensation for an ecosystem or habitat with significant *indigenous biodiversity* values, they shall:~~

- ~~(a) not provide for biodiversity offsetting:~~
 - ~~(i) where there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset; or~~

~~(ii) when an activity is anticipated to causes residual adverse effects on an area after an offset has been implemented if the ecosystem or species is threatened or the ecosystem is naturally uncommon;~~

~~(b) not provide for biodiversity compensation where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is threatened or the ecosystem is naturally uncommon;~~

~~(c) ecosystems and species known to meet any of the criteria in (a) or (b) are listed in Appendix 1A (Limits to biodiversity offsetting and biodiversity compensation);~~

~~(d) require that the outcome sought from the use of biodiversity offsetting is at least a 10 percent net biodiversity gain, or from biodiversity compensation is at least a 10 percent net biodiversity benefit.~~

Explanation

Policy 24 applies to provisions in *regional* and *district plans*. ~~This requires the protection of significant *indigenous biodiversity* values in terrestrial, *freshwater* and *coastal environments* consistent with section 6(c) of the RMA. It also clarifies the effects management provisions for significant *indigenous biodiversity* values [in higher order national direction instruments that need to be applied when giving effect to this policy in *regional* and *district plans*. Policies 18A and 18B in this Regional Policy Statement include effects management provisions to manage adverse effects on the values and extent of natural inland *wetlands* and *rivers*.](#)~~

~~The policy provides clarity about the limits to, and expected outcomes from, biodiversity offsetting and biodiversity compensation for an ecosystem or habitat with significant *indigenous biodiversity* values. Ecosystems and species known to meet the criteria in clauses (a and b) are listed in Appendix 1A (Limits to biodiversity offsetting and biodiversity compensation).~~

~~Calculating a 10 percent net biodiversity gain (offsetting) or a 10 percent net biodiversity benefit (compensation) employs the same or a similar calculation methodology used to determine ‘no net loss or preferably net gain’ under a standard offsetting approach. The distinction between ‘net gain’ and ‘net benefit’ is to recognise that the outcomes achievable through the use of offsetting and compensation are different. An offsetting ‘net biodiversity gain’ outcome is expected to achieve an objectively verifiable increase in biodiversity values while a compensation ‘net biodiversity benefit’ outcome is more subjective and less preferable.~~

Table 16 in Appendix 1 identifies *rivers* and *lakes* with significant *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values by applying criteria taken from policy 23 of rarity (*habitat* for threatened *indigenous*

fish species) and diversity (high *macroinvertebrate* community health, *habitat* for six or more migratory *indigenous* fish species).

Policy 47 will need to be considered alongside policy 24 when changing, varying or reviewing a regional or *district plan*.

Policy 24 is not intended to prevent change, but rather to ensure that change is carefully considered and is appropriate in relation to the biodiversity values identified in policy 23.

Policy 24A: Principles for biodiversity offsetting and biodiversity compensation (except for REG and ET activities) – regional and *district plans*

- (a) *Where *district* and *regional plans* provide for *biodiversity offsetting* or *aquatic offsetting* or *biodiversity compensation* or *aquatic compensation* as part of an *effects management hierarchy* for *indigenous biodiversity* and/or for aquatic values and extent, they shall include policies and methods to:*

 - (i) ensure this meets the requirements of the full suite of principles for *biodiversity offsetting* and/or *aquatic offsetting-biodiversity compensation* set out in Appendix 1C Appendix 3 and 4 of the National Policy Statement for Indigenous Biodiversity 2023 or for *biodiversity compensation aquatic offsetting* and/or *aquatic compensation* set out in Appendix 1D 6 and 7 of the National Policy Statement for Freshwater Management 2020;
 - (ii) provide further direction on where *biodiversity offsetting*, *aquatic offsetting*, *biodiversity compensation*, and *aquatic compensation* are **not** inappropriate, in accordance with clauses (b) to (d) and (c) below;
 - (iii) provide further direction on required outcomes from *biodiversity offsetting*, *aquatic offsetting*, *biodiversity compensation*, and *aquatic compensation*, in accordance with clauses (de) and (ef) below; and

- (b) In evaluating whether *biodiversity offsetting* or *aquatic offsetting* is inappropriate because of irreplaceability or vulnerability of the *indigenous biodiversity*, extent, or values affected, the feasibility to offset residual adverse effects on any *threatened* or *naturally uncommon ecosystem* or *threatened species* must be considered, including those listed in Appendix 1A **must be considered as a minimum**; and
- (c) In evaluating whether *biodiversity compensation* or *aquatic compensation* is inappropriate because of the irreplaceability or vulnerability of the *indigenous biodiversity*, extent, or values affected, recognise that it is inappropriate to use *biodiversity compensation* or *aquatic compensation* where residual adverse effects affect **an ecosystem or species that is listed in Appendix 1A as a *threatened* or *naturally uncommon ecosystem* or *threatened species*, including those listed in Appendix 1A as a minimum**; and

- (d) In evaluating whether *biodiversity offsetting* or *aquatic offsetting* is inappropriate because there are no technically feasible methods to secure gains in acceptable timeframes, recognise that this is likely to be inappropriate for those species and ecosystems listed in column Policy 24A(d) in Appendix 1A but that may change over time due to changes in knowledge, methods or expertise, or mechanisms; and
- (e) *District and regional plans* shall include policies and methods that require *biodiversity offsetting* or *aquatic offsetting* to achieve at least a net gain, and preferably a 10% net gain or greater, in *indigenous biodiversity* outcomes to address residual adverse effects on *indigenous biodiversity*, extent, or values. This requires demonstrating, and then achieving, net gains in the type, amount, and condition of the *indigenous biodiversity*, extent, or values impacted. Calculating net gain requires a like-for-like quantitative loss/ gain calculation of the *indigenous biodiversity* values (type, amount, and condition) affected by the proposed activity; and
- (f) *District and regional plans* shall include policies and methods to require *biodiversity compensation* or *aquatic compensation* to achieve positive effects in *indigenous biodiversity*, extent, or values that outweigh residual adverse effects on affected *indigenous biodiversity*, extent, or values.

Explanation

Policy 24A recognises that the outcomes achievable through the use of *biodiversity offsetting* or *aquatic offsetting* and *compensation* are different. A 'net gain' outcome from *offsetting* is expected to achieve an objectively verifiable increase in the target values, while a *compensation* outcome is more subjective and less preferable. This policy applies to the use of *biodiversity offsetting* and *biodiversity compensation* to address the residual adverse effects on *indigenous biodiversity* in the *terrestrial and coastal environments* and *aquatic offsetting* and *aquatic compensation* to address the loss of extent or values of *natural inland wetlands and rivers*.

Policy 24A is to be read with Policy 24C(1) which sets out adverse effects on *indigenous biodiversity* in the *coastal environment* that need to be avoided, meaning that applications for *biodiversity offsetting* or *biodiversity compensation* cannot be considered. These ecosystems and species are also listed in Table 17 and Appendix 1A. Policy 24A does not apply to *REG activities* and *ET activities* which are subject to 24D. Instead, Policy 24D(3) requires *REG activities* and *ET activities* to have regard to the principles for *biodiversity offsetting* and *biodiversity compensation*.

Policy 24B: Managing adverse effects on significant *indigenous biodiversity* values in the terrestrial environment (except for REG and ET activities) – *district and regional plans*

As soon as reasonably practicable, and by no later than 4 August 2028, *district plans* shall include policies, rules and methods to protect *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats of indigenous fauna* in the terrestrial environment by:

- 1) Except as provided for by clause (2) and (3), avoiding the following adverse effects:
 - (a) loss of ecosystem representation and extent;
 - (b) disruption to sequences, mosaics, or ecosystem function;
 - (c) fragmentation of *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values or the loss of *buffers* or connections within these ecosystems and *habitats*;
 - (d) a reduction in the function of *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values as a *buffer* or connection to other important *habitats* or ecosystems;
 - (e) a reduction in the population size or occupancy of *Threatened or At Risk* species that use a *habitat* with significant *indigenous biodiversity* values for any part of their life cycle.
- 2) Applying the *effects management hierarchy* to adverse effects not referred to in clause (1) and to the following new *subdivision, use and development activities*, which are exempt from clause (1):
 - (a) ~~the development, operation, maintenance~~ Construction or upgrade of specified infrastructure (excluding other than REG activities and ET activities) if:
 - (i) it provides significant national or regional public benefit;
and
 - (ii) there is a *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
 - (b) ~~the development, operation and maintenance of m~~Mineral extraction activities if:

- (i) it provides a significant national public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
- (c) ~~The development, operation and maintenance of a~~Aggregate extraction activities if:
- (i) it provides a significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand; and
 - (ii) there is *functional need* or operational need to be in that particular location; and
 - (iii) there are no practicable alternative locations for the activity.
- (d) The operation or expansion of any coal mine that was lawfully established before August 2023 (except that, after 31 December 2030, this exception applies only to such coal mines that extract coking coal) if;
- (i) there is *functional need* or operational need to be in that particular location; and
 - (ii) there are no practicable alternative locations for the activity.
- (e) ~~Activities to develop~~New use and development associated with a single residential dwelling on an allotment that was created before 4 August 2023 and where there is no practicable location within the allotment where a single residential dwelling and essential associated on-site *infrastructure* can be constructed without avoiding the adverse effects referred to in clause (1).
- (f) ~~Use or development Activities that are~~ for the purpose of maintaining or restoring ecosystems and *habitats* provided it does not involve the permanent destruction of significant *habitat* of *indigenous biodiversity* (or an alternative management approach established to restore *indigenous biodiversity*).
- (g) ~~Use or development Activities~~ in an area of *indigenous* vegetation or *habitat* of *indigenous* fauna (other than an area managed under the

Forests Act 1949) that was established and is managed primarily for a purpose other than the *maintenance* or *restoration* of that *indigenous biodiversity* and the loss of *indigenous biodiversity* values is necessary to meet that purpose.

(h) Use and development Activities associated with the harvest of *indigenous* tree species, such as track clearance or timber storage (but not the harvest itself managed under clause (3)(d)), from within an *ecosystem* or *habitat* with significant *indigenous biodiversity* values that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

3) Allowing the following use, development, work and activities without being subject to clause (1) and (2):

(a) Use and development Activities required to address a high risk to public health or safety;

(b) The sustainable customary use of *indigenous biodiversity* conducted in accordance with *tikanga*;

(c) Work or activity of the Crown within the boundaries of any area of *land* held or managed under the Conservation Act 1987 or any other Act specified in Schedule 1 of that Act (other than *land* held for administrative purposes), provided that the work or activity:

(i) Is undertaken in a way that is consistent with any applicable conservation management strategy, conservation management plan, or management plan established under the Conservation Act 1987, or any other Act specified in Schedule 1 of that Act; and

(ii) Does not have a significant adverse effect beyond the boundary of the *land*.

(d) The harvest of *indigenous* tree species that is carried out in accordance with a forest management plan or permit under Part 3A of the Forests Act 1949.

(e) The maintenance, operation and minor upgrade of *infrastructure* (other than that covered in Policy 24CC), which is within or affects *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant *habitats* of *indigenous* fauna, where the effects (including cumulative effects) on the *ecosystem* or *habitat* are no greater in intensity, scale or character than they were when the Plan's provisions under this Policy came into effect, and which do not result in the loss of extent or degradation of the ecological integrity of the *ecosystem* or *habitat*.

Explanation

Policy 24B applies to *indigenous* ecosystems and *habitats* with significant *indigenous biodiversity* values and other significant habitats of *indigenous* fauna in the terrestrial environment. Clause (1) sets out a list of adverse effects that need to be avoided to ensure the protection of these ecosystems and *habitats*, their *ecosystem function* and values. Clause (2) sets out a list of activities that are exempt from clause (1) and instead adverse effects are to be managed in accordance with the *effects management hierarchy* and other relevant requirements are met (e.g. there is an operational need or *functional need* for the activity to be in that particular location). Clause (3) sets out a list of essential activities, customary activities, or activities undertaken in accordance with conservation management plan or forest management plan that are exempt from clause (1) and (2). **Policy 24B does not apply to REG activities and ET activities.**

Policy 24C: Managing adverse effects on indigenous biodiversity values in the coastal environment – district and regional plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage adverse effects on *indigenous biodiversity* values in the *coastal environment* to:

- (1) Avoid adverse effects of activities on the following ecosystems, habitats and species with significant indigenous biodiversity values:
 - (a) *indigenous* taxa that are listed as *Threatened* or *At-Risk* species in the New Zealand Threat Classification System lists;
 - (b) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;
 - (c) *threatened indigenous ecosystems* and vegetation types that are threatened in the *coastal environment*, or are *naturally rare*;
 - (d) *habitats* of *indigenous* species where the species are at the limit of their natural range, or are *naturally rare*;
 - (e) areas containing nationally significant examples of *indigenous* community types; and
 - (f) areas set aside for full or partial protection of *indigenous* biological diversity under other legislation; and
- (2) Avoid significant adverse effects and ~~avoid, remedy or mitigate other adverse effects of activities~~ on the following indigenous ecosystems and habitats:

- (a) areas of predominantly *indigenous* vegetation in the *coastal environment*;
 - (b) *habitats* in the *coastal environment* that are important during the vulnerable life stages of *indigenous* species;
 - (c) *indigenous* ecosystems and *habitats* that are only found in the *coastal environment* and are particularly vulnerable to modification, including estuaries, lagoons, coastal *wetlands*, dunelands, *intertidal zones*, rocky reef systems, eelgrass and saltmarsh;
 - (d) *habitats* of *indigenous* species in the *coastal environment* that are important for recreational, commercial, traditional or cultural purposes;
 - (e) *habitats*, including areas and routes, important to migratory species; and
 - (f) ecological corridors, and areas important for linking or maintaining biological values.
- (3) Manage non-significant adverse effects on the *indigenous* ecosystems and *habitats* referred to in clause (2) by:
- (a) avoiding adverse effects where practicable; then
 - (b) where adverse effects cannot be avoided, minimising them where practicable; then
 - (c) where adverse effects cannot be minimised they are remedied where practicable; then
 - (d) where residual adverse effects cannot be avoided, minimised, or remedied, *biodiversity offsetting* is provided where possible; then
 - (e) if *biodiversity offsetting* of residual adverse effects is not possible, the activity itself is avoided unless the activity is *regionally significant infrastructure* then *biodiversity compensation* is provided, and
 - (f) the activity itself is avoided if *biodiversity compensation* cannot be undertaken in a way that is appropriate as set out in Appendix 1D.
- (4) for all other ecosystems and *habitats* not listed in clause (1) and (2), manage significant adverse effects on *indigenous biodiversity* values using the *effects management hierarchy*.

Explanation:

This policy applies to provisions in district and *regional plans*. This requires district and *regional plans* to manage adverse effects on *indigenous biodiversity* in the

coastal environment by applying a hierarchy approach based on the values of the indigenous species, ecosystem or habitat. Policy 24C is to be read together with:

- Policy 24A which sets out principles for biodiversity offsetting and biodiversity compensation which apply in the coastal environment.
- Policy 24B in relation to the coastal environment above mean high water springs, with Policy 24C to prevail where there is conflict that cannot be resolved.
- Policy 24C is to be read alongside Policy 24CC which relates to existing regionally significant infrastructure (excluding ET activities) and REG activities in the coastal environment. and
- Policy 24D which applies to REG activities in terrestrial, freshwater and coastal environments.

Policy 24CC: Existing regionally significant infrastructure and REG activities in the coastal environment - regional and district plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to consider providing for the operation, maintenance, upgrade and extension of existing regionally significant infrastructure and REG activities that may have any of the adverse effects referred to in clause (1) and (2) of Policy 24C where:

- (1) There is a functional need or operational need for the regionally significant infrastructure or REG activities to be in the area; and
- (2) There is no practicable alternative on land or elsewhere in the coastal environment for the activity to be located; and
- (3) The activity provides for the maintenance and, where practicable, the enhancement or restoration of the affected significant indigenous biodiversity values and attributes at, and in proximity to, the affected area, taking into account any consultation with the Wellington Regional Council, the Department of Conservation and mana whenua.

If the activity provides for the reasonable operational, maintenance or minor upgrade requirements of the electricity transmission network, (1) to (3) do not apply and the activity must be enabled.

Explanation:

Policy 24CC is to be read with Policy 24C and is intended to enable the consideration of the operation, maintenance, upgrade and extension of existing regionally significant infrastructure (excluding ET activities) and existing REG activities with adverse effects that would otherwise need to be avoided under

clause (1) and (2) of Policy 24. It only allows for consideration of these adverse effects when certain requirements are met, including demonstrating that there are no practicable alternative locations for the activity and the activity provides for maintenance, enhancement or restoration of significant indigenous biodiversity values at the area affected.

Policy 24D: Managing the effects of REG activities and ET activities on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna – district and regional plans

As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to manage the effects of REG activities and ET activities on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna to:

- 1) Allow REG activities or ET activities to locate in areas with significant indigenous biodiversity values and other significant habitats of indigenous fauna if:
 - (a) there is an operational need or functional need for the REG activities or ET activities to be located in that area; and
 - (b) the REG activities or ET activities are nationally or regionally significant; and
 - (c) clause (2) is applied to manage adverse effects.
- 2) Manage adverse effects by applying the following hierarchy:
 - (a) adverse effects are avoided where practicable; then
 - (b) where adverse effects cannot be avoided, they are minimised where practicable; then
 - (c) where adverse effects cannot be minimised, they are remedied where practicable; then
 - (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where practicable; then
 - (e) if biodiversity offsetting of more than minor adverse effects is not practicable, biodiversity compensation is provided; then
 - (f) for REG activities, if biodiversity compensation is not appropriate to address any residual adverse effects:

- i. the REG activities or ET activities must be avoided if the residual adverse effects are significant; but
 - ii. if the residual adverse effects are not significant, the REG activities or ET activities must be enabled if the national significance and benefits of the activities outweigh the residual adverse effects.
- (g) For ET activities which are new or major upgrades, where the route, site or method is the outcome of a best practice evaluation of alternatives, any residual adverse effects remaining after applying clause 2(a) to (e) must be discounted
- 3) When considering biodiversity offsetting and biodiversity compensation, have regard to the principles set out in Appendix 1C and Appendix 1D.

Explanation

Policy 24D applies to REG activities and ET activities or ET activities and applies a specific pathway and effects management framework for these activities to ensure adverse effects of these activities on indigenous ecosystems and habitats with significant indigenous biodiversity and other significant habitats of indigenous fauna values are appropriately managed.

Appendix 1A: Limits to biodiversity offsetting and biodiversity compensation¹⁰⁷

This appendix identifies the ecosystems and species that either meet or exceed the limits to the use of *biodiversity offsetting* and *biodiversity compensation* in the Wellington Region¹⁰⁸. The setting of limits to the use of offsetting is one of the ten internationally accepted principles of *biodiversity offsetting* recognised by the Business and Biodiversity Offset Programme.¹⁰⁹ Policy 24A gives effect to this direction in the Wellington Region.

Policy 24 A (a) directs that where policies and/or rules in district and *regional plans* enable the use of *biodiversity offsetting* or *biodiversity compensation* they shall not provide for *biodiversity offsetting* or *biodiversity compensation* where: there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate biodiversity offset (clause (ib)); or when an activity is anticipated to cause residual adverse effects on an area after an offset or compensate has been implemented if the ecosystem or species is threatened or the ecosystem is naturally uncommon (clause (ic)). **This appendix identifies the species and ecosystems that meet these criteria in the Wellington Region.**

~~Policy 24(b) directs that where policies and/or rules in district and regional plans enable the use of biodiversity compensation they shall not provide for biodiversity compensation where an activity is anticipated to cause residual adverse effects on an area if the ecosystem or species is threatened or the ecosystem is naturally uncommon.~~

This appendix also identifies the *ecosystems* and species in the Wellington Region meeting the criteria for Policy 11(a) of the New Zealand Coastal Policy Statement 2010 (NZCPS) 2020, and for which adverse effects must be avoided. Consideration of *biodiversity offsetting* or *biodiversity compensation* for these ecosystems or species is therefore not provided for.

~~To avoid doubt, ecosystems and species that meet the criteria for:~~

- ~~• Policy 24(a)(i) exceed the limits of biodiversity offsetting meaning that applications for biodiversity offsetting cannot be considered:~~
- ~~• Policy 24(a)(ii) meet the limits of biodiversity offsetting. Applications for offsetting can be considered only if the anticipated offset plans to redress all residual adverse effects.~~

¹⁰⁷ Appendix 1A added 18/12/23

¹⁰⁸ As identified in Crisp P and Oliver M. 2022. Limits to offsetting – Thresholds of concern for biodiversity. Greater Wellington Regional Council, Publication No. GW/ESCI-G-22/11, Wellington.

¹⁰⁹ Business and Biodiversity Offsets Programme (2018). The BBOP principles on biodiversity offsets, https://www.forest-trends.org/wpcontent/uploads/2018/10/The-BBOP-Principles_20181023.pdf

- ~~Policy 24A(c)(b) exceed the limits of biodiversity compensation meaning that applications for compensation cannot be considered.~~

Where ecosystems or species meet the criteria for both Policy 24(a)(ii) and NZCPS Policy 11(a) the NZCPS direction prevails.

To avoid doubt:

- ~~Applications for biodiversity offsetting or aquatic offsetting of adverse effects on ecosystems and species that meet the criteria in Policy 24A(b) can only be considered if at least a net gain, and preferably a 10% net gain or greater, in the indigenous biodiversity values affected can be reasonably demonstrated.~~
- ~~Policy 24A(c) describes the situations when biodiversity compensation or aquatic compensation are is not appropriate meaning that, where Policy 24A(c) applies, applications for biodiversity compensation cannot be considered.~~
- ~~Policy 24A(d) describes the situations where biodiversity offsetting or aquatic offsetting compensation is are likely to be inappropriate because there are currently (at 2024) no technically feasible methods to secure gains in an acceptable timeframe.~~
- ~~NZCPS Policy 11(a) exceed the limits of Policy 24C(1) sets out adverse effects on indigenous biodiversity in the coastal environment that need to be avoided biodiversity offsetting and biodiversity compensation meaning that applications for biodiversity offsetting or biodiversity compensation cannot be considered.~~

~~The species listed in Table 17 are the nationally Threatened species and ecosystems and naturally uncommon ecosystems that are found within the Wellington Region, as detailed in the relevant publications listed on the Department of Conservation’s New Zealand Threat Classification web page. These ecosystems and species are assessed as being “vulnerable” or “irreplaceable” in accordance with the principles as to when biodiversity offsetting and biodiversity compensation are is inappropriate. Note that the species list will change over time as national threat lists are updated or more knowledge is gained about the presence or absence of a species in the Wellington Region. The most up-to-date threat classification should be used at the time of making an assessment under Policy 24A or Policy 47 (h) and (i).~~

Table 17: Ecosystems and species that either meet or exceed the limits to the use of *biodiversity offsetting* and *biodiversity compensation* in the Wellington Region (there are some duplicates of ecosystems and species as some *habitats* relate to more than one *ecosystem* type).

Wetland ecosystems



Ecosystem or species name	Policy 24A(b)&(c) (a)(iii) Threatened species or ecosystem or naturally uncommon ecosystem (Threat Status)	Policy 24A(d) (b) (a)(i) No appropriate site, knowledge, methods, expertise, mechanism¹¹⁰	NZCPS Policy 11(a)
<u>Coastal turfs</u>	<u>Yes Critically Endangered</u>	<u>Yes</u>	<u>Yes</u>
<u>Dune slacks</u>	<u>Yes Endangered</u>	<u>Yes</u>	<u>Yes</u>
<u>Domed bogs</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Seepages and flushes</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Sinkholes</u>	<u>Yes Endangered</u>	<u>Yes</u>	
<u>Ephemeral wetlands</u>	<u>Yes Critically Endangered</u>		<u>Yes</u>
<u>Lagoons</u>	<u>Yes Endangered</u>		<u>Yes</u>
<u>Lake margins</u>	<u>Yes Vulnerable</u>		
<u>Tarns</u>	<u>Yes Naturally Uncommon</u>		


Table 17 is not included here in its entirety. We recommend the Council adopt the Table set out in the Reporting Officers' Reply evidence.

.....

¹¹⁰ This column shows situations where it is not feasible to offset for residual adverse effects because there is currently (at 2024) no appropriate site, knowledge, proven methods, expertise, or mechanism available to design and implement an adequate biodiversity offset. This may change over time with further advances in knowledge, methods, expertise, and mechanisms and these will be assessed on a case-by-case basis.

3.8 Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration

188. The proposed amendments to Policy 47 read:

Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:</p>	
<ul style="list-style-type: none"> (a) <i>maintaining</i> connections within, or corridors between, habitats of indigenous flora and fauna and/or enhancing the connectivity between fragmented indigenous habitats; (b) providing adequate buffering around areas of significant indigenous ecosystems and habitats from other land uses; (c) managing wetlands for the purpose of aquatic <i>ecosystem health</i>, <u>recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape;</u> (d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats; (e) providing seasonal or core habitat for indigenous species; (f) <i>protecting</i> the life supporting capacity of indigenous ecosystems and habitats; 	
<ul style="list-style-type: none"> (g) remediating or mitigating <u>minimising or remedying</u> adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; and (h) the need for a precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats; (i) <u>the limits to, and expected outcomes from <i>biodiversity offsetting and biodiversity compensation</i> set out in Policy 24.</u> 	
<p>Explanation</p> <p>Policy 47 provides an interim assessment framework for councils, resource consent applicants and other interested parties, prior to the identification of ecosystems and habitats with significant indigenous biodiversity values in accordance with policy 23, and the adoption of plan provisions for protection in accordance with policy 24. Remedying and mitigating effects can include offsetting, where appropriate.</p> <p>In determining whether an activity may affect significant indigenous biodiversity values, the criteria in policy 23 should be used.</p> <p>This policy shall cease to have effect once policies 23 and 24 are in place in an operative district or regional plan.</p>	

3.8.1 Submissions, Evidence and Analysis

189. This is a consideration policy in the Operative RPS. Some submitters supported the Policy, Meridian [S100.021] considered that it should focus on natural wetlands and sought amendments accordingly, and submitters associated with Mangaroa peatland opposed the Policy in part and raised concerns about the concept of buffering, seeking a clear definition of the term and community consultation. Forest and Bird [FS.003] opposed this relief on the basis this clause in the Policy was not within the scope of Change 1. PCC [S30.0127] requested a sunset clause to Policy 47 so that the Policy would not apply more broadly when Policies 23, 24 and 24A are given effect to.
190. At caucusing, the planners agreed that the listed provisions in Policies 24A, 24B, 24C, 24CC and 24D should be matters that need to be given particular regard in the application of Policy 47.
191. The Officer did not support PCC's relief saying that Policy 47 is unlikely to cease to have effect in the foreseeable future given that implementation of Policies 23 and 24 and the identification of habitats and ecosystems with significant indigenous biodiversity values is likely to be an ongoing process. The Officer said that even where councils have added significant sites for indigenous biodiversity to their plans, not all significant sites have necessarily been included due to budget constraints for surveys, time and various other reasons.
192. We recommend various amendments to Policy 47 to carry through the *REG activities and ET activities* amendments we have recommended in Policies 24A – 24D. In addition, we recommend that the exclusion for *REG* and *ET activities* is deleted from clause (l) because otherwise the clause suggests that these activities cannot remain where they are established and that is not the policy intent. Also, the clause as we recommend it is amended gives effect to clause 3.15 of the NPS-IB regarding established activities.

3.8.2 Finding and s 32AA Evaluation

193. We largely agree with the Reporting Officer's recommendations on Policy 47 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence. We recommend amendments to carry through the exclusions we have recommended in Policies 24A – 24D for *REG activities* and *ET activities* to give effect and reconcile higher order direction. We also recommend an amendment to

clause (l) to provide for established activities in accordance with clause 3.15 of the NPS-IB as this ensures alignment with national direction.

3.8.3 Recommendation

Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna– consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a *district* or *regional plan*, a determination shall be made as to whether an activity may affect *indigenous ecosystems and habitats* with significant *indigenous biodiversity values*, other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats, and in determining whether the proposed activity is inappropriate particular regard shall be given to:

- (a) *maintaining* connections within, or corridors between, *habitats* of *indigenous* flora and fauna, and/or enhancing the connectivity between fragmented *indigenous habitats*;
- (b) providing adequate *buffering* around areas of significant *indigenous ecosystems and habitats* from other land uses;
- (c) managing natural wetlands for the purpose of aquatic ecosystem health, recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape;
- (d) avoiding the cumulative adverse effects of the incremental loss of *indigenous ecosystems and habitats*;
- (e) providing seasonal or core habitat for *indigenous* species;
- (f) protecting the life supporting capacity of *indigenous ecosystems and habitats*;
- (g) ~~remediating or mitigating~~ minimising or remediating adverse effects on the *indigenous biodiversity* values where avoiding adverse effects is not practicably achievable except where Clause (i) and (j) apply; and
- (h) the need for a precautionary approach to be adopted when assessing and managing the potential for adverse effects on *indigenous ecosystems and habitats*, where;

- (i) the effects on *indigenous biodiversity* are uncertain, unknown, or little understood; and
- (ii) those effects could cause significant or irreversible damage to *indigenous biodiversity*;
- (i) the limits for *biodiversity offsetting* and *biodiversity compensation* set out in Appendix 1A the provisions to protect significant biodiversity values in Policy 24, Policy 24B, and Policy 24C and the principles for *biodiversity offsetting* and *biodiversity compensation* in Policy 24A, except that Policy 24A and Policy 24B do not apply to REG activities and ET activities;
- (ii) the provisions to manage the adverse effects of REG activities and ET activities on significant biodiversity values in Policy 24D;
- (jk) protecting *indigenous biodiversity* values of significance to mana whenua/tangata whenua, particularly including those associated with a significant site for mana whenua/tangata whenua identified in a regional or district plan;
- (kl) except for REG activities and ET activities, enabling established activities affecting significant biodiversity values in the terrestrial environment to continue, where provided that the effects of the activities:
 - (i) are no greater in intensity, scale and character; and
 - (ii) do not result in loss of extent, or degradation of *ecological integrity*, of any significant biodiversity values; and
- (tm) ensuring that the adverse effects of *plantation forestry* activities on significant *indigenous biodiversity* values in the terrestrial environment are managed in a way that:
 - (i) maintains significant *indigenous biodiversity* values as far as practicable, while enabling *plantation forestry* activities to continue; and
 - (ii) where significant biodiversity values are within an existing *plantation forest*, maintains the long-term populations of any *Threatened or At Risk (declining) species* present in the area over the course of consecutive rotations of production.

Explanation


~~Policy 47 provides an interim assessment framework for councils, resource consent applicants and other interested parties, prior to the identification of ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in accordance with pPolicy 23, and the adoption of plan provisions for protection in accordance with pPolicy 24. Remedying and mitigating effects can include offsetting, where appropriate. Policy 47 makes it clear that the provisions in Policy 24 and Policy 24A to protect significant *indigenous biodiversity* values must be considered until those policies are given effect to in regional and *district plans*. Policy 47 also provides for *established activities* and *plantation forestry* activities affecting significant *indigenous biodiversity* values to continue, provided certain tests are met, consistent with the requirements in the National Policy Statement for Indigenous Biodiversity 2023. The clauses above that relate to Policy 24A, Policy 24B and *established activities* do not apply to *REG activities* or *ET activities*.~~

In determining whether an activity may affect significant *indigenous biodiversity* values, the criteria in pPolicy 23 should be used.

~~This policy shall cease to have effect once policies 23 and 24 are in place given effect to in an operative district or regional plan, including all of the matters listed in (a) to (l) above.~~

3.9 Policy 61: Allocation of responsibilities for land use controls for indigenous biodiversity

194. As notified the amendments to Policy 61 read:

Policy 61: Allocation of responsibilities for land use controls for indigenous biodiversity	
<p>Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to <i>maintain</i> indigenous biodiversity:</p>	
<p>(a) Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of land to <i>maintain</i> indigenous biological <u>biodiversity</u>;</p> <p>(b) Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in regional plans for the control of the use of land to <i>maintain</i> and enhance ecosystems in water bodies and coastal water. This includes land within the <i>coastal marine area</i>, wetlands and the <i>beds</i> of lakes and rivers; <u>and</u></p> <p>(c) city and district councils shall be responsible for developing objectives, policies, rules and/or methods in district plans for the control of the use of land for the <i>maintenance</i> of indigenous biological <u>biodiversity</u>. This excludes land within the <i>coastal marine area</i> and the <i>beds</i> of lakes and rivers-</p>	
<p>Explanation</p> <p>In accordance with section 62 of the Resource Management Act, policy 61 sets out the local authorities in the Wellington region responsible for specifying the objectives, policies and methods for the control of the use of land to <i>maintain</i> indigenous <i>biological diversity</i>.</p> <p>District and city councils in the Wellington region have primary responsibility for controlling the use of land to <i>maintain</i> indigenous <i>biological diversity</i> (other than in the <i>coastal marine area</i> and the <i>beds</i> of lakes and rivers) through the creation of objectives, policies and rules in their district plans.</p> <p>Wellington Regional Council has the primary responsibility for the control of the use of land to <i>maintain</i> and enhance indigenous ecosystems in water bodies (including wetlands) and coastal water.</p>	

3.9.1 Submissions, Evidence and Analysis

195. The Policy gives effect to s 62(1)(i)(iii) of the RMA which requires a RPS to state the local authority responsible for specifying the objectives, policies, and methods for the control of the use of land to maintain indigenous biological diversity. The Regional Council [SS137.021] sought an amendment to align clause (c) with the direction in Policy FW.6 (in the FPI) regarding the allocation of responsibilities between local authorities. PCC [S30.078] sought that wetlands are excluded from city and district council responsibilities.

196. The Officer stated that the Regional Council has clear responsibilities under the NPS-FM for wetland management and therefore supported PCC's relief but noted that all local authorities have integrated management functions under the NPS-IB and NPS-FM. The Officer recommended amendments to the Explanation to clarify the expectation that all local authorities work together to management subdivision, use and development in an integrated way to maintain indigenous biodiversity in receiving water bodies. The Officer also recommended some minor drafting amendments to refer consistently in the Policy to freshwater and coastal water. We agree with these amendments.

3.9.2 Finding

197. We agree with the Reporting Officer's recommendations on Policy 61 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.9.3 Recommendation

Policy 61: Allocation of responsibilities for land use controls for *indigenous biodiversity*

Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to *maintain indigenous biodiversity*:

- (a) Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of *land* to *maintain indigenous biological biodiversity*;
- (b) Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in *regional plans* for the control of the use of land to *maintain and enhance* ecosystems in *freshwater bodies* and *coastal water*. This includes *land* within the *coastal marine area, wetlands* and the *beds of lakes and rivers*; and
- (c) city and district councils shall be responsible for developing objectives, policies, rules and/or methods in *district plans* for the control of the use of *land* for the *maintenance of indigenous biological biodiversity, including to manage associated adverse effects on indigenous biodiversity in freshwater and coastal water in liaison with the Wellington Regional Council*. This excludes *controlling the use of*

land within the *coastal marine area*, and the *beds of lakes and rivers*, and *wetlands*.

Explanation

In accordance with section 62 of the Resource Management Act 1991, Policy 61 sets out the local authorities in the Wellington region responsible for specifying the objectives, policies and methods for the control of the use of land to *maintain indigenous biological diversity*.


District and city councils in the Wellington region have primary responsibility for controlling the use of land ~~to maintain indigenous biological diversity~~ (other than ~~within the coastal marine area, and the beds of lakes and rivers, and wetlands~~) ~~to maintain indigenous biodiversity, including to manage associated adverse effects on indigenous biodiversity in freshwater and coastal water in liaison with the Wellington Regional Council~~, through the creation of objectives, policies and rules in their *district plans*.

Wellington Regional Council has the primary responsibility for the control of the use of land to maintain and enhance *indigenous ecosystems* in *freshwater* bodies (including *wetlands*) and *coastal water*.

~~Wellington Regional Council and city and district councils shall work together to develop plan provisions and operational arrangements to provide for the coordinated management and control of subdivision, use and development to maintain indigenous biodiversity in receiving freshwater bodies and coastal water. This includes working collaboratively, such as during structure planning, rezoning, subdivision, and site development, so that the location, layout and design of development is environmentally-responsive.~~

3.10 Policy IE.1: Giving effect to mana whenua roles and values when managing indigenous biodiversity – district and regional plans

198. The proposed new Policy stated:

<u>Policy IE.1: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – district and regional plans</u>	
<u>District and regional plans shall include objectives, policies, methods and/or rules to partner with mana whenua / tangata whenua to:</u>	
(a) <u>apply mātauranga Māori frameworks, and support mana whenua / tangata whenua to exercise their kaitiakitanga, in managing and monitoring indigenous biodiversity;</u>	
(b) <u>identify and protect taonga species;</u>	
(c) <u>support mana whenua / tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.</u>	
<u>Explanation</u>	
<u>Policy IE.1 directs regional and district plans to recognise and provide for Māori values for indigenous biodiversity, and for the role of mana whenua as kaitiaki in the region.</u>	

3.10.1 Submissions, Evidence and Analysis

199. The Policy was broadly supported but some submitters requested that it be strengthened to refer to partnership and stronger protection for taonga, and to include support for Māori landowners to exercise kaitiakitanga. Fish and Game [S147.034] sought that “maintain” replace the word “manage” but the Officer did not agree on the basis that manage is the verb used in clause 3.3(2)(b) of the NPS-IB regarding recognising and valuing the mana of tangata whenua as kaitiaki of indigenous biodiversity.

200. At the Hearing, Ms McCormick for Ngā Hapū o Ōtaki spoke of how:¹¹¹

the loss of taonga species and mahinga kai has impacted our traditional ways of being, our customary practices and the transmission of intergenerational knowledge of our mātauranga and other significant adverse impacts on mana whenua.

201. The Reporting Officer recommended various amendments to align the Policy with terminology in the NPS-IB, including with clause 3.18 and clause 3.19 regarding acknowledged and identified taonga. The Officer also recommended a new clause (d) be included that directs a balanced

¹¹¹ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 51, lines 2562 – 2564.

approach be taken to protect and manage indigenous biodiversity on Māori land, while enabling appropriate use and development as directed by clause 3.18. The Officer recommended using the words “maintain and restore” in clause (d) to reflect the language in clause 3.18.

3.9.1 Finding

202. We agree with the Reporting Officer’s recommendations on Policy IE.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.9.2 Recommendation

Policy IE.1: Giving effect to mana whenua roles and values when managing indigenous biodiversity – district and regional plans

District and *regional plans* shall include objectives, policies, methods and/or rules to partner with mana whenua/*tangata whenua* **when managing indigenous biodiversity, including to:**


- (a) apply mātauranga Māori frameworks, and support mana whenua/*tangata whenua* to exercise their kaitiakitanga, in managing and monitoring *indigenous biodiversity*;
- (b) identify and protect **acknowledged and identified** *taonga* species, **populations, and ecosystems**;
- (c) support mana whenua/*tangata whenua* to access and exercise sustainable customary use of *indigenous biodiversity*, including for *mahinga kai* and *taonga*, in accordance with *tikanga*;
- (d) **maintain and restore indigenous biodiversity on Māori land to the extent practicable, while enabling new occupation, use and development of that land to support the social, cultural and economic wellbeing of mana whenua/*tangata whenua*.**

Explanation

Policy IE.1 directs regional and *district plans* **to include provisions to partner with mana whenua/*tangata whenua*** to recognise and provide for Māori values for *indigenous biodiversity*, and for the role of mana whenua as kaitiaki in the region. ~~It also directs regional and district plans to include provisions to maintain and restore indigenous biodiversity on Māori land, while enabling appropriate use and development of that land to support the wellbeing of tangata whenua.~~

3.11 Policy IE.2: Giving effect to mana whenua/tangata whenua roles and values when managing indigenous biodiversity – consideration

203. The proposed new Policy stated:

<u>Policy IE.2: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – consideration</u>	
<u>When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan for subdivision, use or development, particular regard shall be given to enabling mana whenua / tangata whenua to exercise their role as kaitiaki, including, but not restricted to:</u>	
(a) <u>providing for mana whenua / tangata whenua values associated with indigenous biodiversity, including giving local effect to <i>Te Rito o te Harakeke</i>.</u>	
(b) <u>incorporating the use of mātauranga Māori in the management and monitoring of indigenous biodiversity; and</u>	
(c) <u>supporting mana whenua / tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.</u>	
<u>Explanation</u>	
<u>Policy IE.2 requires consideration of enabling mana whenua / tangata whenua to exercise their kaitiakitanga in the region.</u>	

3.11.1 Submissions, Evidence and Analysis

204. In general iwi submitters supported the Policy, although some requested additional direction for partnership in decision-making. PCC [S30.069] sought that the Policy applies only to resource consents and be expressed as a transitional policy that falls away when Policy IE.1 is given effect to. WFF [S163.074] sought that the Policy is deleted as it is inefficient to require that particular regard be given to the exercise of mana whenua / tangata whenua roles as kaitiaki for consent applications.

205. The Officer considered that partnerships were already provided for in the Policy, but recommended other amendments to the chapeau to focus the Policy on activities that may impact on indigenous biodiversity. The Officer also considered it appropriate that the Policy apply to NoRs and district plan changes/reviews. The Officer considered that WFF's concerns related to implementation, which was a matter for each local authority to determine in collaboration with their mana whenua / tangata whenua partners.

206. Ms Burns on behalf of Rangitāne sought amendments to provide more explicit linkages between Policy IE.2 and Method IE.1 to give more prominence to mana whenua values and relationships and ensure the decision-making principles in the NPS-IB are given effect to. Mr MrDonnell for HCC sought that the policy apply to significant biodiversity and that the application of mātauranga Māori would require expert cultural advice and this would be unreasonable given the number of proposals captured by the policy direction. At the Hearing, Ms McCormick for Ngā Hapū o Ōtaki expressed her support for Ms Burns' evidence supporting the decision-making principles of the NPS-IB and that local expressions are given effect to once developed, which will require a close partnership approach.¹¹²
207. The Officer did not agree that the Policy should be restricted to significant sites as iwi values associated with indigenous biodiversity are much broader than those that relate to sites that meet defined significance criteria. The Officer reiterated that determining the parameters for implementing the Policy would need to be discussed with mana whenua / tangata whenua giving effect to the decision-making principles. The Officer agreed with many of the amendments proposed by Ms Burns.
208. The Officer recommended replacing the reference to *Te Rito o te Harakeke* with 'Decision-making principles for indigenous biodiversity' and this was confirmed in the statement provided in response to Minute 23.

3.11.2 Finding

209. We agree with the Reporting Officer's recommendations on Policy IE.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.11.3 Recommendation

Policy IE.2: Giving effect to mana whenua/tangata whenua roles and values when managing indigenous biodiversity – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a *district plan* for subdivision, use or development that may impact on indigenous biodiversity, recognise and provide for mana whenua/tangata whenua values and relationships associated with indigenous biodiversity particular regard shall be given to enabling mana whenua/tangata whenua to exercise their roles as kaitiaki, including by, but not restricted to:

¹¹² Hearing Transcript, HS6 – Indigenous Biodiversity, Day 1, page 52, lines 2612 – 2623.

- (a) providing for mana whenua/tangata whenua values associated with indigenous biodiversity, including giving local effect to *Te Rito o te Harakeke* the decision-making principles for indigenous biodiversity and, once they are established, the local expressions of the decision-making principles for indigenous biodiversity developed through Method IE.1; and
- (b) enabling mana whenua/tangata whenua to exercise their roles as kaitiaki; and
- (c) incorporating the use of mātauranga Māori in the management and monitoring of indigenous biodiversity; and
- (d) supporting mana whenua/tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.

Explanation

Policy IE.2 requires consideration of enabling mana whenua / tangata whenua to exercise their kaitiakitanga in the region. recognition and provision for mana whenua/tangata whenua values and relationships when managing activities that may impact on associated with indigenous biodiversity.

3.12 Policy IE.2A Maintaining indigenous biodiversity in the terrestrial environment – consideration

210. This Policy was proposed in the s 42A Report to give effect to clause 3.16 of the NPS-IB which relates to indigenous biodiversity outside SNAs.

3.12.1 Submissions, Evidence and Analysis

211. Mr Brass on behalf of the DGC supported the Policy noting the importance of protecting and maintaining indigenous biodiversity outside of SNAs to achieve no overall loss in indigenous biodiversity, consistent with the NPS-IB objective. Mr McDonnell for HCC said it should be a regulatory policy and be timebound. Mr McDonnell was concerned that the Policy could result in significant costs for applicants to obtain ecological assessments and that it was not realistic to expect that the effects management hierarchy is applied to the loss of indigenous vegetation outside of SNAs, as virtually every form of development has some impact on indigenous biodiversity. He recommended amendments to remove the requirement to apply the effects management hierarchy, and to ensure clause (c) applied at a district/regional scale rather than at an activity level. Alternatively, he requested the Policy have a sunset clause so it did not have effect once Policies 23 and 24 are given effect to in a plan.¹¹³
212. Ms Foster for Meridian considered that an exemption is required for *REG activities* consistent with Policies 24 and 24A and because otherwise the Policies takes a more stringent approach than clause 3.6 of the NPSREG for areas without significant indigenous biodiversity values. Ms Whitney for Transpower requested an exemption for *ET activities*.
213. The Officer said that it is important the Policy is still given effect to through plans and that it apply to consenting processes until it is implemented in plans. The Officer supported the Policy remaining as a consideration policy. The Officer did not agree that the Policy was too onerous and its direction was supported by clause 3.16(1) of the NPS-IB (with a specific direction for RPS' in clause 3.16(3) to make changes to be consistent with the clause).
214. Ms Anton for the DGC said at the Hearing that indigenous vegetation clearance rules outside SNAs are a very important aspect of maintaining

¹¹³ Statement of evidence of Torrey McDonnell on behalf of Hutt City Council (Planning), HS6 – 30 Januar6 2024, paras 35 - 40.

indigenous biodiversity and the Policy should not be limited to significant biodiversity. As Ms Anton said:¹¹⁴

In our view that's an important aspect of the Council's functions under s.31(g)(a) ... [and] needed to protect areas where species move up and down the threat classification list, where regeneration occurs to a point where indigenous biodiversity becomes significant.

215. The Officer did not agree to a blanket exemption for *ET activities* and *REG activities* and said this would be inconsistent with the functions of local authorities to maintain indigenous biodiversity under ss 30 and 31 of the RMA. The Officer instead recommended a new clause with direction to “avoid, remedy or mitigate adverse effects to the extent practicable”.
216. The Policy was discussed at planners’ caucusing but no consensus was reached. Ms Foster, Ms Hunter and Ms Whitney said the scope of the Policy raises significant potential difficulties for new and existing RSI that were not apparent in the publicly notified version of Change 1 and were best dealt with via a separate schedule 1 process in relation to Policy IE.2A.¹¹⁵
217. The Reporting Officers did not agree and considered that there was scope from submissions seeking a regulatory policy to implement new direction in Change 1 relating to the maintenance of biodiversity outside of non-significant biodiversity areas. The Officers further stated that clauses (b) and (c) directly implement clause 3.16 in the NPS-IB.
218. The Officers said that they would support amendments to clause (a) to align with Policy 3 or 5 in the NPS-ET and to better recognise the benefits of these activities consistent with other RPS provisions. No specific wording was provided. Mr Brass for the DGC supported the retention of the words “to the extent practicable” but said he would also support an addition to recognise the functional and operational constraints and benefits of REG and ET especially for existing activities.¹¹⁶
219. Ms Foster noted that the approach being taken in Policy IE.2A meant that RSI needed to apply the same level of management regardless of whether the activity was affecting significant areas of biodiversity or areas with little or no significance. Ms Foster said the Policy should account for the

¹¹⁴ Hearing Transcript, HS6 – Indigenous Biodiversity, Day 3, page 57, lines 2899 – 2902.

¹¹⁵ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 56.

¹¹⁶ Joint Witness Statement of Planning Experts, Indigenous Ecosystems Topic, 6 May 2024, para 59.

benefits of REG and RSI recognised in Policy 39 and that these matters were best explored through a separate process.

3.12.2 Finding

220. We agree with the Reporting Officer's recommendations on Policy IE.2A for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.12.3 Recommendation

Policy IE.2A: Maintaining *indigenous biodiversity* in the terrestrial environment – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan or regional plan, indigenous biodiversity in the terrestrial environment that does not have significant indigenous biodiversity values as identified under Policy 23 and is not on Māori land, shall be maintained by:


- ~~(a) recognising and providing for the importance of maintaining indigenous biodiversity that does not have significant biodiversity values under Policy 23;~~
- (a) *avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent practicable; and*
- (b) *managing any significant adverse effects on indigenous biodiversity from any other proposed activity by applying the effects management hierarchy in the National Policy Statement for Indigenous Biodiversity 2023; and*
- (c) *managing all other adverse effects on indigenous biodiversity from any proposed activity to achieve at least no overall loss in indigenous biodiversity within the region or district as applicable; and or*
- (d) *avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent practicable.*

Explanation

Policy IE.2A recognises that it is important to *maintain indigenous biodiversity* that does not have significant *indigenous biodiversity* values to meet the requirements in section 30(1)(ga) and section 31(b)(iii) of the RMA. This policy applies to *indigenous biodiversity* that does not have significant values in the terrestrial environment as identified under Policy 23 and requires a more robust approach to managing any significant adverse effects on *indigenous biodiversity* ~~from a proposed activity~~ and to *maintain indigenous biodiversity* more generally.

3.13 Policy IE.3: Maintaining, enhancing, and restoring indigenous ecosystem health – non-regulatory

221. Proposed new Policy IE.3 stated:

<u>Policy IE.3: Maintaining, enhancing, and restoring indigenous ecosystem health – non-regulatory</u>	
<u>To maintain, enhance and restore the ecosystem health, ecological integrity and ecological connectivity of the region's indigenous ecosystems, and the ecological processes that support them, giving effect to Te Rito o te Harakeke, the Regional Policy Statement shall, as soon as practicable:</u>	
<p>(a) <u>identify the characteristics required for the region's indigenous ecosystems to be in a healthy functioning state, including the processes that enable them to persist over the long-term, and</u></p> <p>(b) <u>identify strategic targets and priorities to ensure that management and restoration of indigenous ecosystems and habitats (including pest management) are directed at areas where the greatest gains can be made for indigenous biodiversity. Where possible, priorities should also deliver benefits for climate change mitigation and/or adaptation, and freshwater; and</u></p> <p>(c) <u>focus restoration efforts on achieving the strategic targets and priorities identified in (b).</u></p>	
<p><u>Explanation</u></p> <p><u>Policy IE.3 gives effect to Objective 16A, identifying the characteristics required for the region's indigenous ecosystems to be in a healthy functioning state, providing resilience to the impacts of increasing environmental pressures, and identifying strategic priorities and targets for restoration to ensure that regional conservation actions are applied efficiently, prioritising protection of the ecosystems and habitats of most pressing concern.</u></p>	

3.13.1 Submissions, Evidence and Analysis

222. The Officer's Rebuttal and Reply Evidence says the Policy directs the RPS to provide strategic direction to guide ecological restoration across the Region ensuring that effort (money, time, and other resources) is directed at projects that will achieve the best outcomes for biodiversity.¹¹⁷

223. Taranaki Whānui [S167.0132] supported the Policy but sought clearer reference to partnership with and resourcing of mana whenua, and Ātiawa [S131.0114] had similar relief. Rangitāne [S168.080] also requested amendments to provide for partnering with iwi in the prioritisation of

¹¹⁷ Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2024, para 111; and Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 39.

ecosystems and to include a timeframe for the process. Forest and Bird [S165.089] considered the Policy should be regulatory with methods giving effect to it.

224. PCC [S30.086] opposed the Policy as they considered it to be non-regulatory but requiring a regulatory response. The Officer said in response that the Policy does not direct regulatory measures as it does not require plans or consent applications to achieve an outcome as a mandatory requirement¹¹⁸ and the implementing methods are non-regulatory.¹¹⁹ The Officer reiterated the Council's approach that the restoration of ecosystems, habitats and indigenous biodiversity is a non-regulatory approach, working collaboratively to support landowners, restoration or enhancement activities.
225. The Officer recommended cross-referencing Method IE.3 in the Explanation which is one of the implementing methods and specifies that the Regional biodiversity strategy will be delivered through partnership with mana whenua / tangata whenua and in collaboration with TAs, communities and other key stakeholders. The Officer also recommended including two new clauses to give effect to directive clauses in the NPS-IB regarding restoration of terrestrial biodiversity including on Māori land (clauses 3.21 and 3.18), and promoting the resilience of indigenous biodiversity to climate change (Policy 4 and clause 3.6).

3.13.2 Finding

226. We agree with the Reporting Officer's recommendations on Policy IE.3 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.13.3 Recommendation

Policy IE.3: Maintaining, enhancing, and restoring *indigenous ecosystem health* – non-regulatory

*To maintain, enhance and restore the ecosystem health, ecological integrity and ecological connectivity of the region's indigenous ecosystems, and the **ecological ecosystem processes** that support them, giving effect to **the decision-making principles for indigenous biodiversity Te Rito o te Harakeke**, the Regional Policy Statement shall, as soon as practicable:*

¹¹⁸ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 39.

¹¹⁹ Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 420.

- (a) identify the characteristics required for the region’s *indigenous* ecosystems to be in a healthy functioning state, including the processes that enable them to persist over the long-term; and
- (b) identify strategic targets and priorities to ensure that management and restoration of *indigenous* ecosystems and *habitats* (including pest management) are directed at areas where the greatest gains can be made for *indigenous biodiversity*. Where possible, priorities should also deliver benefits for *climate change mitigation* and/or *climate change adaptation*, and freshwater; and
- (ba) in relation to the terrestrial environment, and other environments as appropriate, the priorities identified in clause (b) above must include:
- (i) areas with significant *indigenous biodiversity* values with degraded ecological integrity;
 - (ii) *threatened* and rare ecosystems representative of naturally occurring and formerly present ecosystems;
 - (iii) areas that provide important connectivity or *buffering* functions;
 - (iv) natural inland *wetlands* whose *ecological integrity* is degraded or that no longer retain their *indigenous vegetation* or *habitat* for *indigenous fauna*;
 - (v) areas of indigenous biodiversity on specified Māori land where *restoration* is advanced by the Māori landowners; and
 - (vi) any other priorities specified in regional biodiversity strategies or any national priorities for *indigenous biodiversity restoration*; and
- (c) focus *restoration* efforts on achieving the strategic targets and priorities identified in (b); and
- (d) identify opportunities to promote the *resilience of indigenous biodiversity* to climate change, including by:
- (i) allowing and supporting natural adjustments of *habitats* and ecosystems to climate change;
 - (ii) *maintaining* and promoting the *enhancement* of the connectivity between ecosystems, and between existing and potential *habitats*, to enable migrations so that species can continue to find viable niches in response to climate change.


Explanation

Policy IE.3 will be implemented by the Wellington Regional Council in partnership with *mana whenua/tangata whenua* and in collaboration with landowners, territorial authorities, communities, and other stakeholders as appropriate.

Policy IE.3 gives effect to Objective 16A, identifying the characteristics required for the region's *indigenous* ecosystems to be in a healthy functioning state, providing *resilience* to the impacts of increasing environmental pressures, and identifying strategic priorities and targets for *restoration* to ensure that regional conservation actions are applied efficiently, prioritising protection of the ecosystems and *habitats* of most pressing concern. Policy IE.3 also identifies national priorities for restoration consistent with those identified in the National Policy Statement for Indigenous Biodiversity 2023 and provides direction on how to promote the resilience of indigenous biodiversity to climate change.

3.14 Policy IE.4: Recognising the roles and values of landowners and communities in the management of indigenous biodiversity – non-regulatory

227. The new Policy as notified read:

<u>Policy IE.4: Recognising the roles and values of landowners and communities in the management of indigenous biodiversity – non-regulatory</u>	
<u>Recognise and provide for the values of landowners and communities as stewards of the indigenous biodiversity of the Wellington Region, by:</u>	
(a) <u>involving communities in the identification of targets and priorities for protecting, enhancing and restoring indigenous biodiversity; and</u>	
(b) <u>supporting landowner and community restoration of indigenous ecosystems.</u>	
<u>Explanation</u>	
<u>Policy IE.4 recognises and provides for the important role that landowners and the community have as environmental stewards.</u>	

3.14.1 Submissions, Evidence and Analysis

228. The Officer explained that the purpose of this non-regulatory Policy is to direct the involvement of communities in the identification of targets and priorities for managing indigenous biodiversity, and to support communities and landowners to carry out restoration of indigenous biodiversity.¹²⁰

229. PCC [S30.087] said the Policy is a non-regulatory Policy that requires a regulatory response. In evidence they asked for it to be reframed as a method. Rangitāne supported the Policy in part but sought amendments to better recognise the relationship that tangata whenua have with indigenous biodiversity and to include them in the identification and prioritisation process.

230. The Officer considered that the relief sought by Rangitāne was provided for in other provisions, particularly Policies IE.1, IE.2 and IE.3 and methods. The Officer did not consider there to be any regulatory compulsion required by the Policy, saying that it supported collaboration with

¹²⁰ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 114.

landowners and communities to carry out restoration of indigenous biodiversity.¹²¹

3.14.2 Finding

231. We agree with the Reporting Officer’s recommendations on Policy IE.4 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.14.3 Recommendation

Policy IE.4: Recognising the roles and values of landowners and communities in the management of *indigenous biodiversity* – non-regulatory

Recognise and provide for the values of landowners and communities as stewards of the *indigenous biodiversity* of the Wellington Region, by:

- (a) involving communities in the identification of targets and priorities for protecting, *enhancing* and *restoring indigenous biodiversity*; and
- (b) supporting landowner and community *restoration* of *indigenous* ecosystems.


Explanation

Policy IE.4 recognises and provides for the important role that landowners and the community have as environmental stewards.

¹²¹ Reporting Officers Right of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 114.

3.15 Method IE.1: Partnering with mana whenua / tangata whenua to give local effect to Te Rito o te Harakeke

232. As notified Method IE.1 read:

<u>Method IE.1 Partnering with mana whenua / tangata whenua to give local effect to Te Rito o te Harakeke</u>	
<u>Partner with mana whenua / tangata whenua to identify the local approach to give effect to Te Rito o te Harakeke and develop guidance on how to implement this.</u>	
<u>Implementation: Wellington Regional Council</u>	

3.15.1 Submissions, Evidence and Analysis

233. There was support for the Method and also requests from some iwi submitters for references to resourcing and capability building of mana whenua partners. Te Tumu Paeroa [S102.062] asked that the Method be amended to be a regulatory method to guarantee partnership, and Fish and Game [S147.089] said iwi values should be considered alongside other recognised values.

234. The Officer noted that partnership is a way of working and cannot be regulated, however recommended amending the Method to include protocols to enable and support mana whenua / tangata whenua engagement in resource management decision-making. This would support implementation of Policies IE.1 and IE.2 and the establishment of criteria and/or thresholds to trigger mana whenua / tangata whenua engagement in resource consent processes. The Officer noted again the recognition in the NPS-IB of mana whenua / tangata whenua as kaitiaki of indigenous biodiversity and did not agree with Fish and Game's requested relief. Landowner and community values associated with indigenous biodiversity are provided for through Policy IE.4.

3.15.2 Finding

235. We agree with the Reporting Officer's recommendations on Method IE.1 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.15.3 Recommendation


Method IE.1: Partnering with mana whenua/*tangata whenua* to give local effect to [the decision-making principles for indigenous biodiversity Te Rito o te Harakeke](#)

Partner with mana whenua/*tangata whenua* to identify the local approach to give effect to [the decision-making principles for indigenous biodiversity Te Rito o te Harakeke](#) and develop guidance on how to implement this, [including protocols to enable and support mana whenua/*tangata whenua* engagement in resource management decision-making to provide for the matters set out in policies IE.1 and IE.2, and establishment of criteria and/or thresholds to trigger their engagement in resource consent processes.](#)

*Implementation: Wellington Regional Council, [city and district councils, mana whenua/*tangata whenua*](#)*

3.16 Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities - Non-regulatory

236. The proposed new Method stated:

<u>Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities</u>	
<u>Partner with mana whenua / tangata whenua, and engage with interested parties to develop a regional inventory of opportunities for offsetting or compensating for any residual adverse effects on ecosystems and habitats with significant indigenous biodiversity values.</u>	
<u>Implementation: Wellington Regional Council* and iwi authorities</u>	

3.16.1 Submissions, Evidence and Analysis

237. The Method responds to issues raised by developers as to a lack of awareness of appropriate offset or compensation opportunities within the Wellington Region.

238. Fish and Game and various iwi submitters sought similar relief on this Method as with other provisions regarding recognition of other stakeholders and valued introduced biodiversity (Fish and Game [S147.099]) and reference to adequate funding and resourcing (for instance Ātiawa [S131.0139] and Taranaki Whānui [S167.0172]). The Officer said that the comments previously provided in response to this relief also applied here (for instance in relation to Policy IE.1). We consider that “interested parties” is broad enough to cover a range of stakeholders including Fish and Game and its members.

239. Forest and Bird opposed the Method on the basis that policy documents and current institutional arrangements do not support a regional inventory of ecosystems and habitats. The Officer shared their concern about the need for offsetting and compensation to be supported and underpinned by clear policy provisions and arrangements, but noted that s 104(1)(ab) of the RMA allows for the consideration of offsetting and compensation proposed or agreed by an applicant and the NPS-FM, NPS-IB, NRP and some district plans enable use of the effects management hierarchy to manage indigenous biodiversity and the use of offsetting and compensation in certain circumstances. The Officer said that Method IE.2 aims to develop a resource base to support more appropriate offset and compensation proposals, directing these to areas where they are likely to

be most successful.¹²² The proposals would still be limited by current policy settings including the limits to offsetting and compensation included through Change 1.

3.16.2 Finding

240. We agree with the Reporting Officer's recommendations on Method IE.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.16.3 Recommendation

Method IE.2: Inventory of biodiversity offsetting and biodiversity compensation opportunities - Non-regulatory


Partner with mana whenua/tangata whenua, and interested parties to develop a regional inventory of opportunities for offsetting or compensating for any residual adverse effects on ecosystems and habitats with significant *indigenous biodiversity* values and other significant *habitats of indigenous fauna*.

Implementation: Wellington Regional Council*, *city and district councils*, and *iwi authorities*

¹²² Section 42A Hearing Report – Hearing Stream 6, 11 December 2023, para 444.

3.17 Method IE.3: Regional biodiversity strategy

241. As notified Method IE.3 read:

Method IE.3: Regional biodiversity strategy	
<u>Develop and implement, in partnership with mana whenua / tangata whenua and in collaboration with territorial authorities, communities and other key stakeholders, a regional biodiversity strategy to <i>maintain and restore</i> indigenous biodiversity at a</u>	
<u>landscape scale, incorporating both Mātauranga Māori and systematic conservation planning.</u>	
<i>Implementation: Wellington Regional Council</i>	

3.17.1 Submissions, Evidence and Analysis

242. Ātiawa [S131.0140] supported the Method but requested that it also provide for protection and further supports for partnership through funding/resourcing. Forest and Bird [S165.0115] also supported reference to “protect”.

243. The Officer said that Appendix 5 of the NPS-IF states that the purpose of a regional biodiversity strategy is to “promote the landscape-scale restoration of the region’s indigenous biodiversity” and therefore recommended amending the wording to be consistent with this language and including a new Appendix 1E about Regional Biodiversity Strategies. This was consistent with Mr Wyeth’s recommended approach to give effect to directive provisions in the NPS-IB and the deletion of cross-references.

3.17.2 Finding

244. We agree with the Reporting Officer’s recommendations on Method IE.3 and the inclusion of Appendix 1E for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.17.3 Recommendation

Method IE.3: Regional biodiversity strategy


Develop and implement, in partnership with mana whenua / tangata whenua and in collaboration with territorial authorities, communities and other key stakeholders, a regional biodiversity strategy to ~~maintain and restore~~ promote the landscape-scale ~~maintenance, enhancement, and restoration~~ of the region’s indigenous biodiversity ~~at a landscape scale~~, incorporating both Mātauranga Māori and systematic conservation planning ~~and meeting the requirements in Appendix~~

[51E \(regional biodiversity strategies\) in the National Policy Statement for Indigenous Biodiversity 2023.](#)

Implementation: Wellington Regional Council

3.18 Method IE.4: Kaitiaki indigenous biodiversity monitoring programme

245. Proposed new Method IE.4 read:

Method IE.4: Kaitiaki indigenous biodiversity monitoring programme	
<u>Work in partnership with mana whenua / tangata whenua to establish and resource kaitiaki programmes to:</u>	
(a) <u>monitor and evaluate the ecosystem health and trends of the region's indigenous biodiversity and the extent to which <i>Te Mana o te Wai</i> and <i>Te Rito o te Harakeke</i> is being given effect to, and</u>	
(b) <u>develop action plans to respond to the monitoring results, including informing the regional biodiversity strategy in Method IE.3.</u>	
<u>Implementation: Wellington Regional Council</u>	

3.18.1 Submissions, Evidence and Analysis

246. The Method was supported by Fish and Game [S147.083], Forest and Bird [S165.0121] and others, and also opposed by some submitters. Ngāti Toa requested an amendment to resource a mana whenua kaitiaki monitoring programme. The Officer did not agree with this amendment, noting that the chapeau already refers to resourcing kaitiaki programmes.

3.18.2 Finding

247. We agree with the Reporting Officer's recommendations on Method IE.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.18.3 Recommendation

Method IE.4: Kaitiaki indigenous biodiversity monitoring programme


Work in partnership with mana whenua/tangata whenua to establish and resource kaitiaki programmes to:

- (a) monitor and evaluate the ecosystem health and trends of the region's indigenous biodiversity and the extent to which *the decision-making principles for indigenous biodiversity are Te Rito o te Harakeke* is being given effect to, and
- (b) develop action plans to respond to the monitoring results, including informing the identification of targets and priorities through Method IE.3.

Implementation: Wellington Regional Council

3.19 Method 21: ~~Information to assist with the identification~~ Identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values **and** **other significant habitats of indigenous fauna**

248. The notified proposed amendments to Method 21 read:

Method 21: Information to assist with the identification <u>Identification and protection of indigenous ecosystems and</u> habitats with significant indigenous biodiversity values	
<p><u>The regional council will liaise with the region’s territorial authorities to ensure that all district plans include, by 30 June 2025 at the latest, a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values and plan provisions to protect them from inappropriate subdivision, use and development.</u></p> <p><u>Where a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on a programme of works and an understanding as to whether:</u></p> <p>(a) <u>the territorial authority shall continue to have sole responsibility; or</u> (b) <u>the regional council shall take full responsibility; or</u> (c) <u>the territorial authority and the regional council shall share responsibilities.</u></p> <p>Prepare and disseminate information to assist with the interpretation of the criteria set out in policies 23 and 24, which require the identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values.</p> <p><i>Implementation: Wellington Regional Council* and city and district councils</i></p>	

3.19.1 Submissions, Evidence and Analysis

249. SWDC [S79.05100], Ātiawa [S131.0142] and others supported the Method. Forest and Bird requested an amendment to read “as soon as possible, and in any event no later than” and also sought that the Method be a regulatory method. PCC [S30.094] opposed the Method and requested removal or amendment of the timeframe to align with the NPS-IB and to recognise the councils that had already implemented the Method. The Method was also opposed by UHCC [S34.074] and HCC [S115.0112] who also requested that the operative Method is retained or that the deadline be amended to 5 years after Change 1 is operative.

250. The Officer agreed that it was appropriate to align the implementation timeframe with the requirement in the NPS-IB that TAs map SNAs in the terrestrial environment no later than 5 years after gazettal of the NPS-IB (i.e. by 4 August 2028). The Officer also recommending deleting clause (b) on the basis that the NPS-IB does not allow a regional council to take full responsibility for mapping SNAs, and in any event, the Officer considered that this should be undertaken using a partnership approach.

251. In his written evidence, Mr McDonnell supported the amendment to the timeframe but also recommended that clause (b) be retained as he said ecological assessments by the Regional Council to inform district plan changes were another avenue for implementing the NPS-IB. The Officer did not support reinstating clause (b) as the NPS-IB does not provide for the option of a regional council taking full responsibility to carry out a district-wide indigenous biodiversity assessment, although regional council assessment could be carried out to support district plans in accordance with clause 3.8(4) of the NPS-IB where requested by a TA.

3.19.2 Finding

252. We agree with the Reporting Officer's recommendations on Method 21 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.19.3 Recommendation

Method 21: Information to assist with the identification Identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna

The regional council will liaise with the region's territorial authorities to ensure that all district plans include, ~~by 30 June 2025 at the latest, as soon as reasonably practicable and by no later than 4 August 2028,~~ a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the terrestrial environment and plan provisions to protect them from inappropriate subdivision, use and development.

Where a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on a programme of works and an understanding as to whether:


- (a) the territorial authority shall continue to have sole responsibility; or
- ~~(b) —the regional council shall take full responsibility; or~~
- (be) the territorial authority and the regional council shall share responsibilities.

Prepare and disseminate information to assist with the interpretation of the criteria set out in policies 23 and 24, which require the identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values:

Implementation: Wellington Regional Council and city and district councils*

3.20 Method 32: Partnering with mana whenua/tangata whenua, and partnering where appropriate and engaging with stakeholders, landowners and the community in the identification and protection of significant values

253. As notified, the amendments to Method 32 read:

<p>Method 32: <u>Partnering Engagement with mana whenua / tangata whenua, and engaging with stakeholders, landowners and the community in the identification and protection of significant values</u></p>	
<p>Involve Partner with iwi, hapū, marae and/or whānau, <u>and engage with stakeholders, landowners and the community in the to:</u></p>	
<p>(a) identification and protection of significant places, sites and areas with significant cultural heritage values and significant historic heritage values;</p>	
<p>(b) identification and protection of outstanding natural features and landscapes, and manage the values of special amenity landscapes, including those with significant cultural values;</p>	
<p>(c) identification and protection of indigenous ecosystems and habitats with significant biodiversity values, including those of significance to mana whenua / tangata whenua;</p>	
<p>(ca) <u>develop and implement a regional biodiversity strategy described in Method IE.3; and</u></p>	
<p>(d) protection of the values, including mana whenua / tangata whenua values, associated with the rivers and lakes identified in Appendix 1; and</p>	
<p>(e) <u>identify nature-based solutions to climate change as described in Method CC.6.</u></p>	
<p><i>Implementation: Wellington Regional Council and city and district councils</i></p>	

3.20.1 Submissions, Evidence and Analysis

254. Ātiawa [S11.0129] supported the intent of Method 32 but requested amendments to reflect that partnering with mana whenua for the purposes of identifying and protecting significant values should be provided for separately to the stakeholders, landowners and the general public and community as only mana whenua can identify places, sites and areas with significant cultural heritage values, or outstanding natural features and landscapes with significant cultural values, or identify mana whenua values and indigenous ecosystems and habitats with significance to mana whenua.

255. Fish and Game [S147.024] considered that the Method should recognise the Council has a responsibility to partner with stakeholders. PCC [S30.095] sought identification of Special Amenity Landscapes. HortNZ

[S128.056] requested a reference to areas of highly productive land. HCC opposed the Method and Te Tumu Paeroa [S102.050] considered that the Method should ensure the protection of significant values.

256. The Officer agreed with the relief sought by Ātiawa and recommended amendments to provide for the identification by mana whenua, in partnership with Council, of areas and sites of significance. The Officer also agreed with the submission points of Fish and Game, PCC and HortNZ. The Officer recommended some amendments in the Implementation direction in response to HCC's submission.
257. In written evidence, Mr McDonnell for HCC considered that the Method required review as it contained regulatory direction. The Officer agreed that the Method is a regulatory method and recommended its relocation.
258. In Minute 22 we queried with the Officer whether the Method should also apply to enhancement and restoration to a healthy functioning state. The Officer confirmed this was appropriate and recommended this amendment in Reply Evidence.¹²³ We also queried the inclusion of 'highly productive land' and the Officer recommended an amendment to refer more specifically to the Objective of the NPS-HPL.¹²⁴

3.20.2 Finding

259. We agree with the Reporting Officer's recommendations on Method 32 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.20.3 Recommendation

[Note Method to be relocated to section 4.5.1 Regulatory Methods]

Method 32: Partnering Engagement with mana whenua/tangata whenua; and partnering where appropriate and engaging with stakeholders, landowners and the community in the identification and protection of significant values

1. Partner with iwi, hapū, marae and/or whānau to identify and protect areas and sites of significance to mana whenua/tangata whenua; and

¹²³ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, para 55.


¹²⁴ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, paras 70 – 71.

2. ~~Involve Partner with *iwi*, *hapū*, *marae* and/or *whānau*, and partner where appropriate and engage with stakeholders, landowners, and the community in the to:~~
- (a) ~~identification and protection of significant places, sites and areas with significant cultural heritage values and significant historic heritage values;~~
 - (b) ~~identification and protection of outstanding natural features and landscapes, and identify and managing the values of special amenity landscapes, including those with significant cultural values;~~
 - (c) ~~identification and protection of indigenous ecosystems and habitats with significant biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats and, where appropriate, to enhance and restore these to a healthy functioning state, including those of significance to mana whenua/tangata whenua;~~
 - (ca) ~~develop and implement a regional biodiversity strategy described in Method IE.3; and~~
 - (d) ~~protection of the values, including mana whenua/tangata whenua values, associated with the rivers and lakes identified in Appendix 1; and~~
 - (e) ~~identify nature-based solutions to climate change as described in Method CC.6; and~~
 - (f) ~~identify and protect highly productive land for use in land-based primary production, both now and for future generations.~~

Implementation: Wellington Regional Council (all clauses) and city and district councils (clauses 2(a), (b), (c) and (f))

3.21 Method 53: Support mana whenua / tangata whenua and community restoration initiatives for indigenous ecosystems

260. As notified Method 53 read:

<p>Method 53: Support <u>mana whenua / tangata whenua</u> and community restoration initiatives for the coastal environment, rivers, lakes and wetlands <u>indigenous ecosystems</u></p>	
<p>Provide practical support for <u>mana whenua / tangata whenua</u> and community restoration initiatives for the coastal environment, rivers, lakes and wetlands <u>indigenous ecosystems, with a focus on achieving the targets and priorities identified by Methods IE.2, CC.4 and CC.7.</u></p>	
<p><i>Implementation: Wellington Regional Council and city and district councils</i></p>	

3.21.1 Submissions, Evidence and Analysis

261. Fish and Game [S157.014] said that deleting “coastal environment, rivers, lakes and wetlands” and replacing it with “indigenous ecosystems” was unclear and requested the operative wording be retained or an amendment to refer to “indigenous coastal and freshwater ecosystems”. The Officer said that it was more efficient to refer to “indigenous ecosystems” rather than referring to all the domains, i.e. coastal environment, rivers, lakes, wetlands and terrestrial ecosystems.
262. Forest and Bird [S165.0122] sought that the Method be broader and provide for restoration support until identification processes are complete. They also noted incorrect cross-references in the Method. The Officer said it was appropriate for the Method to focus on strategic targets and priorities, noting that it was not exclusive to the Methods identified. HCC [S115.0133] opposed the Method and requested that it not apply to TAs. The Officer did not agree and said that most if not all TAs provide practical support for some level of restoration work in their districts and clauses 3.8. 3.18 and 3.21 of the NPS-IB require local authorities to support restoration.
263. Ms Campbell for Fish and Game was concerned in evidence that the Officer’s recommended amendments to the Method inappropriately restricted it to indigenous ecosystems, thereby excluding support for restoration of the habitats of valued introduced species, such as trout, salmon, and gamebirds. The Officer did not agree that the RPS should support restoration of non-indigenous habitats and disagreed that Method 53 does not give effect to NPS-FM Policy 10 (which was predicated on

Policy 9, stating that the habitat of trout and salmon is protected so far as this is consistent with protecting the habitats of indigenous freshwater species).

264. At the Hearing, the Reporting Officer recommended reverting to the operative text for the title and first clause of Method 53 to remove any unintended ambiguity that had arisen. In light of evidence presented by Fish and Game, we agree with this recommendation. The Officer also recommended that the cross-references to the methods be corrected, as noted by Forest and Bird.

3.21.2 Finding

265. We agree with the Reporting Officer's recommendations on Method 53 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.21.3 Recommendation


Method 53: Support mana whenua and community restoration initiatives for the coastal environment, rivers, lakes and wetlands indigenous ecosystems

Provide practical support for mana whenua and community restoration initiatives for the coastal environment, rivers, lakes and wetlands indigenous ecosystems, with a focus on achieving the targets and priorities identified by Methods IE.23, CC.4 and CC.76.

Implementation: Wellington Regional Council and city and district councils

3.22 Method 54: Assist landowners to maintain, enhance and restore indigenous ecosystems

266. The notified amendments to Method 54 stated:

Method 54: Assist landowners to maintain, enhance and restore indigenous ecosystems		
Assist landowners to <i>maintain, enhance and/or restore indigenous ecosystems identified by Methods IE.2 and CC.7, including by, but not limited to:</i>		
(a)	assisting with the costs of legally protecting indigenous ecosystems by way of open space covenants with Queen Elizabeth the Second National Trust (QEII);	
(b)	<u>considering opportunities for rates rebates;</u>	
(c)	assisting with the costs of controlling pest plants and animals; and	
(d)	supporting landowners to restore significant indigenous ecosystems by fencing and planting.	
<i>Implementation: Wellington Regional Council and city and district councils</i>		

3.22.1 Submissions, Evidence and Analysis

267. Some TAs supported the Method in part but considered that rates rebates are just one tool under a wider umbrella of non-regulatory methods and requested that the reference to rates rebates in clause (b) be replaced by “advice, education, support and incentives” or similar.

268. The Officer agreed that the Method should be broadened beyond rates relief as this was just one example of opportunities to provide incentives. Mr McDonnell requested deletion of the reference to rates rebates as they are a matter that needs to be weighed up as part of long-term planning processes, and the Method could result in an expectation from landowners that they are entitled to rates rebates. The Officer said this was just an example of an opportunity and could be deleted. We are comfortable with how the clause reads as proposed to be amended through the s 42A Report. Rates rebates are just one example provided in the clause.

269. Forest and Bird [S165.0123] sought the correction of incorrect cross references and also stronger emphasis in the chapeau on strategic targets and priorities. The Officer agreed with these amendments. The Officer considered it appropriate that TAs support the implementation of the Method given their responsibilities under the NPS-IB and that clauses 3.18(5) and 3.21(3) include requirements to provide incentives for the protection and maintenance of indigenous biodiversity in priority areas.

3.22.2 Finding

270. We agree with the Reporting Officer's recommendations on Method 54 for the reasons above, and otherwise as set out in the Officer's s 42A Report, or the Officer's Rebuttal and Reply Evidence.

3.22.3 Recommendation

Method 54: Assist landowners to *maintain, enhance and restore indigenous ecosystems*





Assist landowners to *maintain, enhance and/or restore indigenous ecosystems, with a focus on achieving the targets and priorities* identified by Methods [IE.23](#), [CC.4](#) and [CC.76](#), including by, but not limited to:

- (a) assisting with the costs of legally protecting *indigenous* ecosystems by way of open space covenants with Queen Elizabeth the Second National Trust (QEII);
- (b) [considering opportunities for partnerships \(e.g., through Ngā Whenua Rāhui\), advice, education, support and incentives, such as rates rebates;](#)
- (c) assisting with the costs of controlling pest plants and animals; and
- (d) supporting landowners to *restore* significant *indigenous* ecosystems by fencing and planting.

Implementation: Wellington Regional Council and city and district councils

3.23 Anticipated Environmental Results (AER)

271. As notified the AER read:

Topic	Objectives	Anticipated environmental results (AER)
Historic heritage		
Indigenous ecosystems	<p>Objective 16 Indigenous ecosystems and habitats with significant <u>ecosystem and/or biodiversity values are maintained protected, enhanced, and restored to a healthy functioning state.</u></p>	 1. District and regional plans have identified indigenous ecosystems and habitats with significant biodiversity values.
	<p>Objective 16A <u>The region's indigenous ecosystems are maintained, enhanced, and restored to a healthy functioning state, increasing their resilience to increasing environmental pressures, and giving effect to <u>Te Rito o te Harakeke.</u></u></p>	 2. District and regional plans contain policies, rules and/or methods to protect indigenous ecosystems and habitats with significant biodiversity values from inappropriate subdivision, use and development.
	<p>Objective 16B <u>Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.</u></p>	 3. There is no loss of indigenous ecosystems and habitats with significant biodiversity values <u>and biodiversity indicators are improving across the region, identified in a district or regional plan.</u>
	<p>Objective 16C <u>Landowner and community values in relation to indigenous biodiversity are recognised and provided for and their roles as stewards are supported.</u></p>	 4. There is at least a 20 percent increase in the area of indigenous ecosystems and habitats that are legally protected.

3.23.1 Submissions, Evidence and Analysis

272. Ātiawa [S131.008] sought that the AER be more specific and measurable, based on evidence where relevant, and appropriately time-bound. Ātiawa requested the addition of a new AER relating to mana whenua and the Council working in partnership in the management of indigenous biodiversity in the Region. Taranaki Whānui [S167.0183] sought that the

AER are developed and monitored in partnerships with mana whenua and include mātauranga Māori.

273. The Officer said that Method IE.4 provides for a partnership approach and that the AER were pitched at an appropriate level for an RPS.
274. The Officer recommended various amendments to better align the wording of the AER with the amendments recommended to Objectives 16 and 16A, and to respond to the methods including Method IE.3. The Officer also recommended that AER 3 be extended to incorporate the monitoring requirements referred to in Policy 17 of the NPS-IB and clause 3.25. The Officer recommended AERs for Objectives 16B and 16C.
275. Ms Heppelthwaite on behalf of Waka Kotahi recommended that the reference to “extent or condition” be deleted from AER 3 on the basis this was not attainable given that clause 3.11 of the NPS-IB provides consenting pathways that allow for the extent or condition of significant indigenous ecosystem / habitat or supporting functions to be potentially altered, reduced or removed.
276. The Reporting Officer responded commenting that AER identify the outcomes expected as a result of implementing the package of RPS provisions. They provide the basis for monitoring the efficiency and effectiveness of the provisions and are indicators to be used when assessing progress towards achieving the RPS objectives at a regional level. They are also used to inform further changes to RPS provisions.¹²⁵ Because the AER operate at a regional level rather than at the scale of an individual consent, and also because AER 3 links to Objective 16 which seeks that ecosystems and habitats with significant indigenous biodiversity and other significant habits are protected, enhanced, and restored to a healthy functioning state, the Officer considered that AER 3 was appropriate but that amendments to refer to “an overall increase in the extent and condition” would clarify that the AER applies on a region wide, rather than an application specific basis. Ms Heppelthwaite confirmed that these changes addressed her concern regarding “no loss” being unattainable.¹²⁶

¹²⁵ Statement of Rebuttal Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 6 - Indigenous Ecosystems, 13 February 2024, para 9.




¹²⁶ Summary statement of evidence of Catherine Heppelthwaite for Waka Kotahi regarding Plan Change 1, Hearing Stream 6 on the Wellington Regional Policy Statement, 22 February 2024, para 3.3.


277. The Officer also recommended that AER 3 refer to “ecosystem processes” for consistency with the recommended amendments in Objective 16, and that the word ‘maintain’ in AER is italicised to indicate it is a defined term.

3.23.2 Finding

278. We agree with the Reporting Officer’s recommendations on the AERs for Objectives 16, 16A, 16B and 16C for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.23.3 Recommendation

Indigenous ecosystems	<p>Objective 16 <i>Indigenous ecosystems and habitats with significant ecosystem functions and services and/or indigenous biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes functions of these ecosystems and habitats, are maintained protected, enhanced, and restored to a healthy functioning state.</i></p>	<p> 1. District and regional plans have identified <i>indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna.</i></p>
	<p>Objective 16A <i>The region’s indigenous biodiversity is ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving its their</i></p>	<p> 2. District and regional plans contain policies, rules and/or methods to protect indigenous ecosystems and habitats with significant <i>indigenous biodiversity values</i> from inappropriate subdivision, use and development.</p>
	<p>Objective 16A <i>The region’s indigenous biodiversity is ecosystems are maintained, enhanced, and restored to a healthy functioning state, improving its their</i></p>	<p> 3. <i>In the Wellington Region there is no loss an overall increase in the of extent and or condition of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna, and in the health of their ecosystem processes functions.</i></p>

	<p><i>resilience</i> to increasing environmental pressures, particularly climate change., and giving effect to the <i>Te Rito o te Harakeke</i>.</p>	<p>4. <i>Indigenous biodiversity across the Wellington Region is maintained</i> and biodiversity indicators are improving across the region. identified in a district or regional plan.</p>
	<p>Objective 16B <u>Mana whenua / tangata whenua values relating to indigenous biodiversity, particularly taonga species, and the important relationship between indigenous ecosystem health and well-being, are given effect to in decision-making, and mana whenua / tangata whenua are supported to exercise their kaitiakitanga for indigenous biodiversity.</u></p> <p>Objective 16C <u>Landowner and community values in relation to indigenous biodiversity are recognised and provided for and their roles as stewards are supported.</u></p>	 <p>4.5. <i>There is at least a 20 percent increase in the area of indigenous ecosystems and habitats that are legally protected.</i></p> <p>5. <i>A regional biodiversity strategy has been prepared, and progress to meet defined 10-year targets is demonstrated.</i></p> <p>6. <i>Mana whenua/tangata whenua are satisfied that their values associated with indigenous biodiversity, particularly taonga species, are appropriately provided for in resource management decision-making, including through the application of Mātauranga Māori.</i></p> <p>7. <i>Mana whenua/tangata whenua are satisfied with the level of support to exercise their kaitiakitanga for indigenous biodiversity.</i></p> <p>8. <i>Landowners and communities are satisfied with the level of support provided to enable their roles as stewards of indigenous biodiversity.</i></p>

3.24 Definitions

279. Below we set out the key issues arising from the definitions in HS6. The Officer recommended amendments to the HS6 definitions to align with the gazetted version of the NPS-IB. We agree with these recommendations and make some additional brief comments below in relation to evidence presented on these definitions throughout the Hearing. We do not comment on every definition coded to this topic or proposed to be included in the Officer's s 42A Report or Rebuttal Evidence. Where we have not commented on a particular definition, we agree with the Officer's recommendations for that definition as set out in the s 42A Report or Rebuttal or Reply Evidence.
280. The DGC [S32.040] supported the HS6 definitions but requested amendments necessary to give effect to the gazetted version of the NPS-IB. Rangitāne [168.085 – S168.088] also supported the definitions, and they were opposed by Winstone Aggregates [S162.020 – 162.025].

3.24.1 Biodiversity compensation

281. Forest and Bird [S165.0125] said that the words “otherwise managed” were unclear, and should be replaced with a link to a set of mandatory compensation principles. Rangitāne [S168.084] requested amendments to clarify that compensation only occurs after all measures to avoid, minimise, remedy or offset have been explored.
282. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer noted in Rebuttal Evidence that Dr Maseyk had said in her Rebuttal Evidence that the definition should refer to “more than minor” residual adverse effects to align with the NPS-IB and NPS-FM definitions.

3.24.2 Biodiversity offsetting

283. Forest and Bird [S165.0126] requested that the reference to ‘minimisation’ be removed and amended to include mitigation. Rangitāne [S168.083] sought an amendment to be consistent with the 10% net gain goal specified in Policy 24 and Appendix 1A.
284. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer noted in Rebuttal Evidence that Dr Maseyk had said in her Rebuttal Evidence that the definition should refer to “more than minor” residual adverse effects to align with the NPS-IB and NPS-FM definitions.

3.24.3 Decision-making principles for indigenous biodiversity

285. The Officer recommended this definition be included to align with clause 1.5(3) of the NPS-IB which sets out the principles.
286. Ms Burns on behalf of Rangitāne sought that the definition be amended to ensure that the local expressions developed through Method IE.1 are given effect to once developed. The Officer agreed that this amendment would provide better clarity and support effective implementation of Policy IE.2 and Method IE.1.¹²⁷
287. The Officer recommended deleting the definition of Te Rito o te Harakeke as this had been replaced by the set of decision-making principles for indigenous biodiversity.

3.24.4 Ecological connectivity

288. WCC and Forest and Bird requested amendments to the definition. The Officer recommended amendments to align with the definition in the NPS-IB.

3.24.5 Ecological integrity

289. Forest and Bird [S165.0131] requested the definition be replaced with an alternative that referred to various elements including ecological representation and resilience.
290. The Officer recommended amendments to align with the definition in the NPS-IB which did not include all of the elements Forest and Bird requested, but did include composition, structure and functions.

3.24.6 Ecosystem function

291. The Officer recommended amendments to align with the definition in the NPS-IB.

3.24.7 Ecosystem health

292. Forest and Bird [S165.0132] supported the definition in part but requested clarification on how it would interact with the NPS-FM compulsory value of 'ecosystem health'. The Officer said that while there was no definition in the NPS-FM for 'ecosystem health', Appendix 1A stated the biophysical components for a health freshwater ecosystem suitable to sustain

¹²⁷ Statement of Rebuttal Evidence of Pam Guest on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 13 February 2023, para 108.

indigenous aquatic life. The Officer did not think the Change 1 definition conflicted with the NPS-FM compulsory value of ‘ecosystem health’.

3.24.8 Ecosystem processes

293. In Minute 22 we queried whether a definition for ‘ecosystem processes’ was appropriate. The Officer stated in response that a definition for ecosystem could be usefully added to support the use of this term in Objective 16. The Officer sought advice from a Senior Terrestrial Ecologist at Council and recommended a definition in Reply Evidence.

3.24.9 Effects management hierarchy

294. This definition was recommended in the Officer’s Rebuttal Evidence. In Reply Evidence, the Officer said he recommended removing the reference to “significant” indigenous biodiversity to better align with the NPS-IB definition and ensure that the provisions would apply the effects management hierarchy to both significant indigenous biodiversity values and non-significant indigenous biodiversity values.

295. The Reporting Officers for HS5 and HS6 identified that the definition in the NPS-FM focuses on natural inland wetlands, and the definition in the NPS-IB refers specifically to indigenous biodiversity. As this could create potential inconsistencies, the Officers recommended a definition that addresses the definition in both NPS’.¹²⁸

3.24.10 Enhancement (in relation to indigenous biodiversity)

296. Submitters supported the definition and sought it be retained (Forest and Bird [S165.0133] or retained subject to changes in the gazetted NPS-IB (DGC [S30.040])). The definition is not included in the NPS-IB and the Officer does not recommend any amendments.

3.24.11 Established activities

297. A definition is recommended to be included in relation to Policy 47 which provides that established activities can continue provided certain requirements are met.

¹²⁸ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 85 and Appendix 2 – HS5 and HS6 Definitions.

3.24.12 Indigenous biodiversity

298. The Officer recommended amendments to align with the definition in the NPS-IB. The Officer also recommended deleting the definition of “indigenous ecosystem” that was notified as there is no definition in the RMA or NPS-IB or NRP. Ms Heppelthwaite had raised concerns about the use of the term “natural character” in the definition of “indigenous ecosystem” and the Officer agreed this was problematic due to its use in s 6(a) of the RMA.

3.24.13 Land-based primary production

299. HortNZ [S128.056] had sought an amendment to Method 32 to refer to partnership in the ‘identification and protection of highly productive land’. The Officer agreed with this recommendation, and also agreed in Reply Evidence to include the definition of ‘land-based primary production’ which is in clause 1.3 the NPS-HPL. This seems appropriate to us in that it will provide clarity to the interpretation of the Method.

3.24.14 Maintain/maintained/ maintenance (in relation to indigenous biodiversity)

300. Clause 1.7 of the NPS-IB sets out what ‘maintaining’ requires. The Officer recommends in the s 42A Report that the definition of ‘maintenance’ align with the NPS-IB definition.

3.24.15 Resilience

301. The Officer recommended amendments to align with the NPS-IB definition.

3.24.16 Restoration (in relation to indigenous biodiversity)

Restoration (in relation to a natural inland wetland)

302. Forest and Bird [S165.0149] supported the definition in part, requesting an amendment to add “or improve” after “reinstate”. Submitters associated with the Mangaroa Peatland Focus Group opposed the definition due to its wide scope and lack of clarity of “desired former state”. They requested that a clause is inserted that requires the Regional Council to engage with the community to define what restoration means for each habitat, ecosystem, landform or landscape and only proceed once they have community approval in each case.

303. The Officer recommended some amendments including a definition for restoration in relation to natural inland wetlands for alignment with the NPS-FM definition of restoration. The Officer agreed that what restoration means on the ground depends on the context, including the ecosystem health of the resource and an assessment of the costs and benefits of acting or not acting, and various other matters including engagement with stakeholders including any impacted landowners. The Officer said that these were matters of process or policy and not appropriate detail to include in a definition. The Officer (who was also the Officer for the Nature Based Solutions subtopic in HS3), said that the policies and method in Change 1 that give effect to restoration outcomes are non-regulatory and there is no direction requiring restoration, especially on private property. The Officer did not recommend amendments to the definition of restoration in response to the submitters' relief.
304. Ms Campbell for Fish and Game gave planning evidence on the definition of restoration stating that it should apply to all habitats and ecosystems, not exclusively those that are indigenous. Ms Campbell said that excluding non-indigenous taxa from the definition limits the potential for restoration of these ecosystems and habitats, and subsequent enhancement of the quality of the environment and freshwater. The Officer said that the definition aligns with the NPS-IB and the intent was not to widen it to non-indigenous taxa and the definition specifically states that it is in relation to indigenous biodiversity.

3.24.17 Specified infrastructure

305. The Reporting Officers for HS5 and HS6 identified an overlap with some aspects of the definition of “specified infrastructure” in the NPS-FM and NPS-IB. They recommended a definition that addresses both NPS definitions¹²⁹ (i.e. essentially merges them but with specific reference to elements specifically relevant to freshwater and indigenous biodiversity).

¹²⁹ Reporting Officers Rights of Reply, Pam Guest and Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 6 – Indigenous Ecosystems, 30 May 2024, para 85 and Appendix 2 – HS5 and HS6 Definitions.

3.24.18 Finding

3.24.19 Recommendation

Definitions (**terms as defined in the NPS-IB, ** term that aligns with a definition in the NPS-IB definition*)

Defined term	RPS Definition
Biodiversity compensation	A measurable positive environmental conservation outcome resulting from actions that are designed to compensate for more than minor residual adverse biodiversity effects on indigenous biodiversity that cannot be otherwise managed after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied . This includes biodiversity compensation in the terrestrial environment and aquatic compensation for the extent and values of rivers and natural inland wetlands .
Biodiversity offsetting	A measurable positive environmental conservation outcome resulting from actions designed to redress for the more than minor residual adverse effects on indigenous biodiversity arising from activities after all appropriate avoidance, minimisation, and remediation measures have been sequentially applied . The goal of biodiversity offsetting is to achieve no net loss, and preferably a net gain, in type, amount, and condition of indigenous biodiversity values compared to that lost . This includes biodiversity offsetting in the terrestrial environment and aquatic offsetting for the extent and values of rivers and natural inland wetlands .
Buffer/buffering*	A defined space between core areas of ecological value and the wider landscape that helps to reduce external pressures.
Decision-making principles for indigenous biodiversity*	<p>The following decision-making principles must inform the management of indigenous biodiversity:</p> <ul style="list-style-type: none"> (a) prioritise the mauri, intrinsic value and well-being of indigenous biodiversity. (b) take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). (c) recognise the bond between mana whenua/tangata whenua and indigenous biodiversity based on whakapapa relationships. (d) recognise the obligation and responsibility of care that mana whenua/tangata whenua have as kaitiaki of indigenous biodiversity. (e) recognise the role of people and communities (including landowners) as stewards of indigenous biodiversity.

	<p>(f) <u>enable the application of te ao Māori and mātauranga Māori, and</u></p> <p>(g) <u>form strong and effective partnerships with mana whenua /tangata whenua.</u></p> <p>The decision-making principles for <i>indigenous biodiversity</i> include any local expressions developed through Method IE.1.</p>
Ecological connectivity*	<p><u>Refers to the degree of connection that provides for the movement of genetic alleles and species and the maintenance of ecosystem processes within and between populations and ecosystems</u></p> <p><u>The structural or functional links or connections between <i>habitats</i> and ecosystems that provide for the movement of species and processes among and between the <i>habitats</i> or ecosystems.</u></p>
Ecological integrity*	<p><u>The full potential of indigenous biotic and abiotic features and natural processes, functioning in sustainable communities, habitats, and landscapes:</u></p> <p><u>The extent to which an ecosystem is able to support and maintain its:</u></p> <p><u>(a) composition (being its natural diversity of <i>indigenous</i> species, <i>habitats</i>, and communities); and</u></p> <p><u>(b) structure (being its biotic and abiotic physical features); and</u></p> <p><u>(c) functions (being its ecological and physical processes).</u></p>
Ecosystem function*	<p><u>The abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem.</u></p>
Ecosystem health	<p>The degree to which an <i>ecosystem</i> is able to sustain its ecological structure, processes, functions, and <i>resilience</i> within its range of natural variability.</p>
Ecosystem processes	<p><u>The physical, chemical, and biological processes that link organisms and their environment.</u></p>
Ecological integrity*	<p><u>The full potential of indigenous biotic and abiotic features and natural processes, functioning in sustainable communities, habitats, and landscapes:</u></p> <p><u>The extent to which an ecosystem is able to support and maintain its:</u></p> <p><u>(a) composition (being its natural diversity of indigenous species, habitats, and communities); and</u></p> <p><u>(b) structure (being its biotic and abiotic physical features); and</u></p>

	(c) functions (being its ecological and physical processes):
Effects management hierarchy	<p>Effects management hierarchy:</p> <p>(a) <i>In relation to indigenous biodiversity</i> means An approach to manage the adverse effects of an activity on significant indigenous biodiversity values that requires that:</p> <ul style="list-style-type: none"> (i) adverse effects are avoided where practicable; then (ii) where adverse effects cannot be avoided, they are minimised where practicable; then (iii) where adverse effects cannot be minimised, they are remedied where practicable; then (iv) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then (v) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then (vi) if biodiversity compensation is not appropriate, the activity itself is avoided. <p>(b) <i>In relation to natural inland wetlands and rivers</i>, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including cumulative effects and loss of potential value) that requires that:</p> <ul style="list-style-type: none"> (i) adverse effects are avoided where practicable; then (ii) where adverse effects cannot be avoided, they are minimised where practicable; then (iii) where adverse effects cannot be minimised, they are remedied where practicable; then (iv) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; then (v) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; then (vi) if aquatic compensation is not appropriate, the activity itself is avoided.
Electricity transmission network	<p>The electricity transmission network that:</p> <ul style="list-style-type: none"> (a) comprises the network of transmission lines, cables, stations, substations and works used to connect grid injection points and grid exit points used to convey electricity in New Zealand; and (b) is owned by Transpower New Zealand Limited; and (c) is commonly known as the National Grid.
Enhancement (in relation to indigenous biodiversity)	<p>The active intervention and management of modified or degraded <i>habitats</i>, ecosystems, landforms and <i>landscapes</i> in order to reinstate <i>indigenous</i> natural character, ecological and physical processes, and cultural and visual qualities. The aim of enhancement actions is to improve the condition of the environment, but not to return it to a former state.</p>

Established activities	In relation to Policy 47, means an activity (including maintenance, operation and upgrade) that is in, or affects, an <i>indigenous ecosystem</i> or <i>habitat</i> with significant <i>indigenous biodiversity</i> values or other significant <i>habitats</i> of <i>indigenous</i> fauna and is not a new activity.
ET activities	Any activity required for the operation, maintenance, upgrade, or development of the electricity transmission network, along with all access roads and tracks required to operate and maintain that network.
Indigenous biodiversity	The living organisms that occur naturally in New Zealand, and the ecological complexes of which they are part, including all forms of <i>indigenous</i> flora, fauna, and fungi, and their <i>habitats</i>.
Indigenous ecosystem	An ecosystem with a dominant or significant indigenous natural character.
Land-based primary production	Production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the <i>land</i>.
Maintain/maintained/maintenance (in relation to <i>indigenous biodiversity</i>)*	<p>At least no reduction in the following:</p> <p>(a) — the size of populations of indigenous species</p> <p>(b) — indigenous species occupancy across their natural range</p> <p>(c) — the properties and function of ecosystems and habitats</p> <p>(d) — the full range and extent of ecosystems and habitats</p> <p>(e) — connectivity between and buffering around, ecosystems</p> <p>(f) — the resilience and adaptability of ecosystems.</p> <p>The maintenance of indigenous biodiversity may also require the restoration or enhancement of ecosystems and habitats.</p> <p>Maintaining <i>indigenous biodiversity</i> requires:</p> <p>(a) the maintenance and at least no overall reduction of all the following:</p> <p>(i) the size of populations of <i>indigenous</i> species:</p> <p>(ii) <i>indigenous</i> species occupancy across their natural range:</p> <p>(iii) the properties and function of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>:</p> <p>(iv) the full range and extent of ecosystems and <i>habitats</i> used or occupied by <i>indigenous biodiversity</i>:</p> <p>(v) connectivity between, and <i>buffering</i> around, ecosystems used or occupied by <i>indigenous biodiversity</i>:</p> <p>(vi) the <i>resilience</i> and adaptability of ecosystems; and</p> <p>(b) where necessary, the <i>restoration</i> and <i>enhancement</i> of ecosystems and <i>habitats</i>.</p>
Naturally rare	Rare before the arrival of humans in New Zealand

<p><u>Naturally uncommon ecosystems</u></p>	<p>Ecosystems with an estimated maximum total area of <0.5% (i.e., <134,000ha) of New Zealand’s <i>land</i> area (268,680 km²) before human colonization.</p> <p>The 72 naturally uncommon ecosystems in New Zealand are described in <u>Wiser, Susan K et al “New Zealand's Naturally Uncommon Ecosystems” 2013</u> available at https://www.landcareresearch.co.nz/uploads/public/researchpubs/uncommon-ecosystems-book-section.pdf</p>
<p><u>Protect (in relation to indigenous biodiversity):</u></p>	<p>Looking after biodiversity and the ecosystem processes that create and maintain it in the long term. This involves managing all threats to secure species from extinction and ensuring that their populations are buffered from the impacts of the loss of genetic diversity and longer-term environmental events such as climate change. This includes, but is not restricted to, legal protection.</p>
<p><u>REG activities</u></p>	<p><u>An activity required for the development, operation, maintenance, or upgrade of renewable electricity generation assets.</u></p>
<p><u>Renewable electricity generation assets</u></p>	<p><u>The physical components required for renewable electricity generation, along with the assets and infrastructure (such as cabling, access roads, and tracks) required to generate and store the generated electricity and connect it to transmission or distribution networks or direct to end users.</u></p>
<p><u>Resilience (in relation to an ecosystem)*</u></p>	<p><u>The ability of an ecosystem to absorb and recover from disturbances and its capacity to reorganise into similar ecosystems.</u></p>
<p><u>Restoration (in relation to indigenous biodiversity)**</u></p>	<p>In relation to indigenous biodiversity, means tThe active intervention and management of modified or degraded <i>habitats, ecosystems, landforms and landscapes</i> in order to <i>maintain or</i> reinstate <i>indigenous</i> natural character, ecological and physical processes, and cultural and visual qualities, <i>and may include enhancement activities.</i></p>
<p><u>Restoration (in relation to a natural inland wetland)**</u></p>	<p><u>Active intervention and management, appropriate to the type and location of the wetland, aimed at restoring its ecosystem health, indigenous biodiversity, or hydrological functioning.</u></p>
<p><u>Specified infrastructure</u></p>	<p>Specified infrastructure means:</p> <ul style="list-style-type: none"> (a) <u>infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);</u> (b) <u>regionally significant infrastructure;</u> (c) <u>any public flood control, flood protection, or drainage works carried out:</u> <ul style="list-style-type: none"> (i) <u>by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or</u> (ii) <u>for the purpose of drainage, by drainage districts under the Land Drainage Act 1908;</u>

	<p>(d) <u>defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990; and</u></p> <p>(e) <u>in relation to indigenous ecosystems also means:</u></p> <ul style="list-style-type: none"> i. <u>any nationally significant <i>infrastructure</i> identified as such in a <i>National Policy Statement</i></u> ii. <u><i>infrastructure</i> that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a <i>future development strategy</i> or <i>spatial strategy</i>) adopted by a local authority, in an <i>urban environment</i> (as defined in the National Policy Statement on Urban Development 2020); and</u> <p>(f) <u>in relation to <i>freshwater</i> also means:</u></p> <ul style="list-style-type: none"> i. <u>any water storage <i>infrastructure</i></u> ii. <u>ski area <i>infrastructure</i>.</u> <p>(a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);</p> <p>(b) regionally significant infrastructure defined in this Regional Policy Statement and any nationally significant infrastructure identified as such in a National Policy Statement;</p> <p>(c) infrastructure that is necessary to support housing development, that is included in a proposed or operative plan or identified for development in any relevant strategy document (including a future development strategy or spatial strategy) adopted by a local authority, in an urban environment (as defined in the National Policy Statement on Urban Development 2020);</p> <p>(d) any public flood control, flood protection, or drainage works carried out:</p> <ul style="list-style-type: none"> (i) — by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or (ii) — for the purpose of drainage, by drainage districts under the Land Drainage Act 1908; <p>defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990;</p>
<p>Systematic Conservation Planning</p>	<p>A spatially explicit, objective-based and quantitative approach for identifying priority areas for biodiversity conservation.</p>
<p><u>Te Rito o te Harakeke</u></p>	<p><u>Te Rito o te Harakeke is a concept that refers to the need to maintain the integrity of indigenous biodiversity. It recognises the intrinsic value and mauri of indigenous biodiversity as well as people’s connections and relationships with it.</u></p> <p><u>It recognises that our health and wellbeing are dependent on the health and wellbeing of indigenous biodiversity and that in return we have a</u></p>

	<p><u>responsibility to care for it. It acknowledges the web of interconnectedness between indigenous species, ecosystems, the wider environment, and the community:</u></p> <p><u>Te Rito o te Harakeke comprises six essential elements to guide tangata whenua and local authorities in managing indigenous biodiversity and developing objectives, policies, and methods for giving effect to Te Rito o te Harakeke:</u></p> <p><u>(a) the intrinsic value and mauri of indigenous biodiversity:</u></p> <p><u>(b) the bond between people and indigenous biodiversity through whakapapa (familial) relationships and mutual interdependence:</u></p> <p><u>(c) the responsibility of care that tangata whenua have as kaitiaki, and that other New Zealanders have as stewards, of indigenous biodiversity:</u></p> <p><u>(d) the connectivity between indigenous biodiversity and the wider environment:</u></p> <p><u>(e) the incorporation of te ao Māori and mātauranga Māori:</u></p> <p><u>(f) the requirement to partner with tangata whenua.</u></p>
<p><u>Threatened ecosystems or Threatened or At Risk species</u></p>	<p><u>These Threatened ecosystems are described by the IUCN Red List categories, Critically Endangered, Endangered and Vulnerable.</u></p>
<p><u>Threatened or At Risk species *</u></p>	<p><u>Threatened or At Risk and Threatened or At Risk (declining) species have, at any time, the meanings given in the New Zealand Threat Classification System Manual (Andrew J Townsend, Peter J de Lange, Clinton A J Duffy, Colin Miskelly, Janice Molloy and David A Norton, 2008. Science & Technical Publishing, Department of Conservation, Wellington), available at: https://www.doc.govt.nz/globalassets/documents/science-andtechnical/sap244.pdf, or its current successor publication</u></p>

Part B: Section 7

Hearing Stream 7 - Small Topics, Wrap-Up

1. Executive Summary

1. The provisions in Hearing Stream 7 (HS7) that are considered through the Part 1 Schedule 1 (P1S1) process relate to consequential amendments, natural character, definitions of *Regionally Significant Infrastructure*, *National Grid* and *Strategic Transport Network*, and omitted submission points.
2. The recommendations on the merits of submissions on the HS7 provisions, were made by the P1S1 Panel and are to be read with the attached submission analysis table.
3. The Officers' recommendations on the HS7 provisions were modified in the course of the submissions and hearing process. The P1S1 Panel agrees with all of the Officers' recommendations on the merits of submissions.
4. Having heard submitters and considered evidence, legal submissions and hearing presentations, the P1S1 Panel recommends Council adopt the HS7 provisions as recommended by the Reporting Officers.
5. The only issue on which we take a differing view, is the categorisation of provisions. The Officers recommended that Variation 1 and Methods 1, 2, 4 and 5 in the 'Consequential amendments' subtopic be assessed as part of the Freshwater Planning Instrument (FPI) as they implement policies that give effect to parts of the NPS-FM, or relate directly to matters that will impact on the quality or quantity of freshwater.
6. As discussed in Part A, the view of the P1S1 Panel and Freshwater Hearings Panel (FHP) is that Variation 1 is appropriately categorised as part of the FPI, but all Methods in HS7 should progress through the P1S1 process as they relate to a broad range of resource management matters.

2. Overview

7. This Chapter covers the following topics:
 - a. Consequential Amendments
 - b. Definitions - *Regionally Significant Infrastructure, National Grid and Strategic Transport Network*
 - c. Natural Character, and
 - d. Omitted Submission Points.
8. As noted above, Variation 1 was also coded to HS7 but is being considered under Part C as part of the FPI.

2.1 Statutory Framework

9. Part A of our Report outlines the purpose of a RPS and the matters it must include. Sections 61 and 61 of the RMA state that an RPS must be prepared in accordance with, among other matters, the provisions of Part 2 of the RMA, and it must also give effect to national policy statements.
10. The key aspects of the regulatory framework relating to this Chapter are sections 6 and 7 of the RMA, the New Zealand Coastal Policy Statement (NZCPS), National Policy Statement on Electricity Transmission 2008 (NPS-ET) and the National Policy Statement for Renewable Electricity Generation (NPS-REG) 2011.
11. Part 2, s 6 of the RMA contains a list of matters of national importance that includes coastal natural character. Section 6(a) requires RMA functionaries to recognise and provide for, as a matter of national importance:
 - the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.
12. Section 6(b) requires:
 - the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

13. While landscape and natural character are both matters of national importance in s 6, they are distinct, and each have their own attributes and considerations as recognised in the NZCPS (discussed below).
14. Section 7 of the RMA provides that particular regard must be had to the maintenance and enhancement of amenity values, and the quality of the environment in achieving the RMA's sustainable management purpose.
15. Section 7 also requires particular regard to be had to the efficient use and development of natural and physical resources, which is also relevant in terms of the infrastructure definitions in HS7.

2.1.1 National Policy Statements

16. The NPSET recognises the national significance of the National Grid. The objective of the NPSET is to facilitate the operation, maintenance and upgrade of the transmission network to meet the needs of present and future generations while managing the adverse effects of the network, and the adverse effects of other activities on the network. Policy 1 of the NPSET requires decision-makers to recognise and provide for the national, regional and local benefits of sustainable, secure and efficient electricity transmission.
17. Clause 3 of the NPSET includes definitions of "National grid" which means "the assets used or owned by Transpower NZ Limited". It also has a definition for "Electricity transmission network, electricity transmission and transmission activities/assets/infrastructure/resources/system".
18. The NPS-REG recognises the national significance of renewable electricity generation. The overarching objective of the NPS-REG is to provide for the development, operation, maintenance and upgrading of REG activities to meet or exceed New Zealand's target for REG.
19. The NZCPS is a national policy statement mandated under the RMA that guides the management of New Zealand's coastal environment. It provides direction on how local authorities and decision makers should approach the management and protection of coastal resources in regional policy statements and regional plans and district plans.
20. Objective 2 of the NZCPS says:

To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment.

21. Policy 1 is about the extent and characteristics of the coastal environment, and Policy 13 contains direction on preserving the natural character of the coastal environment and protecting it from inappropriate subdivision, use, and development. The s 42A Report on Natural Character in HS7 says that to achieve this direction, local authorities are required to:

assess the natural character of the coastal environment by mapping or otherwise identifying at least areas of high natural character.

22. In addition, RPS' and regional and district plans, are to identify areas where preserving natural character requires objectives, policies and rules, and include those provisions in the planning documents.
23. Policy 13(2) says that natural character is not the same as natural features and landscapes or amenity values. Policy 13(2) sets out a non-exhaustive list of matters that are relevant to assessing natural character including natural elements and processes, biophysical, ecological and geological elements, and experiential attributes. The focus is on natural attributes and not social and cultural values.
24. Policy 14 contains direction on restoring natural character.

2.1.2 National Planning Standards

25. The National Planning Standards are also relevant to HS7 for the Omitted Submissions subtopic. The National Planning Standards provide direction on the structure and formatting of planning documents to improve efficiency and effectiveness of the planning system. The Standards include direction for both RPS' and District Plans.

3. Provision by Provision Analysis

3.1 Consequential Amendments

26. Proposed Change 1 includes consequential amendments to Methods 1 – 5 of the Operative RPS. Methods 1, 2, 4 and 5 were notified as part of the FPI. As discussed in Part A and in the Executive Summary above, the Panels consider that these provisions should progress through the P1S1 process because although they do reference some policies that directly relate to protecting and enhancing freshwater quality or quantity, most of the policies relate to non-freshwater matters that are included in the P1S1 process.

3.1.1 Key Issues raised

27. The key issues in this subtopic were whether implementation deadlines should be included in Methods 1 and 2, whether Method 3 should contain explicit direction for treaty partner involvement, and whether Method 5 should be deleted. In addition, queries were raised regarding whether any consequential amendments had been missed as a result of other amendments made through the various Hearing Streams.


28. Many of the submissions received on consequential amendments to Methods 1, 2 and 4 sought to ensure the Methods are consistent with amendments proposed to other policies throughout Proposed Change 1.

29. In Minute 23 we asked the Council to provide the Panels with a consolidated list of regulatory, non-regulatory and consideration policies. This was useful in reviewing the consequential amendments in Methods 1, 2 and 4.¹

¹ Wellington Regional Council Response to Request for Information in Minute 23, Hearing Stream 7 – Integration, Appendix 1 – Consolidated table of policies, 8 April 2024.

3.2 Method 1: District plan implementation

30. The notified Method stated:

Method 1: District plan implementation	
<p>The process to amend district plans to implement policies 1, <u>CC.1, CC.2, CC.3, CC.4, CC.7, CC.8</u>, 3, 4, 7, 11, 15, <u>FW.2, FW.3, FW.4</u>, 21, 22, 23, 24, <u>IE.1</u>, 25, 26, 27, 28, 29, 30, 31, 32, <u>UD.1</u>, 34, will commence as soon as reasonably practicable, unless otherwise specifically directed within the policy, or before, the date on which the relevant council commences the <u>ten-year</u> review of its district plan, or a provision in a district plan, pursuant to section 79 of the Resource Management Act 1991.</p> <p><i>District and city councils that will implement method 1 are:</i></p> <ul style="list-style-type: none">• Wellington City Council• Porirua City Council• Kāpiti Coast District Council• Hutt City Council• Upper Hutt City Council• South Wairarapa District Council	

<ul style="list-style-type: none">• Carterton District Council• Masterton District Council• <u>Tararua</u> District Council for land within the Wellington region. <p>Policies 3 and 4 with respect to the <i>coastal environment</i> do not apply to Upper Hutt City Council.</p> <p>Only a small portion of rural land in the <u>Tararua</u> District is within the Wellington region. The rest of the district is within the Manawatu-Wanganui region. <u>The following Policies do not apply to Tararua District Council: 1, CC.1, CC.2, CC.3, CC.4, 3, 4, 7, 8, 11, 15, 21, FW.2, FW.3, FW.4 22, 25, 26, 29, 30, 31, 32, do not apply to Tararua District Council so as not to create conflict with the policy direction in the One Plan for the Manawatu-Wanganui region.</u></p>

3.2.1 Submissions, Evidence and Analysis

31. There were 8 submission points and 4 further submission points received on Method 1.
32. Forest and Bird [S165.092] and Rangitāne [S168.0182] supported the Method but proposed an implementation deadline. HCC [S115.091] and WCC [S140.021] stated that consequential amendments may be needed where the policies referred to had been deleted in other recommendations. Fish and Game [S147.084] noted amendments had been sought elsewhere to particular Policies referred to in the Method.
33. HCC and WCC requested the deletion of Policy FW.4 in the HS5 - Freshwater and Te Mana o te Wai Topic. The Reporting Officer for HS5

agreed with these submissions² and the FHP also recommends in Part C of its Report that Policy FW.4 is deleted. It is appropriate therefore that this amendment is reflected in Method 1.

34. The notified version of Method 1 requires implementation “as soon as reasonably practicable, unless otherwise specifically directed within the policy”. In response to Forest and Bird and Rangitāne submissions, the HS7 Officer recommended an implementation deadline be included in Method 1. While the Officer thought that this should be a measurable timeframe, he did not consider it appropriate to include a specific end date. Instead, the Officer recommended that implementation occur by the next relevant plan change or full plan review. This would allow the city and district councils flexibility to implement the Policies into their existing work programmes.³
35. During the Hearing, we raised with the Officer some possible omissions in the referenced policies. In Minute 27, we asked the Officer to review the Method and confirm whether it contained all the relevant regulatory policies, including those recommended in the Reporting Officers’ Reply Evidence in the different Hearing Streams. We queried for instance, whether Policies 24B and 24C were inadvertently missing.
36. In his Reply Evidence, the HS7 Officer confirmed that he had reviewed the policies referenced in the Method, and recommended further amendments to align with the regulatory policies in the various Hearing Streams.⁴ The Officer confirmed that Policy FW.4 should have been shown with strikethrough formatting and this had not occurred in the s 42A Report in error.
37. In Minute 27 we also informed Council that we thought the chapeau could be drafted in a clearer way. We suggested alternative wording in Minute 27 and asked the Officer to provide his advice to us in his Reply Evidence. The Officer provided recommended wording in Reply that he considered would better capture the policy intent.
38. We agree with the Officer’s recommendations.

² Section 42A report of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o te Wai, dated 20 October 2023, paragraphs 770-771


³ Section 42A Hearing Report, Hearing Stream 7 – Small Topics, Wrap up and Variation 1 - Consequential Amendments, para 61.

⁴ Reporting Officer Right of Reply of Louis Schwer on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1 – Consequential Amendments, para 13.

3.2.2 Finding


39. We agree with the Reporting Officer’s recommendations on Method 1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, and Reply Evidence.

3.2.3 Recommendation

Method 1: District plan implementation	
<p>The process to amend district plans to implement policies 1, <u>CC.1, CC.2, CC.2A, CC.3, CC.4, CC.7, CC.8, 3, 4, 7, 11, 15, FW.2, FW.3, FW.4, FWXXA, 21, 22, 23, 24, 24A, 24B, 24C, 24CC, 24D, IE.1, 25, 26, 27, 28, 29, 30, 31, 32, UD.1, UD.4, 34</u>, will commence as soon as reasonably practicable, unless otherwise specifically directed within the policy, and be notified in the next relevant plan change or full plan review unless, an alternative timeframe for notification is specifically directed within the policy. must be given effect to through the next relevant plan change or full plan review, or before, the date on which the relevant council commences the ten-year review of its district plan, or a provision in a district plan, pursuant to section 79 of the Resource Management Act 1991.</p> <p><i>District and city councils that will implement method 1 are:</i></p> <ul style="list-style-type: none">• Wellington City Council• Porirua City Council• Kāpiti Coast District Council• Hutt City Council• Upper Hutt City Council• South Wairarapa District Council• Carterton District Council• Masterton District Council• Tararua District Council for land within the Wellington region. <p>Policies 3 and 4 with respect to the coastal environment do not apply to Upper Hutt City Council.</p> <p>Only a small portion of rural land in the Tararua District is within the Wellington</p>	
<p>region. The rest of the district is within the Manawatu-Wanganui region. The following Policies do not apply to Tararua District Council: 1, <u>CC.1, CC.2, CC.2A, CC.3, CC.4, 3, 4, 7, 8, 11, 15, 21, FW.2, FW.3, FW.4, FWXXA, 22, 25, 26, 29, 30, 31, 32, and UD.4</u>, do not apply to Tararua District Council so as not to create conflict with the policy direction in the One Plan for the Manawatu-Wanganui region.</p>	

3.3 Method 2: Regional Plan implementation

40. The notified Method read:

Method 2: Regional plan implementation	
<p>The process to amend regional plans to implement policies 2, <u>CC.1, CC.4, CC.5, CC.6, CC.7, CC.8, 3, 5, 6, 7, 8, 12, 13, 14, 15, 16, 17, 18, 19, 20, FW.1 21, 22, 23, 24, IE.1, 25, 26, 27, 28 and 29</u> will commence as soon as reasonably practicable unless otherwise specifically directed within the policy, or before, the date on which the relevant council commences the ten-year review of its district plan, or a provision in a district plan, pursuant to section 79 of the Resource Management Act 1991.</p>	

3.3.1 Submissions, Evidence and Analysis


41. There were 6 submission points and 4 further submission points received on Method 2.
42. Some submitters supported Method 2 and sought it be retained. Similar to their relief on Method 1, Forest and Bird [S165.093] supported Method 2 but proposed an implementation deadline. Fish and Game [S147.085] noted amendments had been sought elsewhere to particular Policies referred to in the Method.
43. As with Method 1, the HS7 Reporting Officer supported the inclusion of an implementation deadline, with similar wording to his recommendation for Method 1, that is, tagged to the next relevant plan change or full plan review to allow some flexibility with existing work programmes.
44. During the Hearing, we raised with the Officer some possible omissions in the referenced policies. In Minute 27, we asked the Officer to review the Method and confirm whether it contained all the relevant regulatory policies, including those recommended in the Reporting Officers' Reply Evidence in the different Hearing Streams.
45. In his Reply Evidence, the HS7 Officer confirmed that he had reviewed the policies referenced in the Method, and recommended further amendments to align with the regulatory policies in the various Hearing Streams.⁵ We agree with the recommendations provided in the Officer's Reply Evidence, including to delete the reference to Policy CC.7 as the P1S1 Panel agrees with the recommendation of the HS3 Reporting Officer that this Policy be amended to be a non-regulatory Policy that is relocated to Chapter 4.4.
46. In Minute 27 we also informed Council that we thought the chapeau could be drafted in a clearer way. We suggested alternative wording in Minute 27 and asked the Officer to provide his advice to us in his Reply Evidence. The Officer provided recommended wording in Reply that he considered would better capture the policy intent.
47. We agree with the Officer's recommendations.

⁵ Reporting Officer Right of Reply of Louis Schwer on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1 – Consequential Amendments, para 13.

3.3.2 Finding

48. We agree with the Reporting Officer's recommendations on Method 2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, and Reply Evidence.

3.3.3 Recommendation

Method 2: Regional plan implementation	
<p>The process to amend regional plans to implement policies 2, CC.1, CC.4, CC.4A, CC.5, CC.6, CC.7-CC.8, 3, 5, 6, 7, 8, 12-13, 14, 15, 16, 17, 18, 18A, 18B, 19, 20, FW.1, FWXXA, FW.X, 21, 22, 23, 24, 24A, 24C, 24CC, 24D, IE.1, 25, 26, 27, 28-and, 29 and UD.4 will commence as soon as reasonably practicable unless otherwise specifically directed within the policy, and be notified in the next relevant plan change or full plan review, unless an alternative timeframe for notification is specifically directed within the policy. must be given effect to through the next relevant plan change or full plan review. or before, the date on which the relevant council commences the ten year review of its district plan, or a provision in a district plan, pursuant to section 79 of the Resource Management Act 1991.</p>	

3.4 Method 3: Wellington Regional Land Transport Plan Strategy implementation

49. The notified Method read:

Method 3: Wellington Regional Land Transport Plan Strategy implementation
<p>The process to amend the Wellington Regional Land Transport Plan Strategy to implement policies 9, EIW.1, 10 and 33 will commence on, or before, the date on which Wellington Regional Council commences the review pursuant to section 74 of the Land Transport Management Act 2003.</p>

50. Method 3 identifies the RPS policies that are specifically relevant to Wellington Regional Land Transport Plan (RLTP) implementation, and sets the timing for implementation of those policies. The Method is amended in Proposed Change 1 to include Policy EIW.1 (included in the HS3 provisions) regarding the promotion of affordable, high quality active mode and public transport mode services.

3.4.1 Submissions, Evidence and Analysis

51. There were 6 submission points and 2 further submission points received on Method 3.
52. Various submitters including Waka Kotahi [S129.031], WCC [S140.093] and Rangitāne [S168.0185] supported the Method and sought it be

retained as notified. Taranaki Whanui [S167.0138] requested the method be re-drafted to include explicit direction for treaty partner involvement.

53. As we understand the relief sought, the submitter is requesting representation on the Regional Transport Committee (RTC) or otherwise direct involvement in the RLTP. The Reporting Officer says that providing this direction in Method 3 is inconsistent with the intention of the Method which is about the implementation of RPS policies that are relevant to the RLTP.
54. The Officer refers to the Reply Evidence of Ms Allwood, the Reporting Officer for the HS 3 – Transport subtopic⁶ which says that while there is no mana whenua representation on the RTC, there are other opportunities for Māori to contribute to land transport decision-making processes including through the RLTP as occurred in 2021, and is currently being actively considered for the RLTP 2027. Ms Allwood says that mana whenua that the Council have engaged with have all indicated an interest in partnering in the development of the RLTP 2027.
55. We agree with the Officer that no amendments are required to Method 3 as Method 3 cannot direct mana whenua / tangata involvement in the RLTP. However, we heard evidence from Council that active engagement of mana whenua / tangata whenua is underway in the development of the next RLTP.

3.4.2 Finding

56. We agree with the Reporting Officer’s recommendations on Method 3 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, and Reply Evidence.

3.4.3 Recommendation


Method 3: Wellington Regional Land Transport Plan Strategy implementation

The process to amend the Wellington Regional Land Transport Plan Strategy to implement policies 9, EIW.1, ~~10~~ and 33 will commence on, or before, the date on which Wellington Regional Council commences the review pursuant to section 74 of the Land Transport Management Act 2003.

⁶ Reporting Officer Right of Reply of Louise Allwood on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Transport, 19 October 2023, paras 23 – 25.

3.5 Method 4: Consideration – resource consents, notices of requirements and when changing, varying or reviewing plans

57. The notified Method stated:

Method 4: Consideration – resource consents, notices of requirement and when changing, varying or reviewing plans	
<p>Policies 35 to 60, IM.1, IM.2, CC.9, CC.10, CC.11, CC.12, CC.13, CC.14, FW.5, IE.2, UD.2 and UD.3 will be implemented, where relevant, when considering a resource consent, notice of requirement, or when changing, varying or reviewing a district or regional plan.</p> <p><i>District and City councils that will implement method 4 are:</i></p> <ul style="list-style-type: none">• <i>Wellington City Council</i>• <i>Porirua City Council</i>	

58. Proposed Change 1 proposes the addition of references to the new consideration policies incorporated through the Change proposal.

3.5.1 Submissions, Evidence and Analysis

59. There were 13 submission points and 9 further submission points received on Method 4.

60. Some submitters sought the Method is retained as notified. Others, including HCC [S115.093] and PCC sought consequential amendments to reflect the deletion of policies in other Hearing Streams, noting Policy IM.2 in HS2 in particular. Fish and Game [S147.086] noted amendments had been sought elsewhere to particular Policies referred to in the Method. Kāinga Ora [S158.032] sought that references to resource consents and NoRS be deleted from the Method. Outdoor Bliss [S11.010] sought that community should also implement the Method.

61. The Reporting Officer recommended a consequential amendment to delete Policy IM.2 based on the recommendation of the HS2 Officer (a recommendation which the P1S1 Panel also agrees with).

62. HCC and PCC also sought the deletion of Policy CC.12 as a consequential change. The Reporting Officer for the Climate-Resilience and Nature-Based Solutions subtopic recommended Policy CC.12 be deleted as it was provided for through the revised CC.4 suite. The P1S1 Panel agrees with this recommendation therefore it is also appropriate that Policy CC.12 be deleted from Method 4. PCC similarly requested the deletion of Policy CC.13, which was also supported by the HS3 Reporting Officer in

the Agriculture subtopic, and the P1S1 Panel agreed. Policy CC.13 should therefore also be removed from Method 4.

63. In Minute 27, we asked the Officer to review the Method and confirm whether it contained all the relevant consideration policies, including those recommended in the Reporting Officers' Reply Evidence in the different Hearing Streams.
64. In his Reply Evidence, the HS7 Officer confirmed that he had reviewed the policies referenced in the Method and recommended further amendments.⁷ We have reviewed these and agree with the recommendations.
65. The Officer said he did not agree with deleting reference to resource consent and NoR from Method 4 as they provide additional direction in situations where there is a policy gap, or the relevant regional and/or district plan has not yet been amended to give effect to the policies in Chapter 4.1.⁸ We agree with this and provide further comment on Consideration policies in Part B: Section 1 (General Submissions) of our Report.

3.5.2 Finding

66. We agree with the Reporting Officer's recommendations on Method 4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, and Reply Evidence.

⁷ Reporting Officer Right of Reply of Louis Schwer on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap Up and Variation 1 – Consequential Amendments, para 13.

⁸ Section 42A Hearing Report, Hearing Stream 7 – Small Topics, Wrap up and Variation 1 - Consequential Amendments, para 84.

3.5.3 Recommendation

Method 4: Consideration – resource consents, notices of requirement and when changing, varying or reviewing plans



Policies 35 to 60, ~~IM.1, IM.2~~, CC.9, CC.10, CC.11, ~~CC.12, CC.13~~, CC.14, ~~CC.14A~~, FW.5, ~~FWXXB~~, IE.2, ~~IE.2A~~, UD.2 ~~and~~, UD.3 and UD.5 will be implemented, where relevant, when considering a resource consent, notice of requirement, or when changing, varying or reviewing a district or regional plan.

Local authorities ~~District and City councils~~ that will implement method 4 are:

- Wellington Regional Council
- Wellington City Council
- Porirua City Council
- Kāpiti Coast District Council
- Hutt City Council
- Upper Hutt City Council
- South Wairarapa District Council

- Carterton District Council
- Masterton District Council

Tararua District Council where a proposal relates to land within the Wellington region

3.6 Method 5: Allocation of Responsibilities

67. The notified Method stated:

Method 5: Allocation of responsibilities



Local authorities are responsible for the land use control for *biological diversity*, natural hazards, ~~and~~ hazardous substances, and freshwater, as described in policies 61, 62, ~~and~~ 63 and FW.6.

District and city councils that will implement method 5 are:

- Wellington Regional Council
- Wellington City Council
- Porirua City Council
- Kāpiti Coast District Council
- Hutt City Council
- Upper Hutt City Council
- South Wairarapa District Council
- Carterton District Council
- Masterton District Council

Tararua District Council for land within the Wellington region

3.6.1 Submissions, Evidence and Analysis

68. There were 5 submission points and 4 further submission points received on Method 5.
69. PCC [S30.090] sought the deletion of Method 5 on the basis it did not allocate responsibilities and was unnecessary. This was supported by PPFL.
70. Te Tumu Paeroa [S102.073], Fish and Game [S147.087], Forest and Bird [S165.096], and Taranaki Whānui [S167.0140] supported the Method 5 and sought it be retained as notified.
71. The Reporting Officer considered that Method 5 is necessary to comply with s 62(1)(i) of the RMA which requires the RPS to state the local authorities responsible in the region for specifying the objectives, policies, and methods for the control of the use of land to avoid or mitigate natural hazards or any group of hazards, and to maintain indigenous biological diversity.⁹ We agree with this recommendation.

3.6.2 Finding

72. We agree with the Reporting Officer's recommendations on Method 5 for the reasons above, and otherwise as set out in the Officer's s 42A Report, and Reply Evidence.

⁹ Section 42A Hearing Report, Hearing Stream 7 – Small Topics, Wrap up and Variation 1 - Consequential Amendments, para 92.

3.6.3 Recommendation

Method 5: Allocation of responsibilities



Local authorities are responsible for the land use control for *biological diversity*, natural hazards, ~~and~~ hazardous substances, and freshwater, as described in policies 61, 62, ~~and~~ 63 and FW.6.

Local authorities ~~District and City councils~~ that will implement method 5 are:

- *Wellington Regional Council*
- *Wellington City Council*
- *Porirua City Council*
- *Kāpiti Coast District Council*
- *Hutt City Council*
- *Upper Hutt City Council*
- *South Wairarapa District Council*
- *Carterton District Council*
- *Masterton District Council*

Tararua District Council for land within the Wellington region

3.7 Definitions

3.7.1 National Grid

73. The notified definition stated:

National Grid

National grid as defined by the Electricity Industry Act 2010.

3.7.2 Submissions, Evidence and Analysis

74. Transpower [S10.007] was the sole submitter on the definition. It sought that the definition is consistent with NPSET rather than the Electricity Industry Act.

75. The Electricity Industry Act defines “National Grid” as “the lines and associated equipment used or owned by Transpower to convey electricity”.

76. The Reporting Officer said in the s 42A Report that the Electricity Industry Act is not related to the RMA and instead has a commercial purpose of providing a framework for the regulation of the electricity industry. The Officer recommended that the definition of “National Grid” align with the NPSET, an RMA planning document, also noting that the definition of “electricity transmission network” is being considered as part of HS 6.¹⁰ The Officer commented that including the NPSET definition in the RPS would create an inconsistency with the definition of “National Grid” in the NRP (which is aligned with the Electricity Industry Act definition) and that this may be something that needs addressing in a future change to the NRP.

77. Ms Eng provided a hearing statement on behalf of Transpower supporting the Officer’s s 42A recommendation.¹¹

3.7.3 Finding

78. We agree with the Officer’s recommendation to align the definition of “National Grid” with the definition in the NPSET for the reasons above and as set out in the s 42A Report.

¹⁰ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 66.


¹¹ Hearing Stream Seven – Statement by Transpower NZ Limited (Submitter reference S10 and FS23), 26 March 2024, prepared by Ms Eng, Technical Lead – Policy.

3.7.4 Recommendation

National Grid: ~~as defined by the Electricity Industry Act 2010~~ as defined by the National Policy Statement for Electricity Transmission 2008.

3.8 Regionally Significant Infrastructure

79. The notified definition read:

Regionally significant infrastructure	
<p>Regionally significant infrastructure includes:</p> <ul style="list-style-type: none">• <u>pipelines for the distribution or transmission of natural or manufactured gas or petroleum, including any associated fittings, appurtenances, fixtures or equipment</u>• <u>a network operated for the purposes of telecommunications, as defined in section 5 of the Telecommunications Act 2001</u>• <u>a network operated for the purpose of radiocommunications, as defined in section 2(1) of the Radio Communications Act 1989</u>• <u>the <i>National grid</i></u>• <u>facilities for the generation and/or transmission of electricity where it is supplied to the <i>National grid</i> and/or the local distribution network</u>• <u>facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local distribution network</u>• <u>the local authority water supply network (including intake structures) and water treatments plants</u>• <u>the local authority wastewater and stormwater networks and systems, including treatment plants and storage and discharge facilities</u>• <u>the Strategic Transport Network (including ancillary structures required to operate, maintain, upgrade and develop that network)</u>	

- The following local arterial routes: Masterton-Castlepoint Road, Blairlogie-Langdale/Homewood/Riversdale Road and Cape Palliser Road in Wairarapa, Tīhahi Bay Road and Grays Road in Porirua, and Kāpiti Road, Marine Parade, Mazengarb Road, Te Moana Road, Akatārawa Road, Matatua Road, Rimu Road, Epiha Street, Paekakariki Hill Road, The Parade [Paekakariki] and The Esplanade [Raumati South] in Kāpiti
- Wellington City bus terminal and Wellington Railway Station terminus
- Wellington International Airport
- Masterton Hood Aerodrome
- Kapiti Coast Airport
- Commercial Port Areas and infrastructure associated with Port related activities in the Lambton Harbour Area within Wellington Harbour (Port Nicholson) and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines
- Silverstream, Spicer and Southern landfills
- pipelines for the distribution or transmission of natural or manufactured gas or petroleum
- strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001
- strategic radio communications facilities, as defined in section 2(1) of the Radio Communications Act 1989
- the national electricity grid, as defined by the Electricity Governance Rules 2003
- facilities for the generation and transmission of electricity where it is supplied to the network, as defined by the Electricity Governance Rules 2003
- the local authority water supply network and water treatment plants
- the local authority wastewater and stormwater networks, systems and wastewater treatment plants
- the Strategic Transport Network, as defined in the Wellington Regional Land Transport Strategy 2007-2016
- Wellington City bus terminal and Wellington Railway Station terminus
- Wellington International Airport
- Masterton Hood Aerodrome
- Paraparaumu Airport
- Commercial Port Areas within Wellington Harbour and adjacent land used in association with the movement of cargo and passengers and including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines

3.8.1 Submissions, Evidence and Analysis

80. Transpower [S10.008], Chorus NZ Limited, Spark NZ Trading Limited, Vodafone NZ [S49.008], Meridian [S100.028], Powerco [S134.020] and other submitters supported the notified definition as it related to radio and telecommunications and generation and transmission of electricity.
81. Other submitters sought a range of amendments to include new activities in the definition or to increase the scope of those activities in the notified definition. For instance, KCDC [S16.093] supported the definition in part but requested a number of new roads be included once the State Highway 1 revocation process occurs. Fulton Hogan [S114.007] requested that specific reference to aggregate extraction where it provides at least a regional benefit, be included to align with the NPS-HPL and NES-F.

82. Kiwirail [S124.013] sought an amendment to include the Interislander Ferry Terminal. WIAL [S148.056] requested an amendment to include “all associated supporting infrastructure for the Airport, such as its navigational infrastructure and the sea wall”.
83. The Fuel Companies [S157.048] asked for the reference to “the Lambton Harbour Area” to be removed as they considered this includes the bulk fuel supply infrastructure located at Seaview and Kaiwharawhara. Wellington Water [S113.053] sought an amendment to include provision for infrastructure, assets or interventions to give effect to Te Mana o te Wai.
84. The Officer stated that the notified definition was the same definition in the NRP. The Officer supported the rationale in the Proposed NRP Decision Report to not include aggregate extraction activities in the definition, particularly given that quarries or mineral resource use, are not “infrastructure” as defined in the RMA, nor RSI as defined in the RPS. National direction such as the NPS-HPL provides a consenting pathway for aggregate extraction but does not recognise the activity as “specified infrastructure”.
85. We agree that Fulton Hogan’s submission be rejected for the reasons stated in the s 42A Report.¹² We also agree with deleting “in the Lambton Harbour Area” as this could be interpreted as requiring bulk fuel supply infrastructure and storage tanks to be located in this Area, which would exclude activities located elsewhere, which we understand is not the policy intent.¹³ The Officer also recommends deleting “and” to improve the readability and we also agree with this change.
86. We agree that an amendment is not required for the relief sought by Kiwirail and Rangitāne regarding the Interislander Ferry Terminal. This infrastructure is captured as RSI through the reference to “adjacent land used in association with the movement of cargo and passengers”. We agree with the Officer’s reasoning in the s 42A Report.¹⁴
87. WFF [S163.0113] opposed the amendments to the definition of RSI, including for the reason that it does not provide for municipal, community and rural water storage infrastructure. We acknowledge that “water storage infrastructure” is included in the definition of “specified infrastructure” in the NPS-FM and this provides policy support (clause

¹² Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, paras 83 – 85.

¹³ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 86.

¹⁴ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, paras 87 – 88.

3.22 of the NPS-FM), and a consent pathway for the infrastructure within, or near to natural inland wetlands under the NES-FM. However, we agree with the Officer that this does not require water storage infrastructure to be identified as RSI in a plan or policy statement.¹⁵ The Officer accepts that water storage infrastructure can reduce the demand on finite water resources and contribute to alleviating water supply issues, but notes that not all water storage infrastructure will have region wide benefits. Also, there is policy direction in the RPS to encourage off-line water storage (Policy 18), and this gives appropriate effect to the NPS-FM.¹⁶

88. Templeton Kapiti Limited [S126.001] sought removal of Kāpiti Coast Airport (KCA), and this submission was opposed by Ātiawa [FS20.055]. We agree with the Officer’s reasons in the s 42A Report for retaining KCA in the RSI definition.¹⁷ Among other things, Air Chathams flies daily between Auckland and KCA and in the Officer’s view, this provided justification for its inclusion as RSI. Further, as the Officer explains, the inclusion of KCA in the definition does not prevent use and development of the land for other purposes, and the constraints Templeton Kapiti Limited identify in their submission relate to reasons why “the land is difficult to develop while it is an operational airport, rather than issues related to the definition of RSI and its influence on the ability to use or develop the land”.¹⁸ Also, the Officer advised he had discussed this matter with KCDC who advised that, from a regulatory perspective, if KCA stopped operating, it would no longer be considered RSI and therefore would not have the same protections applying and it would be “unlikely that the policy direction would inhibit consenting or a plan change process to enable new use of the land”.¹⁹ We agree with the Officer’s recommendation to retain KCA in the definition of RSI.

3.8.1.1 WIAL’s infrastructure

89. The issue of most contention with the definition of RSI related to WIAL’s relief. The wording finally recommended in the Officer’s Reply Evidence was supported by WIAL and also addressed the questions we posed in Minute 27, and we recommend Council adopt it. However, given that this issue may come up in a future change to the NRP, we summarise the evolution of this issue through the Hearing stages.

¹⁵ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 110.

¹⁶ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 112.

¹⁷ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, paras 99 – 105.

¹⁸ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 103.

¹⁹ Section 42A Hearing Report, Hearing Stream 7 – Definitions, 11 March 2023, para 105.

90. In the s 42A Report, the Officer supported including navigational infrastructure, but not specific reference to the seawall as WIAL sought, on the basis that a seawall is not consistent with the definition of an “airport” in the Airport Authorities Act 1996 (AAA), and was therefore not “infrastructure” as defined in the RMA.
91. Ms Hunter, providing planning evidence for WIAL agreed with the conclusion in the s 42A Report to include WIAL’s navigational infrastructure in the definition. However, Ms Hunter said that a broader definition was appropriate in line with other elements and drafting in the definition (for example, the Port component included “infrastructure associated with Port related activities ... and adjacent land used in association with the movement of cargo and passengers”). Ms Hunter was concerned that the Officer’s recommendation “could be interpreted to restrict infrastructure associated with or ancillary to the airport’s operation to “navigational aids only” and therefore exclude other ancillary infrastructure or activities that were also critical to the airport’s functionality.²⁰
92. Ms Lester, WIAL’s Planning Manager, provided evidence about how WIAL’s seawall functions to protect the Airport from the effects of coastal erosion and storm surges, and its importance to WIAL’s operations. Ms Lester also described the maintenance and upgrade activities required for the safe and effective functioning of the seawall, as well as WIAL’s future plans for its upgrade or renewal, which will require a consenting process.²¹
93. In light of Ms Lester’s technical evidence, Ms Hunter maintained that it was appropriate for the RSI definition of “Wellington International Airport” to be amended to include “all associated infrastructure and structures (for the avoidance of doubt, this includes navigational aids and the sea wall between Lyall Bay and Moa Point.)”²²
94. Ms Dewar’s legal submissions for WIAL also pointed out the inconsistent references in the RSI definition to ancillary structures and activities, and said that the definition of “airport” in the AAA “includes any buildings, installations and equipment on or adjacent to any such area used in connection with the airport or its administration”.²³ Ms Dewar said that a

²⁰ Statement of Evidence by Claire Hunter, Hearing Stream 7, 28 March 2023, para 10.

²¹ Statement of Evidence of Jo Lester for Wellington International Airport Limited, 28 March 2024, sections 4 – 7.

²² Statement of Evidence by Claire Hunter, Hearing Stream 7, 28 March 2023, para 13.

²³ Summary of Legal Submissions on behalf of Wellington International Airport Ltd, Hearing Stream 7 – RSI Definition, 30 January 2024, para 1.9.

seawall meets the definition of a “structure” in the RMA and also a “building” in the Building Act 2004, and the RSI definition should include supporting infrastructure that is integral to the functioning of the Airport.²⁴

95. In his Rebuttal Evidence, the Reporting Officer largely accepted WIAL’s evidence and legal submissions (although for different reasons) and recommended the definition be amended to state:

Wellington International Airport including all supporting navigational infrastructure including its infrastructure and any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration.

This includes infrastructure, buildings, installations and equipment not located on airport land.

96. Counsel for the Council lodged legal submissions on the definition of “building” saying that the definition in the National Planning Standards was the appropriate definition to refer to and that a seawall does not fall within this definition. However, Counsel did state that a seawall may come within the meaning of “installation” as used in the definitions of “aerodrome” and “navigation installation” in the Civil Aviation Act 2023, provided it was used in connection with the area used for landing, departure or surface movement of the aircraft.²⁵ This was something that was more appropriate to determine as part of a resource consent process in the context of a specific project.²⁶

97. We agree with the Council’s legal submissions that it is not appropriate, and could create uncertainty, for an RPS to include reference to specific components only of “Wellington International Airport” and not other components; or to approach the definition of the Airport in a different way to other listed items of RSI.²⁷ Further, as the Officer stated in his Rebuttal, if activities required to protect infrastructure (such as a seawall) are

²⁴ Summary of Legal Submissions on behalf of Wellington International Airport Ltd, Hearing Stream 7 – RSI Definition, 30 January 2024, paras 1.12 – 1.13, 1.16.

²⁵ Rebuttal legal submissions on behalf of Wellington Regional Council, Hearing Stream 7, 8 April 2024, para 19.

²⁶ Rebuttal legal submissions on behalf of Wellington Regional Council, Hearing Stream 7, 8 April 2024, para 20.

²⁷ Rebuttal legal submissions on behalf of Wellington Regional Council, Hearing Stream 7, 8 April 2024, para 21.

included as part of the definition of infrastructure, this could lead to planning or scope creep.²⁸

98. Following the Hearing, we asked the Officer in Minute 27 to confer with Ms Dewar and/or Ms Hunter on the definition and advise whether it could be clarified so it was clear that the buildings, installations, equipment referred to had to be owned or operated by WIAL. We gave the hypothetical example of a car rental business on airport land, potentially seeking to argue that it came within the definition of RSI. The Officer conferred with Ms Hunter and recommended amendments to clarify that activities must be required to operate, maintain, upgrade or develop the airport, rather than just be “associated” with the airport and its activities. The Officer advised that there are third parties that own and operate assets that are critical to the operational integrity of the airport, such as Airways, which owns and operates navigational infrastructure, buildings and equipment on and outside airport land, therefore he did not support the definition being limited to assets owned or operated by WIAL.

3.8.2 Finding

99. We agree with the Reporting Officer’s recommendations on the definition of *regionally significant infrastructure* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.8.3 Recommendation

Regionally significant infrastructure includes:

- pipelines for the distribution or transmission of natural or manufactured gas or petroleum, including any associated fittings, appurtenances, fixtures or equipment
- a network operated for the purposes of telecommunications, as defined in section 5 of the Telecommunications Act 2001
- a network operated for the purpose of radiocommunications, as defined in section 2(1) of the Radio Communications Act 1989
- the National Grid
- facilities for the generation and/or transmission of electricity where it is supplied to the National Grid and/or the local distribution network
- facilities for the electricity distribution network, where it is 11kV and above. This excludes private connections to the local distribution network
- the local authority water supply network (including intake structures) and water treatment plants

²⁸ Statement of Rebuttal Evidence of Shannon Watson on behalf of Wellington Regional Council, Hearing Stream 7 – Definitions, 8 April 2024, paras 25 – 26.


- the local authority wastewater and stormwater networks and systems, including treatment plants and storage and discharge facilities
- the *Strategic Transport Network* (including ancillary structures required to operate, maintain, upgrade and develop that network)
- The following local arterial routes: Masterton-Castlepoint Road, Blairlogie/Langdale/Homewood/Riversdale Road and Cape Palliser Road in Wairarapa, Titahi Bay Road and Grays Road in Porirua, and Kāpiti Road, Marine Parade, Mazengarb Road, Te Moana Road, Akatārawa Road, Matatua Road, Rimu Road, Epiha Street, Paekakariki Hill Road, The Parade [Paekakariki] and The Esplanade [Raumati South] in Kāpiti
- Wellington City bus terminal and Wellington Railway Station terminus
- Wellington International Airport ~~including all supporting navigational infrastructure including its infrastructure and any buildings, installations, and equipment required to operate, maintain, upgrade and develop~~ the airport located on, or adjacent to ~~any such area~~, land and water used in connection with the airport or its administration.

This includes infrastructure, buildings, installations and equipment not located on airport land.

- Masterton Hood Aerodrome
- Kapiti Coast Airport
- Commercial Port Areas and infrastructure associated with Port related activities ~~in the Lambton Harbour Area~~ within Wellington Harbour (Port Nicholson) and adjacent land used in association with the movement of cargo and passengers, ~~and~~ including bulk fuel supply infrastructure, and storage tanks for bulk liquids, and associated wharflines
- Silverstream, Spicer and Southern landfills

3.9 Strategic Transport Network

100. The proposed amendments to the notified definition stated:

Strategic public transport network		
<u>The Strategic Transport Network includes the following parts of the Wellington Region's transport network:</u>		
(a)	<u>All railway corridors and 'core' bus routes as part of the region's public transport network identified in the Regional Land Transport Plan 2021, and</u>	
(b)	<u>All existing and proposed state highways, and</u>	
(c)	<u>Any other strategic roads that are classified as a National High Volume Road, National Road, or Regional Road as part of the region's strategic road network identified in the Regional Land Transport Plan 2021, and</u>	
(d)	<u>Any other road classified as a high productivity motor vehicle (HPMV) route identified in the Regional Land Transport Plan 2021, and</u>	
(e)	<u>All sections of the regional cycling network classified as having a combined utility and recreational focus identified in the Regional Land Transport Plan 2021 and</u>	
(f)	<u>Any other existing and proposed cycleway and/or shared paths for which the New Zealand Transport Agency and/or a local authority is/was the requiring authority or is otherwise responsible.</u>	
<u>The strategic public transport network is those parts of the region's passenger transport network that provide a high level of service along corridors with high demand for public transport. It connects the region's centres with the central business district in Wellington city. It includes the rail network and key bus corridors within Wellington region.</u>		

3.9.1 Submissions, Evidence and Analysis

101. Kiwirail [S124.014] supported the definition as notified. UHCC [S34.0108] said that the definition did not appear to be linked to any provision and Method 16 referred to the “strategic public transport network” and therefore may need to be amended for consistency.
102. The Reporting Officer said in the s 42A Report that Method 16 and the definition of “Strategic Transport Network” are not related, and in any event, amendments to Method 16 were outside the scope of Proposed Change 1.
103. Ms Rushmere, Senior Planner (Policy) for UHCC disagreed with the Officer’s position and said that the definition and Method 16 are “inherently connected to each other” (with essentially the word “public” removed from the definition).²⁹ Ms Rushmere said that the “Strategic Transport Network” definition includes “All railway corridors and ‘core’ bus routes as part of the region’s public transport network identified in the

²⁹ Statement of evidence of Suzanne Rushmere on behalf of Upper Hutt City Council (Planning), 28 March 2024, para 30.

Regional Land Transport Plan 2021”, so it is not necessary to refer to a strategic public transport network in Method 16.

104. Ms Rushmere did not think that her request for consistency with Method 16 was out of scope, but instead was a consequential amendment.
105. In his Rebuttal and Reply Evidence, the Officer agreed to amend Method 16 by deleting the word “public”, and italicising the term, both as consequential changes.

3.9.2 Finding

106. We agree with the Officer’s recommendations to retain the definition of “Strategic Transport Network” as notified, and to make consequential amendments to Method 16 as shown below, for the reasons above and as set out in the Officer’s s 42A Report, and Rebuttal and Reply Evidence.

3.9.3 Recommendation

The Strategic Transport Network includes the following parts of the Wellington Region’s transport network:

- (a) All railway corridors and ‘core’ bus routes as part of the region’s public transport network identified in the Regional Land Transport Plan 2021, and
- (b) All existing and proposed state highways, and
- (c) Any other strategic roads that are classified as a National High Volume Road, National Road, or Regional Road as part of the region’s strategic road network identified in the Regional Land Transport Plan 2021, and
- (d) Any other road classified as a high productivity motor vehicle (HPMV) route identified in the Regional Land Transport Plan 2021, and
- (e) All sections of the regional cycling network classified as having a combined utility and recreational focus identified in the Regional Land Transport Plan 2021 and
- (f) Any other existing and proposed cycleway and/or shared paths for which the New Zealand Transport Agency and/or a local authority is/was the requiring authority or is otherwise responsible.

The strategic public transport network is those parts of the region’s passenger transport network that provide a high level of service along corridors with high demand for public transport. It connects the region’s centres with the central business district in Wellington city. It includes the rail network and key bus corridors within Wellington region.

Method 16: Information about locations with good access to the *strategic public transport network*

Prepare and disseminate information to support the identification of locations with good access to the **strategic public transport network**.

3.10 Natural Character

3.10.1 Policy 3: Protecting high natural character in the coastal environment – district and regional plans

107. The notified amendments stated:

Policy 3: Protecting high natural character in the <i>coastal environment</i> – district and regional plans	
District and regional plans shall include policies, rules and/or methods to protect high natural character in the <i>coastal environment</i> from inappropriate subdivision, development and/or use. Natural character should be assessed considering the following matters, with a site determined as having high natural character when the landscape is slightly modified or unmodified, the land-cover is dominated by indigenous vegetation and/or the vegetation cover is natural and there are no apparent buildings, structures or infrastructure:	
(a)	The extent to which natural elements, patterns and processes occur, including: <ul style="list-style-type: none">(i) natural elements: the products of natural processes – such as landforms, water forms, vegetation and land cover;(ii) natural processes: the ecological, climatic and geophysical processes that underlie the expression and character of the place, site or area;(iii) natural patterns: the visual expression or spatial distribution of natural elements which are, or which appear to be, a product of natural processes; and/or(iv) surroundings: the setting or context, such that the place, site or area contributes to an understanding of the natural history of the wider area.
(b)	The nature and extent of modifications to the place, site or area, including, but not limited to: <ul style="list-style-type: none">(i) physical alterations by people to the landscape, its landforms, waterforms water forms, vegetation, land cover and to the natural patterns associated with these elements;(ii) the presence, location, scale and density of buildings and structures, including infrastructure, whether appearing to be interconnected or isolated, and the degree of intrusiveness of these structures on the natural character of the place;(iii) the temporal character of the modification – such as, whether it is fleeting or temporary, transitory, transitional or a permanent alteration to the character of the place, site or area; and/or(iv) any existing influences or pressures on the dynamic ecological and geophysical processes contributing to the presence and patterns of natural elements, such that these may <u>change</u> and the natural elements and/or patterns may become threatened over time.
(c)	Social values: the place, site or area has meaning for a particular community or communities, including: <ul style="list-style-type: none">(i) sentimental: the natural character of a place, site or area has a strong or special association with a particular community; and/or

(ii) — recognition: the place, site or area is held in high public esteem for its natural character value, or its contribution to the sense of identity of a particular community.

Explanation

Although it is a matter of national importance to preserve the natural character of the coastal environment, the Resource Management Act does not preclude appropriate use and development in the coastal environment.

The New Zealand Coastal Policy Statement further establishes a requirement to define what form of subdivision, use, development or occupation would be appropriate in the coastal environment and where it would be appropriate. Policy 3 supports these requirements, along with policies 55 and 56, which promote a compact, well designed and sustainable regional form.

Case law⁷ has established that 'natural character' does not necessarily mean pristine or completely unmodified character. Natural character occurs on a continuum, from pristine to totally modified. Most of the coastal environment has some element of natural character and, conversely, some degree or element of modification.

Policy 3 implements the New Zealand Coastal Policy Statement by requiring ~~requires~~ district and regional plans to protect areas considered to have 'high' natural character from inappropriate subdivision, use and development. Councils must assess land in the coastal environment to ascertain which areas have high natural character, in order to protect these areas, and to determine what would be inappropriate activities on this land, depending on the attributes associated with an area's high natural character.

The policy lists the matters to be considered when assessing natural character. Policy 3 (a) contains factors which contribute 'natural' attributes to an area, while the factors within clause (b) are about people's influence in or upon the area, which can compromise, modify, or otherwise diminish the natural character of the area.

When making a determination as to whether the degree of natural character is high in a particular location, an area of high natural character is likely to be dominated by natural elements rather than by the influence of human activities, and/or the natural elements will be out of the ordinary or otherwise regarded as important in terms of one or more of the factors outlined within policy 36(a) and (c). Alternatively, an area of high natural character may be regarded as having qualities which are relatively uncompromised by human activities and influence, as specified within 36(b).

Policy 36 will need to be considered alongside policy 3 when changing, varying or reviewing a district or regional plan

Related policies within this Regional Policy Statement direct regional and district plans to identify and protect historic heritage places, sites and areas (policies 21 and 22), ecosystems with significant biodiversity value (policies 23 and 24), outstanding

natural features and landscapes (policies 25 and 26), and special amenity landscape values (policies 27 and 28) — using the criteria outlined in each policy, and guidance that will be developed to assist with implementation of the Regional Policy Statement (method 7).

108. Policy 3 directs district and regional plans to include policies, rules and/or methods to protect high natural character in the coastal environment from inappropriate subdivision, development and/or use. The Policy then provides a list of matters to be considered in a natural character assessment. Proposed Change 1 amends Policy 3 by deleting clause (c) to

align with Policy 13 of the NZCPS. Clause (c) includes elements of social and cultural values that are not included in Policy 13 of the NZCPS therefore deleting clause (c) gives better effect to Policy 13.

109. There were 45 submission and further submission points on this topic.

3.10.2 Submissions, Evidence and Analysis

110. The submissions focussed on providing clarity on how to interpret natural character, providing recognition of Te Ao Māori values and partnership opportunities for mana whenua, and questions on the scope of the Change 1 amendments.
111. In addition to Policy 13 of the NZCPS, Policy 3 is also directed by several provisions in Part 2 of the RMA, namely coastal natural character as a matter of national importance that must be recognised and provided for by functionaries (s 6(a); and ss 7(c) and 7(f) which require particular regard to be had to the maintenance and enhancement of amenity values and the quality of the environment).
112. During the Hearing and in Minute 27, we asked the Officer, Dr Dawe, to clarify the natural character policy hierarchy in the RPS and how it gives effect to Policy 13 of the NZCPS for areas of the coastal environment that are considered to have an appreciable level of natural character, but not considered high or outstanding. Dr Dawe responded in his Reply Evidence to set out the requirements of Policy 13.³⁰ He said that it required a two-step process. First, to assess the natural character of the coastal environment by mapping or identifying, at a minimum, areas of high natural character (although typically this assessment will also identify areas that have low to moderate natural character values as well). The second step involves using the natural character assessment and determining whether provisions are required to “preserve the natural character” of the coastal environment.
113. Dr Dawe said that the RPS provides appropriate direction to regional and district plans to undertake this process.³¹ Policy 3 addresses the protection of areas identified as having “high” natural character, and requires that provisions be included in plans to protect these areas in the coastal environment from inappropriate subdivision, use and

³⁰ Right of Reply Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7: Small Topics, Wrap-Up and Variation 1 – Natural Character, 30 May 2024, paras 13 – 18.

³¹ Right of Reply Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7: Small Topics, Wrap-Up and Variation 1 – Natural Character, 30 May 2024, para 18.

development. The Policy gives partial effect to Policy 13 of the NZCPS by focussing on the protection of areas with the highest natural character.

114. Dr Dawe explained that Policy 36 of the RPS directs the management of all other areas of the coastal environment for natural character, including those considered to have low or moderate natural character values or where coastal natural character has not been assessed, mapped, identified or otherwise included in plans.³² Policy 35 addresses the preservation aspect of Policy 13 of the NZCPS.
115. Some submitters supported the amendments to Policy 3 and sought they be retained as notified. The DGC [S32.010] supported the amendments as they give better effect to Policy 13 of the NZCPS. The DGC noted that some elements of the explanation were deleted that could have been helpfully retained or reworded but said this did not affect the intent of the Policy. Ātiawa [S131.055] sought that the chapeau of the Policy be amended to specify that the Council partners with mana whenua when identifying natural character. Taranaki Whānui [S167.069] made a similar submission but also referred to “protecting” high natural character.
116. Forest and Bird [S165.042] supported the amendments in part but requested Policy 3 also include protection for all areas of natural character in the coastal environment in accordance with the requirements of Policy 13 of the NZCPS. Meridian [S100.013] opposed the proposed deletion of part of the Explanation text and sought it be reinstated and refer to s 6(a) of the RMA and the requirement to preserve the natural character of the coastal environment from “inappropriate use and development”.
117. In the s 42A Report, the Officer recommended re-inserting some parts of the Explanation to the Policy to provide greater clarity on the concept and implementation of natural character, including reference to the Department of Conservation guidance note to Policy 13 describing coastal natural character. This responded to relief sought by MDC [S166.021] and DGC [S32.010]. The Officer also supported reinstating reference to s 6(a) to satisfy Meridian’s relief. Mr Brass on behalf of the DGC confirmed support for these amendments to the explanatory text which he thought

³² Right of Reply Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7: Small Topics, Wrap-Up and Variation 1 – Natural Character, 30 May 2024, paras 19 – 20.

provide clear links to the higher order documents and also to relevant guidance material.³³

118. In relation to Forest and Bird’s submission, the Officer rejected the request for further amendments to include all natural character areas as Policies 35 and 36 in the Operative RPS already provide for this.³⁴ In his Rebuttal Evidence, the Officer agrees with submissions and Ms Burns’ evidence (on behalf of Rangitāne) to add “partnership with mana whenua / tangata whenua” to the chapeau³⁵ even though, as he stated in the s 42A Report, Method 32 and other provisions also provide for engagement with mana whenua / tangata whenua when undertaking the type of work that is involved in identifying and assessing natural character.³⁶ The Officer also notes that a partnership approach is also strongly advised in guidelines such as *Te Tangi a te Manu-Aotearoa* New Zealand Landscape Assessment Guidelines, NZ Institute of Landscape Architects, 2022.³⁷ In light of the amendments the Officer proposed to the chapeau of Policy 3 (which then made the Policy “self-contained” regarding natural character assessments), the Officer did not support Ms Burns’ request for Method 32 to also refer to partnering with mana whenua / tangata whenua when assessing natural character.³⁸
119. KCDC [S16.0102] made a general submission seeking that the use of “and/or” terminology only be used in Proposed Change 1 where appropriate, as the wording implies a choice can be made and this may not always be the case. The Officer has accepted this relief in relation to Policy 3, and recommended in the s 42A Report that “/or” be deleted both times it occurs as the Policy lists a number of matters that all need to be considered as part of a natural character assessment.³⁹ Mr Brass on

³³ Evidence of Murray Brass on behalf of the Director-General of Conservation, Hearing Stream 7 – Small topics, wrap up and Variation 1, 27 March 2024, para 14.

³⁴ Section 42A Hearing Report – Hearing Stream 7: Small topics, wrap-up and Variation 1 – Natural Character, 11 March 2024, para 112.

³⁵ Statement of Rebuttal Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap-Up and Variation 1, Natural Character, 8 April 2024, para 15.

³⁶ Section 42A Hearing Report – Hearing Stream 7: Small topics, wrap-up and Variation 1 – Natural Character, 11 March 2024, para 114.

³⁷ Statement of Rebuttal Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7 – Small Topics, Wrap-Up and Variation 1, Natural Character, 8 April 2024, para 14.

³⁸ Right of Reply Evidence of Dr Iain Dawe on behalf of Wellington Regional Council, Hearing Stream 7: Small Topics, Wrap-Up and Variation 1 – Natural Character, 30 May 2024, para 31.

³⁹ Section 42A Hearing Report – Hearing Stream 7: Small topics, wrap-up and Variation 1 – Natural Character, 11 March 2024, para 84.

behalf of the DGC confirmed support for this amendment in his evidence.⁴⁰

120. In his Reply Evidence, Dr Dawe recommended various amendments to the explanation to Policy 3 to clarify that it implements Policy 13 in part, and setting out the linkages to Policies 35 and 36 of the RPS. We support these amendments as they provide useful clarification and also acknowledge aspects of Forest and Bird's relief.

3.10.3 Finding

121. We recommend the amendments proposed by the Officer in the s 42A Report to Policy 3 are accepted by Council for the reasons above and as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.10.4 Recommendation

District and regional plans shall include policies, rules and/or methods to protect high natural character in the coastal environment from inappropriate subdivision, development and/or use. [In partnership with mana whenua/tangata whenua](#), Natural Natural character should be assessed considering the following matters, with a site determined as having high natural character when the landscape is slightly modified or unmodified, the land-cover is dominated by indigenous vegetation and/or the vegetation cover is natural and there are no apparent buildings, structures or *infrastructure*:

- (a) The extent to which natural elements, patterns and processes occur, including:
- (i) natural elements: the products of natural processes – such as landforms, water forms, vegetation and land cover;
 - (ii) natural processes: the ecological, climatic and geophysical processes that underlie the expression and character of the place, site or area;
 - (iii) natural patterns: the visual expression or spatial distribution of natural elements which are, or which appear to be, a product of natural processes; and/or
 - (iv) surroundings: the setting or context, such that the place, site or area contributes to an understanding of the natural history of the wider area.
- (b) The nature and extent of modifications to the place, site or area, including, but not limited to:
- (i) physical alterations by people to the landscape, its landforms, ~~water forms~~ water forms, vegetation, land cover and to the natural patterns associated with these elements;
 - (ii) the presence, location, scale and density of buildings and structures, including *infrastructure*, whether appearing to be interconnected or isolated, and the degree of intrusiveness of these structures on the natural character of the place;
 - (iii) the temporal character of the modification – such as, whether it is fleeting or temporary, transitory, transitional or a permanent alteration to the character of the place, site or area; and/or

⁴⁰ Evidence of Murray Brass on behalf of the Director-General of Conservation, Hearing Stream 7 – Small topics, wrap up and Variation 1, 27 March 2024, para 15.

(iv) any existing influences or pressures on the dynamic ecological and geophysical processes contributing to the presence and patterns of natural elements, such that these may change and the natural elements and/or patterns may become threatened over time.

(c) ~~Social values: the place, site or area has meaning for a particular community or communities, including:~~

~~(i) sentimental: the natural character of a place, site or area has a strong or special association with a particular community; and/or~~

~~(ii) recognition: the place, site or area is held in high public esteem for its natural character value, or its contribution to the sense of identity of a particular community:~~

Explanation

Section 6(a) of the Resource Management Act 1991 requires that the preservation of the natural character of the coastal environment and the protection of it from inappropriate use and development is recognised and provided for.

~~Although it is a matter of national importance to preserve the natural character of the coastal environment, However, the Resource Management Act it does not preclude appropriate use and development in the coastal environment.~~

~~The New Zealand Coastal Policy Statement further establishes a requirement to define what form of subdivision, use, development or occupation would be appropriate in the coastal environment and where it would be appropriate. Policy 3 supports these requirements, along with policies 55 and 56, which promote a compact, well designed and sustainable regional form.~~

Policy 3 implements in part Policy 13 of the New Zealand Coastal Policy Statement by requiring ~~requires~~ district and regional plans to protect areas considered to have 'high' natural character from inappropriate subdivision, use and development. Councils must assess land in the coastal environment to ascertain which areas have high natural character, in order to protect these areas, and to determine what would be inappropriate activities on this land, depending on the attributes associated with an area's high natural character.

The policy lists the matters to be considered when assessing natural character. Policy 3 (a) contains factors which contribute 'natural' attributes to an area, while the factors within clause (b) are about people's influence in or upon the area, which can compromise, modify, or otherwise diminish the natural character of the area.

~~Case law⁷ has established that 'natural character'~~ Natural Character does not necessarily mean pristine or completely unmodified character. Natural character occurs on a continuum, from pristine to totally modified. Most of the coastal environment has some element of natural character and, conversely, some degree or element of modification.

The Department of Conservation guidance note to Policy 13 of the New Zealand Coastal Policy Statement describes coastal natural character as including patterns and processes that are the products of nature, both living and non-living, but not those that are human-made. Natural character also includes the perception of these elements but does not specifically consider social and cultural values. Social and cultural values are considered

within Policy 25 - identifying outstanding natural features and landscapes, of which natural character values are a component.

When making a determination as to whether the degree of natural character is high in a particular location, an area of high natural character is likely to be dominated by natural elements rather than by the influence of human activities, and/or the natural elements will be out of the ordinary or otherwise regarded as important in terms of one or more of the factors outlined within policy 36(a) and (c). Alternatively, an area of high natural character may be regarded as having qualities which are relatively uncompromised by human activities and influence, as specified within 36(b):

Policy 36 will need to be considered alongside policy 3 when changing, varying or reviewing a district or regional plan:

Related policies within this Regional Policy Statement direct regional and district plans to identify and protect historic heritage places, sites and areas (policies 21 and 22), ecosystems with significant biodiversity value (policies 23 and 24), outstanding natural features and landscapes (policies 25 and 26), and special amenity landscape values (policies 27 and 28) – using the criteria outlined in each policy, and guidance that will be developed to assist with implementation of the Regional Policy Statement (method 7):

In situations where coastal natural character is considered less than high, has not been assessed, mapped, identified or otherwise included in regional or *district plans*, Policy 36 is used to assess and manage the effects of activities for resources consents, notices of requirement or *regional or district plan* changes, variations or reviews to avoid, remedy or mitigate adverse effects of activities on natural character in the coastal environment.

Policies 3 and 36 address management of activities that may have effects on coastal natural character. Related to these two provisions is Policy 35 that gives effect to the preservation of natural character elements of Policy 13 of the New Zealand Coastal Policy Statement. Policy 35 is used when considering resources consents, notices of requirement or *regional or district plan* changes, variations or reviews.

3.11 Omitted Submission Points

122. The Reporting Officer Ms Zöllner advised that 13 original submissions were inadvertently omitted during the course of the hearings. These submission points relate to:

- Hearing Stream 2- Integrated Management
- Hearing Stream 5 – Freshwater/Te Mana o Te Wai
- Hearing Stream 6 – Indigenous Ecosystems
- General submissions.

3.11.1 Integrated Management provisions (HS2)

123. Ātiawa ki Whakarongotai Charitable Trust (Ātiawa) provided a comprehensive submission on the Chapter 3 provisions supporting them as they set the high-level policy framework for the changes. Among other things, Ātiawa said the concept of integrated management aligns with te tirohanga Māori/Māori worldview of understanding te ao Tūroa, the natural world as an interconnected, interdependent whole. Ātiawa supported the provisions as they enable mana whenua values and provide for mātauranga Māori to be applied to resource management.⁴¹ Ātiawa [S131.009] noted that specific amendments were sought in relation to the regionally significant issues in Chapter 3.

124. The HS2 Reporting Officer considered the amendments Ātiawa sought through other submission points including the Chapter 3 introductory text, Objective A and overarching issues but did not specifically address the submission point above. We are satisfied that the relief sought has been assessed and incorporated as appropriate.

125. DGC [S32.001] supported the additions to Chapter 3 and sought that they are retained as notified except where amendments have otherwise been requested by DGC. Again, this relief was considered through other submission points.

126. Fish and Game [S147.001] supported the overarching resource management issues for the Region as necessary to give effect to the NPS-FM and sought they be retained as notified. This relief has been assessed and incorporated as appropriate through other submission points.

⁴¹HS2, S131 Ātiawa ki Whakarongotai Charitable Trust, page 2

3.11.2 Freshwater / Te Mana o te Wai provisions (FPI / HS5)

127. There were 5 omitted submissions points in the freshwater/Te Mana o Te Wai stream.
128. Ātiawa [S131.016] submitted in partial support of the definition of Te Mana o Te Wai and noted that they will include local context and interpretation of Te Mana o Te Wai through Te Whaitua o Kāpiti and seek that their expression of Te Mana o Te Wai is included in the RPS at the appropriate time through the Freshwater Planning Process.
129. Kahungunu ki Wairarapa [S169.013] made a general submission expressing support for the iwi expressions of Te Mana o Te Wai. Underpinning this support is the view that Te Mana o Te Wai fulfils the tenets of both ss 5, 6(e), 7(a) and 8 of the RMA and the NPS-FM. The theme of this relief has been incorporated into the Change 1 provisions and agreed to by the FHP (see for instance its recommendations on new Policies FW.XXA and FW.XXB). The FHP notes that not all mana whenua / tangata whenua expressions of Te Mana o Te Wai have been included in the through Change 1, and that it understands Council intends to insert further mana whenua / tangata whenua expressions of Te Mana o Te Wai into the RPS through future changes, as part of giving effect to the NPS-FM.
130. Forest and Bird [S165.0140] supported the definition of Te Mana o Te Wai and sought that it be retained. Ms Bolstad [S64.003] made a general submission seeking that the provisions uplifting Te Mana o Te Wai are retained, refined and enhanced. Ms Bolstad did not make specific suggestions as what the refinements and/or enhancements should state.
131. Proposed Change 1 notified a definition of Te Mana o te Wai cross-referencing to clause 1.3 of the NPS-FM. In section 3.48 of the FPI Report (Part C), the FHP recommends a definition be included for the NPS-FM and also Te Mana o te Wai. Forest and Bird's relief is therefore agreed to by the FHP. We also note that the HS7 Reporting Officer recommends that 'NPS-FM' in the notified definition of Te Mana o te Wai is instead referred to as "the National Policy Statement for Freshwater Management 2020". The FHP agreed with this amendment in their Report (Part C).
132. WCC [S140.0129] sought a definition of 'undeveloped state' to support hydrological controls in Policy FW.X. The relief sought for amendments to Policy FW.X is discussed in the FPI Report as is the definition of

‘undeveloped state’ (para 3.45.2). We agreed in that recommendation to include a definition therefore WCC’s relief is accepted.

3.11.3 Indigenous Ecosystems provisions (HS6)

133. Ātiawa [131.031] submitted in support of Objective 16 and sought that it be retained as notified. They sought to be involved in a process to identify significant sites to ensure mana whenua are part of decision making that could involve land held by Māori.
134. Muaūpoko [133.016] submitted in partial support of the indigenous ecosystems provisions, and requested that a policy, method or both is added to provide for the development of a regional and local expression of Te Rito o Te Harakeke, to be co-designed with tangata whenua including Muaūpoko.
135. We recommended in the HS6 chapter that Objective 16 be retained with some amendments, therefore the submission of Ātiawa is accepted in part. Their request to be involved in identification of significant sites is provided for through Method 32 and Policy IE.1 therefore this relief is also addressed in chapter HS6 of our Report.
136. The relief sought by Muaūpoko is agreed to in part through this Panel’s recommendations on Method IE.1 (in chapter HS6) which is about partnering with mana whenua / tangata whenua to give effect to the decision-making principles. As we have previously noted, it is not for the Panel to make recommendations regarding mana whenua status. The Reporting Officer for HS6 has recommended that “Te Rito o Te Harakeke” is replaced with “decision-making principles for indigenous biodiversity” in various HS6 provisions to provide better alignment with the gazetted NPS-IB⁴² and we have agreed with that recommendation in our Report on the HS6 provisions.

3.11.4 General submissions

137. Various submitters made general submissions in relation to the wording of consideration policies (WCC [140.003]), amendments to definitions to align with relevant NPS’ or the National Planning Standards (Kāinga Ora [S15.038], and a general submission in partial opposition to Change 1 provisions seeking amendments to give effect to the matters raised in their

⁴² Response to request for information in Minute 23, paragraph 6(b), Iain Dawe and Pam Guest on behalf of Wellington Regional Council, Hearing Stream 7, 8 April 2024; see also s 42A Hearing Report for Hearing Stream 6, 11 December 2023, para 101.

submission (WIAL [S148.011]). The Officer stated that WIAL's submissions did not seek specific relief and amendments it sought through its submission have been considered in the various hearing reports. We agree and make no recommendation on their general submission point.

138. Elsewhere in our Report (for instance Chapter HS1 – General submissions) we have assessed submitters' concerns regarding the consideration policies. This has also been considered through Hearing Streams 2 to 6. The HS7 Officer noted that WCC's relief has not been assessed against all consideration policies in Chapter 4.2 of the RPS. We have considered the Officer's comments and assessment of consideration policies in the HS7 s 42A Report, in Chapter HS1. WCC's relief is accordingly considered in HS1 and we make no further comment here.
139. In terms of Kāinga Ora's general relief on definitions, we note the Officer's assessment in the s 42A Report and conclusion that all definitions in Proposed Change 1 are either already consistent with the relevant NPS or the National Planning Standards, or if not defined through these documents, they have already been assessed against other national or relevant regional direction by the relevant Reporting Officer. The FHP has made a recommendation in Part C regarding the definitions of Te Mana o te Wai and the NPS-FM.

3.11.5 Finding in relation to omitted submission points

140. We agree with the Officer's recommendations on the omitted submissions points discussed above in relation to HS1, HS2, HS5 and HS6 provisions for the reasons above and as set out in the Officer's s 42A Reports, and Rebuttal and Reply Evidence (including the Reports from the topic specific Officers for HS2, HS5 and HS6). We note the FHP has made a recommendation in Part C regarding the definitions of Te Mana o te Wai and the NPS-FM and this addresses the omitted submission point of Forest and Bird [S165.0140]. Other submission points that were omitted have been addressed in the various respective Hearing Reports.

Part C: Report and Recommendations by the Freshwater Hearings Panel on Submissions on Proposed Change 1 to the Regional Policy Statement for the Wellington Region (the Freshwater Planning Instrument)

1. Executive Summary

1. Proposed Change 1 to the Regional Policy Statement (RPS) starts the implementation of the National Policy Statement on Freshwater Management 2020, taking an integrated management approach to freshwater. Proposed Change 1 focuses on the interface between urban development and freshwater, recognising that land use and development affects the state of the Region's rivers, streams and other water bodies, and also the coast.
2. Proposed Change 1 includes a range of regulatory direction and non-regulatory methods including a new Objective and new and amended Policies articulating how *Te Mana o te Wai* will be given effect to in the Region, and how district plans are to give effect to the NPS-FM. The new and amended Methods require Freshwater Action Plans and promote increased collaboration between the Region's local authorities.
3. The provisions also aim to support the Region's Whaitua Implementation Programmes (WIPs) and the restoration of the Region's degraded water bodies. In this way, Proposed Change 1 takes a step change from the Operative RPS by directing that the health and well-being of waterbodies and freshwater ecosystems be prioritised over the needs of people and communities.
4. This Part of our Recommendation Report comprises the entirety of the Freshwater Planning Instrument (FPI). All the provisions in this Part were considered by the Freshwater Hearings Panel. Recommendations on the 're-categorisation' of numerous provisions from the Part 1 Schedule 1 (P1S1) process to the FPI were made jointly by both Panels as noted in Part A, and took place after hearings.¹ All the recommendations on the merits

¹ As required by clause 39(b), Schedule 1, RMA.

of submissions on the FPI provisions, were made by the Freshwater Hearings Panel (FHP). Our recommendations are to be read with the corresponding submission analysis tables attached and Part A (Overview) which contains information relevant to both planning processes.

5. The FHP appointed a Special Advisor under clause 46 of Schedule 1 of the RMA. Consultant planner, Ms Sylvia Allan assisted the FHP on the following issues:

- a. The drafting of Objective 12 – the expression of Te Mana o te Wai
- b. Local authority functions and responsibilities, including reviewing Policies FW.3, FW.6, 14 and 15 to ensure functions were clear and areas of overlapping responsibilities justified.
- c. Horizontal integration between the hydrological control provisions in HS5 and the nature-based solutions / water sensitive urban design provisions in HS3
- d. The definition of hydrological control
- e. The definition of hydraulic neutrality
- f. The daylighting of rivers
- g. Review of drafting of Policy 14
- h. Review of drafting of Policy 40
- i. Review of drafting of Policy 42
- j. Review of drafting of Policy FW.X
- k. Review of drafting of Method FW.2

6. The FHP was grateful for Ms Allan’s pragmatic guidance. We did not have a planner on the Panel, and in many instances, we simply required ‘plan drafting’ assistance to help us better articulate the policy intent we wanted to convey in the provisions. The Chair of the FHP met with Ms Allan in-person and over the phone / by zoom to discuss the matters listed above. We have recorded Ms Allan’s suggestions in our Report. All recommendations on provisions and the merits of submissions are ours, albeit informed by Ms Allan’s drafting suggestions and guidance. We also note here, and discuss further in Part B of this Report, that we discussed some other provisions with Ms Allan that were notified as part of the FPI, but which the Panels ultimately regarded as being ‘non freshwater’ provisions after the hearings.

7. Having heard submitters and considered evidence, legal submissions, hearing presentations, and having received planning advice and drafting guidance from Ms Allan, we recommend Council adopt the

recommendations in this Report on the submissions and provisions of Proposed Change 1. In doing so, the RPS will:

- a. Apply the Te Mana o te Wai hierarchy of obligations in the NPS-FM by first prioritising the health and wellbeing of waterbodies and freshwater ecosystems, second, the health needs of people, and third, the ability of people and communities to provide for their social, economic and cultural well-being.
- b. Include Te Mana o te Wai mana whenua / tangata whenua statements and include a policy that recognises and provides for the statements
- c. Require regional and district plans give effect to Te Mana o te Wai by taking a range of actions that will protect and restore the health and wellbeing of water bodies and freshwater ecosystems including:
 - i. Requiring urban development be appropriately located and designed to protect and enhance the health and wellbeing of waterbodies
 - ii. Promoting and enabling the daylighting of rivers
 - iii. Actively involving mana whenua / tangata whenua and incorporating mātauranga Māori to protect and restore ecosystem health
 - iv. Engaging with communities and stakeholders.
- d. Clarify functions and responsibilities of the Regional Council and city/district Councils in the Region, recognising the Regional Council's specific role in relation to maintaining and enhancing water quality, and that all Councils have responsibilities relating to managing the effects of urban development and achieving integrated management. Given the areas of overlapping functions and responsibilities, the outcomes required in national direction can only be achieved through collaboration, coordination and working together well.
- e. Protect the habitat of trout and salmon so far as this is consistent with protecting the habitats of indigenous freshwater species
- f. Provide a consent pathway for aggregates and other activities in natural inland wetlands and rivers consistent with national direction
- g. Require regional plans include provisions for hydrological control for urban development recognising that this has a different focus and purpose than achieving hydraulic neutrality

- h. Require regional resource consent applications consider the effects on freshwater and receiving environments from urban development.
 - i. In relation to the take and use of water, apply the *Te Mana o te Wai* hierarchy by prioritising the health and wellbeing of waterbodies and freshwater ecosystems above the health needs of people and other needs.
- 8. Although finely balanced, the Panels recommend that the earthworks and vegetation clearance provisions, and only some of the nature-based solutions suite (Objective CC.4, Policies CC.4, CC.4A, CC.12, CC.14, CC.14A and FW.8, and Method CC.6 and the definitions for nature-based solutions, climate resilient, water sensitive urban design) are assessed as part of the FPI given their direct relationship to water quality and quantity issues and the direction in the NPS-FM. The Panels do not recommend that the following nature-based solutions provisions proceed through the Freshwater Planning Process: Objective CC.5, Policies CC.6, CC.7 and CC.18, and Methods CC.4 and CC.9, and the definitions for highly erodible land, permanent forest and plantation forestry.
- 9. The Panels also recommend that the definitions for climate change adaptation and climate change mitigation (addressed in the Climate Change General sub-topic) proceed through the Freshwater Planning Process.
- 10. The Panels do not recommend that the Urban Development provisions proceed through the Freshwater Planning Process. We acknowledge that many of the amendments in the Hearing Stream 4 – Urban Development Topic are about ensuring improved freshwater quality and quantity outcomes from urban development. However, the provisions have broader purposes – providing well-functioning urban and rural areas – and on balance we consider they should progress through the Standard Schedule 1 process.
- 11. Officers’ recommendations on the FPI provisions were modified in the course of the submissions and hearing process. The FHP agrees with the majority of the Officers’ recommendations on the merits of submissions. Our views differ from the Reporting Officers on the following provisions:

Provision	Panel's views
Introduction	We recommend relocating a sentence from the end of the Introduction for clarity and to improve readability.
Objective 12	We recommend deleting the heading and moving the clause regarding <i>Te Mana o te Wai</i> higher up into the Objective. We recommend some drafting changes including amalgamating two clauses, adding “natural form” into clause (d), including additional regional focus, and further revisions to ensure there are not two clauses referring to ‘priorities’.
Policy 12	We recommend clause (ca) is amended to refer to engagement with communities. We recommend deleting the reference to ‘part-FMUs’ and clarifying that the NOF process steps are as set out in the NPS-FM.
Policy 14	We recommend deleting “adjacent” from clause (h) and changing “streams” to “rivers”. We also recommend that “minimise” and “maximise” are referenced as defined terms.
Policy FW.3	We recommend “other receiving environments” is added into clause (k) and a new clause (kk) be inserted requiring urban development be located and designed to protect natural flows and enable daylighting of rivers as far as practicable.
Policy FW.X	We recommend amendments to the Explanation to clarify the policy intent and reflect changes we recommend to the definition of “hydrological control”.
Policy 42	We recommend clarifying in the heading that the Policy is a “consideration” Policy. We also recommend adding “ <i>hydrological control</i> ” to clause (h) and amendments to clause (k) to refer to “natural stream values”. We recommend the addition of an explanation.
Policy FW.6	We recommend various amendments to this Policy and the explanation text for clarity and to improve readability and align with wording in Policy FW.3.

Policy 15	We recommend including reference to setbacks from wetlands and riparian margins in clause (a), and also amending clause (a) to clarify the respective responsibilities of the Regional and district/city councils. The addition of the words “except as specified in (b)(iv)” in clause a(iv) clarifies that the Regional Council’s responsibilities do not duplicate on small sites.
Policy 40	We recommend an amendment to clause (a) to more accurately reflect the direction in Policy 5 of the NPS-FM. We recommend amendments to clause (b) relating to the coast to give effect to the NZCPS, and recommend removing an inconsistency between clauses (k) and (q) to give effect to Policies 9 and 10 of the NPS-FM.
Method FW.2	We recommend amendments to further promote collaboration and integrated management, and for consistency with other provisions in Change 1
Method 48	We recommend clause (g) is amalgamated with clause (f) to better reflect the intent
Definition of <i>hydrological control</i>	We recommend amendments to ensure the provisions do not only apply at site scale, remove a potential conflict and better address, in our view, water quantity and quality issues.
Definition of <i>hydraulic neutrality</i>	We recommend amendments to ensure the provisions do not only apply at site scale
Definition of <i>nature based-solutions</i>	We recommend a drafting amendment to remove the subheadings in the list of examples in the definition, to assist the application of the definition and avoid any potential for misinterpretation of the subheadings

2. Introduction

12. As stated in Part A of our Report, in August 2022 the Wellington Regional Council published Proposed Change 1 to its Regional Policy Statement. As noted in the opening paragraph of the Proposed Change 1 document, its focus is to implement and support the National Policy Statement on Urban Development 2020 (NPS-UD) and to start the implementation of the National Policy Statement for Freshwater Management 2020 (NPS-FM). It also addresses issues around climate change, indigenous biodiversity and

high natural character, which may also have some relevance to urban development and freshwater management.

13. As required by the provisions of Schedule 1, Part 4 of the Resource Management Act 1991 (RMA), the parts of Proposed Change 1 directly related to freshwater issues are to be dealt with by a Freshwater Hearings Panel (the Panel or FHP) appointed by the Chief Freshwater Commissioner. This Panel was appointed under those provisions and its processes began on 6 June 2023. Information about the FHP's Terms of Reference and the Commissioners on the Panel is set out in Part A.
14. Over the period of 26 June 2023 to 16 April 2024, the Panel heard submissions and evidence about the freshwater provisions in Proposed Change 1. This document (Part C) contains the Recommendations of the FHP to the Council about the submissions on, and contents of, Proposed Change 1 which are related to freshwater (the Freshwater Planning Instrument or FPI).
15. As well as the requirements in the Terms of Reference, the Panel has the duties, functions and powers set out in Schedule 1, Part 4 of the RMA.

2.1.1 Overview

16. The geographic area covered by the RPS contains approximately 8,150 square km of land, containing some 12,300 km of rivers and streams, and around 14 lakes.² In addition to the Wellington and Hutt Valley metropolises, there are urban areas on the Kapiti Coast, as far north as Otaki, and in the Wairarapa.
17. The s 32 Report for Proposed Change 1 describes the land use changes in urban and rural settings that have led to degradation of the Region's waterbodies:³

In very simple terms there has been inadequate control of land use activities and change and on discharge of contaminants. This is highlighted in the urban sector where stormwater quality controls have been inadequate, wastewater overflows are common, as is stream loss to urban subdivision. These issues are highlighted, because the focus of this RPS change is on the interface between urban development and fresh water.

² [Land, Air, Water Aotearoa \(LAWA\) - Wellington Region.](#)

³ Section 32 Evaluation report for Proposed Variation 1 to Proposed Change 1 to the Regional Policy Statement for the Wellington Region, para 67.

18. The s 32 Report notes that urban streams and rivers are affected by stormwater discharges, especially where there is extensive impervious cover such as buildings, and sealed roads and carparks. These stormwater discharges, generally untreated before entering the streams and rivers, may contain sediments and bacteria, as well as contaminants such as heavy metals. These sediments and contaminants affect freshwater fish and invertebrates and can have chronic long-term effects on freshwater and coastal systems.
19. Integrated management of freshwater requires applying the concept of *ki uta ki tai* and recognising the interconnectedness of, and interactions between, all environmental domains. Adopting an integrated approach also requires managing freshwater and land use and development in catchments in a way that avoids, remedies or mitigates adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems and receiving environments.⁴
20. The Operative RPS states that nearly half of the land in the Region is used for agriculture.⁵ Rivers and streams in agricultural areas are reported as having poor biological health and water quality. In summer, particularly late in the season, many suffer from algal growth. In the areas around Te Horo, Otaki and in the Wairarapa valley, groundwater is affected by land uses with some having higher nitrate levels, which could come from agriculture, or from septic tanks. In some Wairarapa aquifers, groundwater levels are declining year on year. This can affect the flow of springs, rivers and streams, and water levels in wetlands, with the potential for them to be permanently and adversely affected by the loss of habitat and the rising impact of the incoming contaminants. Pressure on water resources is likely to increase as a result of climate change.
21. The Operative RPS identified these issues over a decade ago. There continue to be numerous challenges to the health of waterways in both urban and water rural areas of the region, including as identified by mana whenua and community and expressed in the whitua implementation programmes delivered to date - Ruamāhanga, Te Awarua-o-Porirua and Te Whanganui-a-Tara. Pressure on water resources and health of waterways, fresh and coastal, will continue to increase as the impacts of climate

⁴ Clause 3.5 of the NPS-FM.

⁵ Operative RPS, chapter 3.4 Fresh water, page 40. The contents of this paragraph are drawn from this page of the Operative RPS.

change drive changes in rainfall, temperature, contaminant loss, flows and groundwater levels.

2.1.2 The statutory process and categorisation of provisions to the FPI

22. The framework of what is required in an RPS is set out in ss 59 – 62 of the RMA and has been canvassed in Part A. In summary, an RPS is required to contain an overview of the resource management issues for the affected region, and policies and methods to achieve integrated management of the natural and physical resources of the whole region.
23. As noted in the opening submissions of Ms Kerry Anderson, DLA Piper, counsel for the Council (and no party disagreed), an RPS is to give effect to, and accord with, any national policy statement, national planning standard, or any relevant regulations, and must set out the significant resource management issues for the region. It should set out the objectives and policies, and the methods to be used to achieve the objectives and implement the policies.⁶
24. Part A of our Report sets out information about the Freshwater Planning Process (FPP) and is not repeated here.
25. The FPP comprises the provisions coded to Hearing Stream 5 (HS5 – Freshwater and *Te Mana o te Wai*), and provisions that are part of the FPI that were considered in other Hearing Streams.
26. Part A of our Recommendation Report and the Appendix to Part A lists the provisions that we consider fall within the scope of the FPI, and our reasoning. We discuss some of the key aspects below.
27. The categorisation of Change 1 provisions is based on the FPP criteria in the High Court decision in *Otago Regional Council v Royal Forest and Bird*.⁷ We summarise the criteria in Part A and note the complex and subjective nature of the categorisation exercise.
28. Officers' views across Hearing Streams varied. Some Officers recommended that a provision be categorised as part of the FPP if it referred in any way to freshwater or could be said to implement the NPS-FM; while others took an approach that was based more, it seemed, on the 'extent' or degree to which a provision related to matters that impact on

⁶ Legal submissions on behalf of Wellington Regional Council – legal framework and plan change tests, 8 June 2023, para 12.

⁷ [2022] NZHC 1777.

freshwater quality and quantity, or the extent to which a provision gives effect to the NPS-FM. Officers generally did not understandably want to split a provision into different planning processes, but their views did seem to differ on whether a provision needed to have a substantial or at least reasonable focus on freshwater management, or whether only one reference in a much broader provision was enough to categorise it as part of the FPI.

29. The Panels broadly agreed with the approach the Officer took in the Integrated Management Hearing Stream (HS2).⁸ Where a provision addresses a wider range of resource management issues which are generally broader than freshwater quality and quantity, the Panels preferred to categorise the provision as a P1S1 provision rather than as part of the FPI, also mindful of keeping ‘like’ provisions together as a package in the same statutory planning process so that related provisions do not take potentially different appeal routes which could lead to timing-related implementation issues and loss of integration. We agreed that a provision did need to ‘solely’ relate to freshwater quality/quantity issues or ‘only’ implement the NPS-FM; but the extent and degree of connection with freshwater did influence our approach. The Commissioners had some differing views on some provisions, again reflecting the subjective nature of the task.
30. The provisions that we consider to be appropriately categorised as Freshwater provisions and part of the FPI are discussed below.

2.1.3 Hearing Stream Two – Integrated Management

31. As stated in Part A, we do not consider any provisions in this Hearing Stream are part of the FPI. This is consistent with the Reporting Officer’s recommendations.⁹

2.1.4 Hearing Stream Three – Climate Change

32. The Reporting Officers recommended that all provisions coded to these subtopics, be assessed under the P1S1 process:

⁸ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 28 July 2023, para 42.

⁹ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 2 – Integrated Management, 28 July 2023, para 42.

- a. General¹⁰
 - b. Agricultural Emissions¹¹
 - c. Energy, Industry and Waste¹²
 - d. Transport.¹³
33. We agree with this assessment.
34. For the Climate-Resilience and Nature-Based Solutions subtopic, the Officer recommended the following provisions be assessed as part of the FPI (consistent with their status at notification):¹⁴
- a. Objective CC.4
 - b. Objective CC.5
 - c. Policy CC.4
 - d. Policy CC.4A
 - e. Policy CC.14
 - f. Policy CC.14A
 - g. Policy CC.6
 - h. Policy CC.7 (unless the Officer’s recommendations are agreed to by the Panel, in which case it should proceed using the P1S1 process)
 - i. Policy CC.12
 - j. Policy CC.18
 - k. Policy FW.8
 - l. Method CC.4
 - m. Method CC.6
 - n. Method CC.9

¹⁰ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Subtopics General, Agricultural Emissions, and Energy, Industry and Waste, 21 September 2023, para 5.

¹¹ Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Subtopics General, Agricultural Emissions, and Energy, Industry and Waste, 21 September 2023, para 5.

¹² Reply Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change, Subtopics General, Agricultural Emissions, and Energy, Industry and Waste, 21 September 2023, para 5.

¹³ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Transport, 31 July 2023, para 2.

¹⁴ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Climate-Resilience and Nature-Based Solutions, 31 July 2023, para 62 and Table 4.

- o. Definitions of *climate resilience, water sensitive urban design, highly erodible land, nature-based solutions, permanent forest and plantation forestry*.
- 35. In summary, the Officer's reasons are that many *nature-based solutions* directly protect, enhance or restore freshwater ecosystems, improve freshwater quality, benefit water flows and levels, and respond to climate change consistent with the direction in the NPS-FM. The Officer gives *water sensitive urban design* (such as rain gardens and green roofs) as an example of measures used to manage stormwater flows to improve water quality and freshwater ecosystems, while also reducing flooding risk and providing resilience to climate change.
- 36. We had differing views on the *nature-based solutions* provisions. Climate-resilience is incorporated in the NPS-FM, but is also a broader concept than freshwater. It relates to freshwater quality and quantity, but also to other issues such as the design of buildings and infrastructure, efficient energy use, and climate change mitigation and adaptation.
- 37. Although finely balanced, the Panels consider that only some of the *nature-based solutions* provisions are strongly associated with freshwater management and implement Policy 4 and clauses 3.5(2) and 3.5(4) of the NPS-FM, and are therefore appropriately categorised as part of the FPI.
- 38. The Officers in HS3 have not recommended that *all* provisions that reference nature-based solutions are included in the FPI, for instance Policy CC.7 (as recommended to be amended by the Reporting Officer), Policy CC.15 and Method CC.8 are recommended to progress through the Standard Schedule 1 process. We consider that the matters addressed in these provisions, and also in Method CC.9 are more focused on matters that are broader than freshwater quantity and quality or NPS-FM implementation, even though they all reference *nature-based solutions*.
- 39. Contrary to the Officers' recommendations, we recommend the 'forest cover' provisions (Objective CC.5, Policy CC.6, Policy CC.18, Method CC.4, Method CC.9 and related definitions) are assessed together as part of the Standard Schedule 1 process given their broader aims of carbon sequestration, indigenous biodiversity benefits, land stability and social and economic well-being. This was also a finely balanced assessment because afforestation can of course reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. On balance, we consider the 'forest cover'

provisions are more appropriately categorised as P1S1 provisions because, while they have co-benefits for freshwater management, they also aim to achieve a broader range of benefits.

40. We acknowledge that the climate change-related definitions of *climate change adaptation*, *climate change mitigation* and *climate change resilience* are broad terms, however given they are referred to within the *nature-based solutions* provisions, we recommend they are assessed together in the same planning process to avoid the loss of integration. The Officer recommended that Policy CC.7 should be a P1S1 provision if we recommend the amendments the Officer proposes. We are satisfied that Policy CC.7 progresses as part of the Standard Schedule 1 process for the reasons the Officer provides in the s 42A Report.¹⁵ In essence, while the Policy has freshwater ‘co-benefits’, it does not directly relate to freshwater.
41. For the Natural Hazards subtopic, the Officers agreed with the notification assessment, and recommended that the following provisions be assessed as part of the FPP:¹⁶
 - a. Issue 3
 - b. Objective 20
 - c. Policy 52
 - d. Definition of *minimise*.
42. This was another subtopic in which there were at first differing views by the Commissioners. Even though the heading and chapeau to Issue 3 refer to “natural hazard events”, much of the content is focused on flood events and drought which places pressure on water resources. However, the Issue is also about sea level rise and coastal erosion and inundation. We agreed that Objective 20 was broader than freshwater issues even though it refers to *Te Mana o te Wai* (which in and of itself is not conclusive as to categorisation as we note in Part A). Similarly, Policy 52, while relating to freshwater and flood management and resilience, also addresses a broader range of hazards.

¹⁵ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Natural Hazards, 31 July 2023, para 203 and Table 4.

¹⁶ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Subtopic Natural Hazards, 31 July 2023, Tables 3 and 4 (paras 15 and 63).

43. The term “minimise” occurs in both the natural hazard provisions and also HS5 provisions. Again, although finely balanced, we recommend it proceed as part of the FPI together with the definition of “maximise” which was proposed to be included in Change 1 through the HS5 s 42 A Report. Therefore, we recommend that all the provisions listed in paragraph 38 above (other than the definition of “minimise”) progress as part of the Standard Schedule 1 process.
44. The conclusion we reach on the HS3 provisions (although not without considerable debate), is that only some of the *nature-based solutions* provisions and the definition of “minimise” should progress as part of the FPI.
45. Therefore, we recommend that from the HS3 topic, the following provisions relating to *nature-based solutions* and the definition of *minimise* progress as part of the FPI:
- a. Objective CC.4
 - b. Policy CC.4
 - c. Policy CC,4A
 - d. Policy CC.12
 - e. Policy CC.14
 - f. Policy CC.14A
 - g. Policy FW.8
 - h. Method CC.6
 - i. The definitions of:
 - i. *Nature-based solutions*
 - ii. *Climate resilience / climate resilient / resilience and resilient*
 - iii. *Water-sensitive urban design*
 - iv. *Climate change adaptation*
 - v. *Climate change mitigation*
 - vi. *Minimise.*

2.1.5 Hearing Stream Four – Urban Development

46. Most of the provisions in this topic were notified as part of the FPI, with the key exceptions being Policies 30, 67 and UD.1. Policy UD.4 which was recommended for inclusion in the s 42A Report, was categorised as a P1S1 provision.
47. The approach the Council took, and which the Reporting Officer largely supported, was that the HS4 provisions contribute to achieving the NPS-FM objective and policies, and even if only part of a provision gave effect to

the NPS-FM or related directly to matters that impact on the quality or quantity of freshwater, it could still be included in the FPI as provisions should not be split between planning processes.¹⁷

48. We understand the NPS-FM recognises and provides direction on the integration of land use and urban development so as to manage impacts on freshwater quality and quantity. We also acknowledge that well-functioning urban environments and areas incorporate water sensitive urban design to manage stormwater flows to reduce flooding and retain natural stream-flows to protect communities and freshwater ecosystems. However, the provisions in HS4 address issues that are broader than freshwater quality and quantity and NPS-FM implementation. We do not consider that references in the provisions to well-functioning urban areas, climate resilience and *Te Mana o te Wai*, provide enough of a direct connection to freshwater management.
49. Standing back and viewing the provisions objectively, we do not regard the urban development provisions as freshwater provisions that justify inclusion in the streamlined planning process. We do not consider that it would lead to loss of integration for the HS4 provisions to proceed through the Standard Schedule 1 process, while the HS5 provisions (or at least the majority if our recommendations are accepted) proceed through the streamlined process.
50. We therefore recommend that all the HS4 provisions are categorised as P1S1 provisions.

2.1.6 Hearing Stream Five - Freshwater

51. We consider it appropriate and consistent with the FPP criteria identified in Part A, for the majority of provisions within the HS5 topic to be included in the FPI. This includes Method FW.2 which the Reporting Officer recommended be assessed in the P1S1 process¹⁸ and also the definitions used in freshwater provisions including *hydrological control*, *hydraulic neutrality*, *Te Mana o te Wai* and *nature-based solutions*.

¹⁷ Section 42A Hearing Report, Hearing Stream 4 – Urban Development, 4 September 2023, paras 69 -71.

¹⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 120 – 121.

52. However, we recommend that:

- a. Method 31, and
- b. Objective 12 AER 6

are assessed as ‘non-freshwater provisions’ as they relate to matters that are broader than freshwater.

53. We recognise that Policies 15 and 41 apply more broadly across the RPS and, in addition to Objective 12, they also give effect to Objective 29 (which relates to soil erosion and is not within the scope of Proposed Change 1). The Officer recommended they progress through the P1S1 process.¹⁹ However, the amendments proposed in Change 1 to these operative Policies:

- a. for Policy 15 - refer directly to controlling earthworks and vegetation clearing to achieve target attribute states for water bodies and freshwater ecosystems, which links directly to the NPS-FM, and
- b. for Policy 41 – include a set of considerations directly related to management of water quality and quantity including a reference in clause (d) to future NRP controls, so there is a close relationship to achieving what the NPS-FM seeks to achieve.

54. It was a finely balanced decision, but the FHP and P1S1 Panels considered that because Method FW.2 applies to consents relating to freshwater, it was appropriate that it be included in the FPI even though it relates to operational processes. Implementing the Method will, in our view, relate directly to matters that impact on the quality of freshwater. There was considerable discussion in HS5 about local authority functions and responsibilities, and broad agreement that these overlap in relation to the control of land use for freshwater management. The importance of local authorities collaborating and working well together to achieve improved freshwater outcomes was evident to us and a common theme in HS5. This Method will (or at least should) play an important role in that, and we consider it appropriate that it be assessed as part of the FPI.

¹⁹ Appendix 3 to the Section 42A Hearing Report, Hearing Stream 5, 20 October 2023.

2.1.7 Hearing Stream Six – Indigenous Ecosystems

55. We agree with the Reporting Officer’s final recommendations that all provisions within HS6 are assessed as part of the P1S1 process, including associated definitions.

2.1.8 Hearing Stream Seven – Small Topics, Wrap Up and Variation 1

56. Variation 1 to Proposed Change 1 to the Regional Policy Statement proposes two additional objectives providing long term visions for two Wellington Region Whaitua:
- a. 'Objective TAP' – long term visions for Te Awarua-o-Porirua Whaitua
 - b. 'Objective TWT' – long term visions Te Whanganui-a-Tara Whaitua.
57. Variation 1 gives effect to the NPS-FM and is therefore appropriately a FPI.
58. The Reporting Officer recommended that Methods 1, 2, 4 and 5 within the ‘Consequential amendments’ subtopic in HS7, be assessed as part of the FPI as they implement policies that give effect to parts of the NPS-FM. We agree with this but note that the majority of the provisions address broader matters than those impacting on the quality or quantity of freshwater. Again, this was a finely balanced issue with differing views from Commissioners, but we recommend that the Methods all proceed through the P1S1 process given the broad range of matters they relate to.

2.1.9 Structure of Part C

59. The remaining sections in Part C begin with a discussion on the regulatory framework applying to freshwater, focusing on the provisions in the NPS-FM and NPS-UD that are particularly relevant to Proposed Change 1.
60. The provision-by-provision analysis does not follow the order of the provisions in Proposed Change 1, but instead is grouped as follows:

Hearing Stream 5

- Chapter 3.4 Introduction and Table 4

Hearing Stream 7

- Variation 1 (HS7) - Freshwater visions, Objective Te Awarua-o-Porirua and Objective Te-Whanganui-a-Tara

Hearing Stream 5

- Objective 12
- *Te Mana o te Wai* Statement of Rangitāne o Wairarapa
- *Te Mana o te Wai* Statement of Kahungunu ki Wairarapa
- Policies FW.XXA and FW.XXB: Mana whenua / tangata whenua and *Te Mana o te Wai* (regional and district plans, and consideration policy)
- Policy 12: Management of water bodies – regional plans
- Policy 13: Allocating water – regional plans
- Policy 14: Urban development effects on freshwater and the coastal marine area – regional plans
- Policy FW.3: Urban development effects on freshwater and the coastal marine area – district plans
- Policy FW.X: Hydrological control for urban development – regional plans
- Policy 42: Effects on freshwater and the coastal marine area from urban development – consideration
- Policy FW.6: Allocation of responsibilities for land use and development controls for freshwater
- Policy 15: Managing the effects of earthworks and vegetation disturbance – district and regional plans
- Policy 41: Controlling the effects of earthworks and vegetation disturbance - consideration
- Policy 18: Protecting and restoring ecological health of water bodies – regional plans
- Policy 18A: Protection and restoration of natural inland wetlands – regional plans
- Policy 18B: Protection of river extent and values – regional plans
- Policy 40: Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems – consideration
- Policy 40A: Loss of extent and values of natural inland wetlands – consideration
- Policy 40B: Loss of river extent and values - consideration
- Policy 17: Take and use of water for the health needs of people – regional plans
- Policy 44: Managing water takes and use to give effect to *Te Mana o te Wai* – consideration
- Policy 43: Protecting aquatic ecological function of water bodies – consideration

- Policy FW.1: Reducing water demand – regional plans
- Policy FW.2: Reducing water demand – district plans
- Policy FW.4: Financial Contributions for urban development – district plans
- Policy FW.5: Water supply planning for climate change and urban development – consideration
- Policy FW.7 - Water attenuation and retention – non-regulatory
- Method FW.1 - Freshwater Action Plans
- Method 48: Water Allocation policy review
- Method FW.2: Joint processing urban development consents
- Method 30: Implement the harbour and catchment management strategy for Porirua Harbour
- Method 34: Prepar4 a regional water supply strategy
- Method 35: Prepare a regional stormwater plan
- Method FW.X: Engagement with Water Regulators
- Method FW.X: Technical guidance for stormwater management in urban development
- Method FW.XX: Best practice guidance for managing urban development effects on freshwater
- AER: Objectives 12 (except AER 6), 13 and 14
- Definitions:
 - *Aquatic compensation*
 - *Aquatic offsetting*
 - *Community drinking water supply*
 - *Earthworks*
 - *Effects management hierarchy*
 - *Group drinking water supply*
 - *Health needs of people*
 - *Hydrological control*
 - *Hydraulic neutrality*
 - *Maximise*
 - *Minimise (HS3)*
 - *Specified infrastructure*
 - *Te Mana o te Wai*
 - *Undeveloped state*
 - *Vegetation clearance*

Hearing Stream 3

- Objective CC.4
- Policy CC.4(and CC4.A – CC14.A): Climate resilient urban areas – district and regional plans; consideration
- Policy CC.4 Climate-resilient urban areas - district and regional plans
- Policy CC.14 Climate-resilient urban areas - consideration
- Policy CC.12: Protect, enhance and restore ecosystems that provide nature-based solution to climate change - consideration
- Policy FW.8: Land use adaptation – non regulatory
- Method CC.6: Identifying nature based solutions for climate change
- Definitions:
 - *Nature-based solutions*
 - *Climate resilience / climate resilient / resilience and resilient*
 - *Water-sensitive urban design*
 - *Climate change adaptation*
 - *Climate change mitigation.*

61. As explained in Part A, the approach we took to all hearings was to ‘refine as we go’ by asking detailed questions of Officers at the end of each Hearing Stream focusing on what we considered to be the outstanding points of contention raised by submitters. This often resulted in further amendments in the Officers’ Reply Evidence. In the majority of instances, we agree with Council Officer’s Reply version of the provisions, and recommend that Council approve and adopt these provisions in the RPS. The Recommendations in our Report retains the following colour-coding in the Officers’ Reply version:

- s 42A recommended amendments to provisions shown in **red underlined and marked-up** text;
- Rebuttal Evidence recommended amendments to provisions shown in **blue underlined and marked-up** text; and
- Reply Evidence recommended amendments to provisions shown in **green underlined and marked-up** text (including any amendments Council officers support following expert caucusing or having considered any submitter comments post-caucusing).

62. Our Recommendations are shown using the Council’s Reply version colour-coded as above. Where we have not amended the Council’s Reply version, that means we agree with the Council’s recommendations.

Where we propose any amendments, those are shown in purple shaded tracking with additions underlined and deletions in ~~strike-through~~.

2.1.10 The Regulatory Framework

63. Part A of this Report outlines the key provisions in the RMA relevant to Proposed Change 1. With respect to the management of freshwater quality and quantity issues, we note the respective functions of regional councils and territorial authorities in ss 30 and 31 which include, as regional council functions:
- a. controlling the use of land for the purpose of:
 - i. soil conservation
 - ii. the maintenance and enhancement of the quality of water in water bodies and coastal water
 - iii. the maintenance of the quantity of water in water bodies and coastal water
 - iv. the maintenance and enhancement of ecosystems in water bodies and coastal water, and
 - v. the avoidance or mitigation of natural hazards (s 30(1)(c));
 - b. the control of the taking, use, damming, and diversion of water, and the control of the quantity, level, and flow of water in any water body (s 30(1)(e)); and
 - c. the control of discharges of contaminants into or onto land, air, or water and discharges of water into water (s 30(1)(f)).
64. Territorial authority functions include:
- a. the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of the avoidance or mitigation of natural hazards (s 31(1)(b)(i)); and
 - b. the control of actual or potential effects of activities in relation to the surface of water in rivers and lakes.

65. All local authorities are required to include, implement and review provisions in their planning documents to achieve integrated management (ss 30(1)(a) and 31(1)(a)).
66. Part 2 of the RMA requires, as a matter of national importance, the preservation of the natural character of the coastal environment, wetlands, and lakes and rivers and their margins, and their protection from inappropriate subdivision, use, and development (s 6(a)). In addition, persons exercising powers and functions under the Act must have particular regard to the effects of climate change (s 7(i)). The principles of Te Tiriti o Waitangi must be taken into account (s 8).
67. The Freshwater Planning Process set out in s 80A of the RMA and Part 4, Schedule 1, is discussed in Part A and not repeated here. Other relevant statutory direction is in the Climate Change Response Act 2002 which requires emissions reduction plans and national adaptation plans to reduce emissions and increase resilience and provide for adaptation to climate change.

2.1.11 The National Policy Statement for Freshwater Management 2020

68. The NPS-FM is the primary national direction applying to the FPI but, as we discussed in Part A, other national direction is also relevant and important to these provisions, including the NPS-UD. The ‘integrated frame’ approach the Council has taken to Proposed Change 1 is summarised in Part A. In essence, Change 1 aims to ensure land use activities, particularly urban development, are managed in an integrated way that considers the interactions with freshwater management, indigenous biodiversity, and climate change.
69. Proposed Change 1 is intended to give only partial effect to the NPS-FM. It incorporates amendments required to provide direction to forthcoming amendments to the Natural Resource Plan, which itself is required to give effect to the RPS.²⁰
70. Ms Pascall, the Reporting Officer for HS5, describes the important relationship between freshwater management and urban development in this way in the s 42A Report:²¹

In giving partial effect to the NPS-FM the Council has taken an integrated approach to Change 1 to not only give effect to the

²⁰ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 179.

²¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 178.

NPS-UD but to ensure that urban development that occurs as a result of the more permissive planning regime under the NPS-UD and medium density residential standards does not occur in isolation from broader resource management issues, such as freshwater degradation.

71. Proposed Change 1 does include some provisions that apply more broadly than urban development, including Policies 15 and 18.
72. The NPS-FM came into effect on 3 September 2020 and replaced the NPS-FM 2014 (as amended in 2017). The NPS-FM was updated in February 2023 and in January 2024, after HS5 hearings had concluded. Recent amendments to s 80A(4)(b) of the RMA extend the timeframe until 31 December 2027 for regional councils to publicly notify FPIs giving effect to the NPS-FM. Proposed Change 1 is not affected by these amendments as it was notified well in advance of this legislative change. We note the Government has introduced a Bill to the House proposing further changes to the NPS-FM. Again, we consider these not to be relevant to this process or our assessment of the provisions as they remain draft law with no legislative effect.
73. The NPS-FM sets the direction for freshwater management in Aotearoa New Zealand. The Objective of the NPS-FM in clause 2.1 is to ensure that natural and physical resources are managed in a way that prioritises the health and well-being of water bodies and freshwater ecosystems, second, the health needs of people, and third, the ability of people and communities to provide for their social, economic and cultural well-being now and in the future. Underpinning the Objective is the concept of *Te Mana o te Wai*, discussed further below.
74. Policies 1 to 5 of the NPS-FM set general direction:
 - a. Policy 1 of the NPS-FM requires freshwater to be managed in a way that gives effect to *Te Mana o te Wai*.
 - b. Policy 2 requires tangata whenua to be actively involved in freshwater management and for Māori freshwater values to be identified and provided for.
 - c. Policy 3 requires freshwater to be managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments.

- d. Policy 4 requires freshwater to be managed as part of New Zealand’s integrated response to climate change.
 - e. Policy 5 requires freshwater to be managed to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.
75. Also relevant to the provisions in Proposed Change 1 are other policies in the NPS-FM including Policies 7 – 11 which require:
- a. The loss of river extent and values to be avoided to the extent practicable.
 - b. The significant values of outstanding water bodies to be protected.
 - c. The habitats of indigenous freshwater species to be protected.
 - d. The habitat of trout and salmon to be protected insofar as this is consistent with protecting the habitats of indigenous freshwater species.
 - e. Freshwater to be allocated and used efficiently and existing over allocation to be phased out and future over allocation to be avoided.
76. Policy 15 is also relevant to Proposed Change 1. It requires that communities are enabled to provide for their social economic and cultural well-being in a way that is consistent with the NPS-FM.

2.1.12 *Te Mana o te Wai*

77. The concept of *Te Mana o te Wai* has been given strong recognition in the NPS-FM in the Objective, Policy 1 and in Clause 1.3 where it is described as the *fundamental concept* of the NPS. *Te Mana o te Wai* is defined as:

... a concept that refers to the fundamental importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. It protects the mauri of the wai. *Te Mana o te Wai* is about restoring and preserving the balance between the water, the wider environment, and the community.

Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in this National Policy Statement.

78. Clause 1.3 goes on to describe the principles of the concept as:

- (a) *Mana whakahaere*: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater
- (b) *Kaitiakitanga*: the obligations of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations
- (c) *Manaakitanga*: the process by which tangata whenua show respect, generosity, and care for freshwater and for others
- (d) *Governance*: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future
- (e) *Stewardship*: the obligations of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations
- (f) *Care and respect*: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

79. Subclause 1.3(5) states:

- (5) There is a hierarchy of obligations in *Te Mana o te Wai* that prioritises:
 - (a) first, the health and well-being of water bodies and freshwater ecosystems
 - (b) second, the health needs of people (such as drinking water)
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.

80. This hierarchy of obligations is identical to Objective 2.1 of the NPS-FM, and Subpart 1 of Part 3 – Implementation of the NPSFM places strong emphasis on engagement with “communities and tangata whenua to determine how *Te Mana o te Wai* applies to waterbodies and freshwater ecosystems in the region” (clause 3.2(1)).

81. The NPS-FM states that the fundamental concept of *Te Mana o te Wai* must inform the interpretation of the NPS-FM and the provisions required to be included in regional policy statements and regional and district plans (clause 3.2(4)).

82. Every Regional Council is required to give effect to *Te Mana o te Wai*, with the requirements of engagement set out in clause 3.2(1) and 3.2((2). Those requirements are to:

3.2 Te Mana o te Wai

- (1) Every regional council must engage with communities and tangata whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.
- (2) Every regional council must give effect to Te Mana o te Wai, and in doing so must:
 - (a) actively involve tangata whenua in freshwater management (including decision-making processes), as required by clause 3.4; and
 - (b) engage with communities and tangata whenua to identify long-term visions, environmental outcomes, and other elements of the NOF; and
 - (c) apply the hierarchy of obligations, as set out in clause 1.3(5):
 - (i) when developing long-term visions under clause 3.3; and
 - (ii) when implementing the NOF under subpart 2; and
 - (iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and
 - (d) enable the application of a diversity of systems of values and knowledge, such as mātauranga Māori, to the management of freshwater; and

- (e) adopt an integrated approach, ki uta ki tai, to the management of freshwater (see clause 3.5).

83. Subclauses 3.2(3) and (4) then go on to provide:

- (3) Every regional council must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai.
- (4) In addition to subclauses (1) to (3), Te Mana o te Wai must inform the interpretation of:
 - (a) this National Policy Statement; and
 - (b) the provisions required by this National Policy Statement to be included in regional policy statements and regional and district plans.

84. Subclauses 3.4(1)(a) and (b) of the NPS-FM state:

- (1) Every local authority must actively involve tangata whenua (to the extent they wish to be involved) in freshwater management (including decision-making processes), including in all the following:
 - (a) identifying the local approach to giving effect to Te Mana o te Wai
 - (b) making or changing regional policy statements and regional and district plans so far as they relate to freshwater management

2.1.13 Integrated management, territorial authority functions and climate change response

85. Subclauses 3.5(1) and (2) of the NPS-FM state that:

- (1) Adopting an integrated approach, *ki uta ki tai*, as required by Te Mana o te Wai, requires that local authorities must:
 - (a) recognise the interconnectedness of the whole environment, from the mountains and lakes, down the rivers to hāpua (lagoons), wahapū (estuaries) and to the sea; and
 - (b) recognise interactions between freshwater, land, water bodies, ecosystems, and receiving environments; and
 - (c) manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environments; and
 - (d) encourage the co-ordination and sequencing of regional or urban growth.
- (2) Every regional council must make or change its regional policy statement to the extent needed to provide for the integrated management of the effects of:
 - (a) the use and development of land on freshwater; and
 - (b) the use and development of land and freshwater on receiving environments.

86. Subclause 3.5(4) provides territorial authorities with a specific role in management and protecting freshwater. The subclause states:

- (4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

87. Clause 3.5(3) also requires local authorities that share jurisdiction over a catchment to co-operate in the integrated management of the effects of land use and development on freshwater.

88. The NPS-FM provides strong direction to the RPS, which in turn provides direction for regional and district plans, and for resource consent assessments. The direction has driven many of the provisions in the FPI including prioritisation of the health and well-being of waterbodies and freshwater ecosystems, integrated management of the use and development of land on a catchment basis, use of nature-based solutions to support climate resilience, recognising that freshwater can be used to provide integrated management of effects, community engagement and active involvement of *mana whenua* / *tangata whenua*. Proposed Change 1 reflects this direction through regulatory and non-regulatory provisions

aimed to change the status quo²² with the anticipated environmental results describing the step change expected as a result.

2.1.14 Nature-based solutions

89. Proposed Change 1 recognises that nature-based solutions provide an important opportunity to mitigate and adapt to climate change, with co-benefits for people and the natural world.²³ The technical evidence of Mr Farrant on behalf of the Council describes how nature-based solutions can lead to improved freshwater outcomes consistent with *Te Mana o te Wai*, mitigate the impacts of high intensity rainfall events, and support stormwater and flood management. Nature-based solutions can also reduce contaminants in runoff, especially in urban areas, through the use of hydrological control, water sensitive urban design techniques and other measures.
90. The role of nature-based solutions in the integrated management of land use, development and freshwater is recognised in the NPS-FM, the Emissions Reduction Plan (ERP) and National Adaptation Plan (NAP).
91. Clause 3.5 and Policy 4 of the NPS-FM recognise that freshwater must be managed as part of climate change mitigation and adaptation, and to manage adverse effects, including cumulative effects on water bodies and freshwater ecosystems.
92. Clause 3.5(2) requires an RPS be amended “to the extent needed” to provide for the integrated management of the effects of:
 - a. The use and development of land on freshwater, and
 - b. The use and development of land and freshwater on receiving environments(emphasis added).
93. This is a strong direction to use both land and freshwater to achieve integrated management. Also, clause 3.5(4) requires territorial authorities (TAs) to include provisions in plans to “promote positive effects” and avoid, remedy or mitigate adverse effects, including cumulative effects, of

²² The evidence of Mr Farrant for the Council talks about the ‘risks of continuing business as usual’ – Statement of Evidence of Stuart Farrant on behalf of Wellington Regional Council, Technical Evidence – Climate-Resilience and Nature-based Solutions, 7 August 2023, para 28ff, especially para 46.

²³ Section 32 Report, page 72.

urban development on the health and well-being of water bodies, freshwater ecosystems.

94. Policy 5 of the NPS-FM and the National Objectives Framework also supports provisions in plans to achieve improved environmental outcomes in freshwater management units. Policy 15 of the NPS-FM is also relevant as it states that communities are enabled to provide for their social, economic and culture well-being. Mr Farrant's evidence and the s 42A Report for the Climate-Resilience and Nature-Based Solutions Topic discuss the benefits for the environment, people and communities through increased uptake of water sensitive design techniques and other nature-based solution measures.
95. The s 42A Report also explains that the ERP, NAP and also Te Mana O Te Taiao Aotearoa New Zealand Biodiversity Strategy 2020 promote the use of nature-based solutions to address climate change, with the ERP (Action 4.1) and NAP (Action 5.9) calling for the use of nature-based solutions to be prioritised within the planning systems to address the climate and biodiversity crises together providing, where possible, for both carbon removals and climate change adaptation.²⁴
96. Chapter 7 of the ERP also recognises that infrastructure can be used and provided for in ways that lower emissions and increase resilience. Actions 5.16 and 8.7, and Chapter 6 of the NAP support working with nature to build resilience and options to be identified to increase the integration of nature-based solutions into form.²⁵

2.1.15 Variation 1

97. The RMA allows a council to initiate variations to Change 1 at any time before the Change is approved.²⁶
98. On 13 October 2023, following consultation with the Chief Freshwater Commissioner, the Regional Council notified Variation 1 to Proposed Change 1. Variation 1 is a FPI using the FPP. The purpose of the Variation is to insert two new long-term freshwater visions (Objectives) into Chapter 3.4: Freshwater which give effect to *Te Mana o te Wai* and clauses 3.2 and 3.3 of the NPS-FM. The freshwater visions are for Whaitua Te Whanganui-

²⁴ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Climate-Resilience and Nature-Based Solutions, 31 July 2023, para 77.

²⁵ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, Climate-Resilience and Nature-Based Solutions, 31 July 2023, para 44; also see section 2.3 for a broader discussion of relevant national direction/management plans and strategies.

²⁶ Clause 16A, Schedule 1 of the RMA.

a-Tara and Whaitua Te Awarua-o-Porirua. Variation 1 therefore provides what the Reporting Officer Ms Pascall described as “a statutory line of sight” to Plan Change 1 to the Regional Plan (the Natural Resource Plan or NRP).²⁷ This is because Plan Change 1 includes provisions that implement (in part) the National Objectives Framework (NOF) in the NPS-FM for these two Whaitua.

99. Variation 1 only includes long-term visions for two Whaitua. The remaining three will be included in the RPS in a subsequent change process, and following further work and engagement with mana whenua and the community.²⁸

2.1.16 Whaitua Implementation Programmes

100. Ms Pascall highlighted that since 2018, the Regional Council has been progressing whaitua processes with mana whenua / tangata whenua and community representatives across the Wellington Region to develop Whaitua Implementation Programmes (WIPs) to improve the health of freshwater.²⁹ There are five Whaitua (catchments) in total being Ruamāhanga, Te Awarua-o-Porirua, Whaitua Te Whanganui-a-Tara, Kāpiti, and Wairarapa Coast. The following WIPs have been completed to date:

- a. Ruamāhanga Whaitua (2018)
- b. Te Awarua-o-Porirua Whaitua and the Statement of Ngāti Toa Rangatira (2019)
- c. Whaitua Te Whanganui-a-Tara and Te Mahere Wai o Te Kāhui Taiao (2021).

101. The WIPs include freshwater values, objectives, outcomes and recommendations which inform freshwater provisions of the RPS and the direction provided to regional and district plans.

102. The Council now seeks the inclusion of two freshwater vision objectives, one for Whaitua Te Whanganui-a-Tara and one for Te Awarua-o-Porirua

²⁷ Hearing Statement of Kate Pascall, RPS Proposed Change 1, Hearing Stream 5: Freshwater and Te Mana o te Wai, 20 November 2023, para 11.

²⁸ Hearing Statement of Kate Pascall, RPS Proposed Change 1, Hearing Stream 5: Freshwater and Te Mana o te Wai, 20 November 2023, para 12; and Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 21, lines 1029 – 1033.

²⁹ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 100.

Whaitua, which have come from the relevant whaitua processes, with input from community and mana whenua/tangata whenua.

2.2 General Submissions

2.2.1 Withdraw or defer NPS-FM implementation

103. Some submitters expressed concerns as to the Proposed Change 1 process only partially addressing the requirements of the NPS-FM, and while whitua processes are incomplete across the region. Several submitters (BLNZ [S78.001], WFF [S163.001] with supporting submissions from Irrigation NZ [FS21.001] and others, requested that the freshwater component of Change 1 should be withdrawn and deferred to a later review of the RPS.
104. Section 5.0 of the s 32 Report discusses the rationale for the scope of Proposed Change 1 including the implementation timeframes in the NPS-UD, NPS-FM and other national direction, and the importance of taking an “integrated approach by considering in a holistic way the relevant provisions and their relationships to one another”.³⁰
105. We do not recommend the FPI is withdrawn or deferred. We agree with the reasons of the Hearing Stream 1 (General Submissions) Reporting Officer including:³¹
- a. When Proposed Change 1 was notified, the implementation timeframe for the FPI was 31 December 2024
 - b. There is insufficient justification to further delay implementation in the RPS given the statutory requirements and the need to support subsequent changes to the NRP and district plans in the Region
 - c. It is appropriate for the Council, given its functions in s 30 of the RMA and other statutory requirements, to take an integrated approach to implementing various higher order documents and national management plans and strategies.
 - d. Consultation was undertaken as described in section 4 of the s 32 Report
 - e. The scope of what was notified in an RPS change cannot be retrospectively altered by withdrawing amendments. It can be amended only through the submissions and hearing process.

³⁰ Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, para 130.

³¹ Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, in particular paras 130 – 137.

106. We also agree with the HS5 Reporting Officer’s statements on this issue. Ms Pascall stated in the s 42A Report that:³²

The freshwater provisions of Change 1 are part of an integrated approach to respond to and manage increased urban development in the region and in doing so commence the Council’s obligations to give effect to the NPS-FM by 31 December 2024. In my opinion, a delay to including these provisions would put the region on the backfoot in terms of addressing the region’s already degraded water bodies and the impacts of urban development. In my opinion, these provisions provide higher-order direction that necessitates a change in urban development practices that is already overdue.

107. We therefore reject the general submissions seeking that the freshwater component of Proposed Change 1 be deferred or withdrawn for the reasons given by the Reporting Officers in HS1 and HS5.

2.2.2 Relief sought by Muaūpoko

108. Muaūpoko [S33.001] sought acknowledgement throughout the RPS of their “connection to Te Whanganui-a-Tara”. They considered they should have been consulted by the Council under clause 3(1)(d) of Schedule 1 as part of the Change 1 preparation and sought formal recognition of their status as mana whenua including through a future plan change to the Tangata Whenua chapter. Muaūpoko’s relief was supported by Rangitāne and opposed by Ngāti Toa and Ātiawa.
109. The Reporting Officer for HS1 (General Submissions) confirms that the Council did not consult Muaūpoko during the preparation of Change 1.³³ Muaūpoko is not identified in the s 32 Report as one of the Council’s mana whenua / tangata whenua partners. We agree with the legal submissions presented by Mr David Allen, Buddle Findlay, for Council during HS1. It is not the role of the Council to confer, declare or affirm tikanga-based rights, powers or authority.³⁴ Likewise, we are not able to assess or determine mana whenua status and can only assess the merits of the relief sought by Muaūpoko on the Change 1 provisions.

³² Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 93.

³³ Section 42A Hearing Report, Hearing Stream 1, General Submissions, 26 May 2023, para 117.


³⁴ Wellington Regional Council Legal Submissions for Hearing Stream 1: Overview and General Submissions, Providing for Tangata Whenua / Mana Whenua in Proposed Change 1, 8 June 2023, para 5.

110. We discuss the relief sought by Muaūpoko as relevant in our provision-by-provision analysis.

3. Provision-by-Provision Analysis

3.1 Chapter 3.4 Introduction and Table 4 (HS 5)

111. The notified version of the Introductory text stated:

Chapter introduction	
Fresh water is integral to our health, wellbeing, livelihood and culture. Freshwater is essential for our economy and defines our landscape and sustains ecosystems. People value clean fresh water for many reasons – economic, recreational, aesthetic, ecological and	

cultural. It is a matter of national importance to protect wetlands, lakes, rivers and streams from inappropriate use and development.

The region's fresh water has to meet a range of uses valued by the community. There is a range of differing uses and values associated with fresh water. The resource needs to be available to meet the needs of both current and future generations. This range of uses and values leads to multiple pressures on the quantity and quality of the fresh water which can cumulatively impact on the availability and value of the resource for use. This is a complex issue that involves multiple resource users with differing values. A whole of catchment approach is particularly useful for understanding and managing these complexities. It is also important that the flow of water is managed appropriately.

Māori consider fresh water to be a significant taonga (valued resource) that plays a central role in both spiritual and secular realms. In the Māori world view, water represents the life blood of the land. The condition of water is a reflection of the state of the land, and this in turn is a reflection of the health of the people.

In their natural state, river catchments and wetlands cleanse and purify water, recharge groundwater and reduce the extremes of flooding. Rivers, lakes and wetlands provide habitat for aquatic life, but when they and their catchments are degraded the water bodies' ability to support healthy functioning aquatic ecosystems is reduced.

Monitoring of the region's rivers shows that many urban and lowland pastoral streams regularly fail water quality guidelines. The most common reasons for failing are high levels of nutrients or bacteria, or poor clarity. Biological monitoring shows that aquatic health is also poorest in these streams. The adverse effects of erosion and sediment run-off on fresh water are discussed in section 3.11 Soil and Minerals.

Urban streams are affected by stormwater discharges, especially when there are high proportions of impervious cover – such as roofs and roads – in the catchment. Stormwater, which generally has little or no treatment, contains sediments and bacteria, as well as persistent contaminants – like heavy metals – which accumulate in stream sediments and eventually in the *coastal environments* where the streams discharge. These contaminants affect freshwater fish and invertebrates and can have chronic long-term adverse effects on river and coastal ecosystems. Urban land uses also affect water quality in rivers and streams and can cause other pressures on freshwater habitat by creating the demand to pipe or fill in small streams.

There are eight major discharges of treated sewage to fresh water in the region – one from the treatment plant at Paraparaumu, one from Rathkeale College in Masterton, with the rest from the Wairarapa towns of Masterton, Castlepoint, Carterton, Greytown, Featherston and Martinborough. Treated sewage often contains high levels of disease-causing organisms that can make the rivers unsafe for recreational use, as well as nutrients, which can promote nuisance aquatic weed and algal growth. Discharges of wastes into water bodies are of particular concern to tangata whenua because waste, particularly sewage waste, degrades the mauri (life force) of the water body.

Land uses affect the state of rivers and streams and, consequently, the coast. Nearly half the land in the region is used for agriculture. Rivers and streams in these catchments have poor biological health and water quality, and are more likely to suffer from algal growth in late summer, when conditions are driest and warmest and river flows at their lowest. Groundwater around Te Horo, Ōtaki and in the Wairarapa valley is also affected by land uses, and in some areas has elevated levels of nitrate. This could be from farming or from septic tanks.

Accommodating people's needs for water is becoming more and more difficult because some water resources in the region are already fully allocated and others are close to full allocation. Non-consumptive uses of water can often be undertaken with negligible effects on water bodies. In the Wairarapa, the amount of water taken for farm pasture irrigation has more than doubled over the last 10 years and increasing populations in the region's urban areas means demand for water supply from rivers, lakes and groundwater is expected to increase. The pressure on water resources is also likely to increase as a result of climate change. Some predicted effects are that the central and eastern Wairarapa will become drier, and droughts will occur more frequently and persist for longer periods.

Groundwater levels in some Wairarapa aquifers are declining year by year. Lowered groundwater levels can affect the flow of springs and rivers and streams, and water levels in wetlands, which can eventually dry up. If continued *abstractions* keep the groundwater level low, the dependent ecosystems can be permanently affected.

Prolonged low flows in rivers mean there is less habitat available for aquatic life and the adverse effects of contamination are worse because of reduced dilution. Low flows in summer mean water temperatures and algal growths increase, especially if there is no riparian vegetation. Because people's need to take water is greatest at times of low rainfall, *abstractions* generally lower river flows when aquatic life is already stressed.

Existing users often have invested in infrastructure in reliance upon consents for the take and/or use of water.

All these matters should be recognised in the efficient management of water.

The introduction and spread of aquatic pests are a threat to the health of aquatic ecosystems. In wetlands, exotic plants such as willows and blackberry can displace wetland plants and do not provide suitable habitat for wetland species. Pests – such as didymo and pest fish – also have potential for significant adverse effects.

It is a matter of national importance to maintain and enhance public access to and along rivers and lakes. There is little information about the state of public access to rivers and lakes in the region. Where land is publicly owned, public access has generally been enhanced with the provision of walking tracks and recreational areas. For example, major rivers such as the Hutt, Waikanae and Ruamāhanga, which are managed for flood protection or soil conservation purposes, have good access for recreational use.

Where land is privately owned, city and district councils can take esplanade reserves or strips as part of subdivisions. On private land that is not proposed to be subdivided, however, public access is at the discretion and with the permission of the landowner. To

date, there has been no region-wide strategic planning in the region that has identified where public access should be enhanced. Where esplanade reserves and strips have been taken for public access, city and district councils sometimes struggle to maintain them. Even where there is legal access, it is not always aligned with access that is physically possible. There are circumstances where public access to the coastal marine area, lakes and rivers may not be desirable – such as to provide security for regional infrastructure, allow for farming activities and prevent harm to the public.

The *Te Mana o Te Wai* objective is required by the NPS-FM (3.2(3)). Each iwi of the region have expressed what *Te Mana o Te Wai* means to them in their own words. These expressions of *Te Mana o Te Wai* form part of this objective.

The NPS-FM requires that freshwater is managed in a way that gives effect to *Te Mana o te Wai*. The regional council “must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to *Te Mana o te Wai*” (NPS-FM 3.2 (3)). The *Te Mana o Te Wai* objective in this RPS repeats the requirements of the NPS-FM, and then provides how each iwi of the region wishes to articulate their meaning of *Te Mana o Te Wai*.

Note: There are six iwi wishing to express their meaning of *Te Mana o Te Wai* as part of this objective. There are two expressions of *Te Mana o Te Wai* in this RPS at this time from Rangitāne o Wairarapa and Kahungunu ki Wairarapa. Others will be added either through the Schedule 1 process or in future plan changes.

112. There were 14 submissions and 21 further submissions on the introductory text to Chapter 3.4 and Table 4.

3.1.1 Submissions, Evidence and Analysis

113. Submitters sought a range of relief including clearer articulation of *Te Mana o te Wai*, and concerns by mana whenua / tangata whenua that the Introduction does not accurately reflect that Māori freshwater practices and aspirations are cultural practices.
114. The s 42A Officer recommended various amendments in response, noting that these amendments reflect that Proposed Change 1 is a first step towards full implementation of the NPS-FM in the RPS.³⁵
115. The Officer recommends including reference to the protection of the *margins* of rivers, lakes and wetlands in response to relief sought by Forest and Bird [S165.013].
116. Rangitāne [S168.031] (supported by Sustainable Wairarapa Inc [FS31.141]) considered that the text in paragraph 2 did not put the health and wellbeing of water bodies and freshwater ecosystems first and foremost. The language used reflects competing values i.e. “multiple resource users with differing values”. Rangitāne also considered that

³⁵ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 116.

statements such as "Māori consider fresh water to be a significant taonga (valued resource) that plays a central role in both spiritual and secular realms" implies that Māori tikanga and mātauranga is a religious endeavour when in fact it is cultural practice from multiple generations of observing, learning and listening to te taiao.

117. Rangitāne sought amendments to the introductory text to clarify the hierarchy of obligations in Objective 2.1 of the NPS-FM and to remove implications that Māori are acting in a religious realm.
118. In response, the Officer recommends including the *Te Mana o te Wai* hierarchy of obligations to prioritise the health and wellbeing of water bodies and freshwater ecosystems. The Officer also recommends an amendment to clarify that Māori tikanga and mātauranga are cultural practices rather than religious.
119. The Officer recommends including additional background and context on the whitua process and WIPs, including to give effect to alternate relief by the Wairarapa Water Users Society [S145.001]), and more specific references to mana whenua / tangata whenua *Te Mana o te Wai* statements (Taranaki Whānui [S167.029]. MDC sought an amendment to clarify that Rathkeale College in its district, did not discharge treated sewage to freshwater [S166.011] and this has been accepted by the Officer.
120. Through her Rebuttal Evidence, Ms Pascall sought an amendment to the Introduction to refer to integrated management / *ki uta ki tai*.³⁶
121. We have considered the relief sought by Muaūpoko and agree with the approach recommended by the Council Officer (and as supported in legal submissions presented by Mr David Allen). We agree that it is appropriate for the Introductory text to remove the reference to "six iwi" and to include references to *Te Mana o te Wai* expressions at a more general level. We consider this achieves an appropriate balance between the relief sought by Muaūpoko and the Council's mana whenua / tangata whenua partners who submitted on Muaūpoko's relief (including Rangitāne [FS2.125], Ngāti Toa [FS6.068] and Ātiawa [FS20.351]) and makes no determination about Muaūpoko's request for recognition of mana whenua status, which we have no jurisdiction to do as discussed above under 'General submissions'. The provisions themselves (including new Policy FW.XXA)

³⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 7.

appropriately include more specific information on the mana whenua / tangata whenua statements incorporated in the RPS to date.

122. We consider that the sentence above the “regionally significant issues” is disconnected from the text to which it relates, and should be relocated so it sits immediately beneath the discussion on *Te Mana o te Wai*.

3.1.2 Finding and s 32AA Evaluation

123. We agree with the Reporting Officer’s recommendations on the Introduction for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence. In addition, we recommend the sentence in the Introduction “All policies and methods in this RPS relating to freshwater must contribute to achieving this objective” be relocated for clarity as its location in the notified Change is disconnected from the statement to which it refers. We also recommend a minor technical drafting amendment to insert “clause” before “3.2(3)”.
124. We recommend the Council make all the necessary consequential amendments to Table 4 to reflect the amendments we recommend to the provisions referred to in the Table.
125. As the Introduction text is not a provision, we do not consider that a s 32AA Evaluation is required. In any event, we note that this amendment is a minor drafting change, intended to aid the interpretation and readability of the Introduction. Any consequential changes to Table 4 arise from our recommendations on the provisions referenced in the Table and are required for consistency, readability and efficient navigation of the RPS.

3.1.3 Recommendation

Chapter Introduction

Fresh water is integral to our health, wellbeing, livelihood and culture. Freshwater is essential for our economy and defines our landscape and sustains ecosystems. People value clean fresh water for many reasons – economic, recreational, aesthetic, ecological and cultural. It is a matter of national importance to protect wetlands, lakes, rivers and streams **and their margins** from inappropriate use and development.

The region’s fresh water has to meet a range of uses valued by the community. There is a range of differing uses and values associated with fresh water. The resource needs to be available to meet the needs of both current and future generations. This range of uses and values leads to multiple pressures on the quantity and quality of the fresh water which can cumulatively impact on the availability and value of the resource for use. This is a complex issue that involves multiple resource users with differing values. A whole of catchment

approach is particularly useful for understanding and managing these complexities. It is also important that the flow of water is managed appropriately.

The concept of *Te Mana o te Wai* is central to freshwater management, as set out in the NPS-FM. *Te Mana o te Wai* includes a hierarchy of obligations, as follows:

- First, the health and wellbeing of water bodies and freshwater ecosystems as the first priority.
- Second, the health needs of people (such as drinking water)
- Third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.

This hierarchy of obligations, and the broader concept of *Te Mana o te Wai*, demonstrates the primacy of water and that the health and wellbeing of water impacts the wider environment. Under the NPS-FM, freshwater management must be undertaken in accordance with this hierarchy and principles.

Māori consider fresh water to be a significant taonga (valued resource) that plays a central role in ~~both spiritual and secular realms~~. In the Māori world view, ~~w~~Water represents the life blood of the land. The condition of water is a reflection of the state of the land, and this in turn is a reflection of the health of the people.

The management of freshwater requires an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment.

[...]

There are ~~eight~~ ~~seven~~ major discharges of treated sewage to fresh water in the region – one from the treatment plant at Paraparaumu, ~~one from Rathkeate College in Masterton~~, with the rest from the Wairarapa towns of Masterton, Castlepoint, Carterton, Greytown, Featherston and Martinborough. Treated sewage often contains high levels of disease-causing organisms that can make the rivers unsafe for recreational use, as well as nutrients, which can promote nuisance aquatic weed and algal growth. Discharges of wastes into water bodies are of particular concern to tangata whenua because waste, particularly sewage waste, degrades the mauri (life force) of the water body.

[...]

Since 2018, the regional council has been progressing whitua processes with mana whenua/tangata whenua and community representatives across the Wellington Region to develop Whitua Implementation Programmes (WIPs) to improve the health of freshwater. There are five whitua (catchments) in total being Ruamāhanga, Te Awarua-o-Porirua, Whitua Te Whanganui-a-Tara, Kāpiti, and Wairarapa Coast. The following WIPs have been completed to date:

- Ruamāhanga Whitua (2018)
- Te Awarua-o-Porirua Whitua and the Statement of Ngāti Toa Rangatira (2019)
- Whitua Te Whanganui-a-Tara and Te Mahere Wai o Te Kāhui Taiao (2021)

The WIPs include freshwater values, objectives, outcomes and recommendations which inform freshwater provisions of the RPS and the direction provided to regional and district plans.

The *Te Mana o te Wai* objective is required by the NPS-FM (clause 3.2(3)): requires the RPS to include an objective that describes how the management of freshwater in the region will give effect to *Te Mana o te Wai*. All policies and methods in this RPS relating to freshwater must contribute to achieving this objective.

The RPS includes several policies to give effect to *Te Mana o te Wai* including specific policy direction that the mana whenua/tangata whenua expressions of *Te Mana o te Wai* must be recognised and provided for. These expressions underpin the regional response to *Te Mana o te Wai*. The regional council “must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to *Te Mana o te Wai*” (NPS-FM 3.2 (3)). The *Te Mana o te Wai* objective in this RPS repeats the requirements of the NPS-FM, and then provides how each iwi of the region wishes to articulate their meaning of *Te Mana o te Wai*:

Note: There are six iwi wishing to express their meaning of *Te Mana o te Wai* as part of this objective. There are two three expressions of *Te Mana o te Wai* in this RPS at this time from Rangitāne o Wairarapa, and Kahungunu ki Wairarapa, and Taranaki Whānui. Others will be added either through the Schedule 1 process or in future plan changes.

All policies and methods in this RPS relating to freshwater must contribute to achieving this objective.

Amend Table 4 [Drafting Note to Council: include any amendments consequential to our recommendations on other provisions]

Policy Titles	Page	Method titles	Implementation (*lead authority)
Policy 40: Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems aquatic ecosystem health in water bodies – consideration		Method 4: Resource consents, notices of requirement and when changing, varying or reviewing plans	City and district councils Wellington Regional Council
Policy FW.1: Reducing water demand – regional plans		Method 1: District plan implementation Method 2: Regional plan implementation	City and district councils Wellington Regional Council
Policy FW.2: Reducing water demand – district plans		Method 2: Regional plan implementation Method 1: District plan implementation	Wellington Regional Council City and district councils

Each iwi of the region have can expressed what *Te Mana o te Wai* means to them in their own words and these expressions can be included in the RPS. These expressions of *Te Mana o te Wai* form part of this objective.

The RPS includes several policies to give effect to *Te Mana o te Wai* including specific policy direction that the mana whenua/tangata whenua expressions of *Te Mana o te Wai*

must be recognised and provided for. These expressions underpin the regional response to *Te Mana o te Wai*. The regional council “must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to *Te Mana o te Wai*” (NPS-FM 3.2 (3)). The *Te Mana o te Wai* objective in this RPS repeats the requirements of the NPS-FM, and then provides how each iwi of the region wishes to articulate their meaning of *Te Mana o te Wai*.

Note: There are six iwi wishing to express their meaning of *Te Mana o te Wai* as part of this objective. There are ~~two~~ ~~three~~ expressions of *Te Mana o te Wai* in this RPS at this time from Rangitāne o Wairarapa, ~~and~~ Kahungunu ki Wairarapa, ~~and~~ Taranaki Whānui. Others will be added either through the Schedule 1 process or in future plan changes.

3.2 Freshwater Visions – Variation 1 (HS7)

126. A number of submitters noted that Proposed Change 1 does not include long term freshwater visions, as required by clause 3.3(1) of the NPS-FM. The Regional Council [S137.003] proposed vision statements be included for Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua that had come through the relevant whaitua processes, with input from community and mana whenua / tangata whenua. Forest and Bird [S165.019] requested an overarching vision to apply to all Freshwater Management Units (FMUs) in the Wellington Region.
127. The Reporting Officer Ms Pascall addresses this issue in her s 42A Report noting the requirement in clause 3.3 of the NPS-FM to include visions as objectives in the RPS which in turn inform the NOF process of developing environmental outcomes, identifying values, and setting target attribute states and other NPS-FM requirements.³⁷ The Officer went on to say:³⁸

... the Council is preparing to notify changes to the NRP by the end of 2023 to include environmental outcomes, values, and target attribute states which are reliant on freshwater vision objectives under the NPS-FM. It is therefore important that these vision objectives have some statutory weight in the RPS to inform the necessary changes to the NRP. This means that the vision objectives must at least be at the public notification stage of the plan change process. The submissions on Change 1 do not have statutory weight in the NRP process until such time as decisions are made on those submissions. Plan change 1 to the NRP is due to be notified in late 2023, but decisions are not expected on Change 1 to the RPS until mid-2024.

As a result of this, since the close of submissions on Change 1 the Council has considered the options available to ensure that the upcoming NRP Plan Change 1 is informed by proposed freshwater vision objectives. The Council has prepared Variation 1 to Proposed Change 1 of the RPS which includes freshwater vision objectives for Te Awarua-o-Porirua Whaitua and Te Whanganui-a-Tara Whaitua. Submissions on Change 1 in relation to freshwater visions have informed the Council's development of Variation 1 and further engagement has been undertaken with mana whenua/tangata whenua and territorial authorities throughout 2023.


³⁷ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, paras 135 – 139.

³⁸ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, paras 135 – 139.

128. Ms Pascall went on to explain that the Council proposed to incorporate freshwater visions to support Change 1 to the NRP through a variation to Proposed Change 1.
129. The Council publicly notified Variation 1 to Proposed Change 1 on 13 October 2023 and submissions closed on 13 November 2023.
130. Two freshwater visions for Te Awarua-o-Porirua and Te Whanganui-a-Tara as Objectives were introduced through Variation 1 and considered in HS7. In addition to the visions, Variation 1 also included a new section heading (“Long-term freshwater visions”) and the insertion of a new map (figure 3.4) showing whaitua boundaries for Te Awarua-o-Porirua and Te Whanganui-a-Tara.


3.2.1 Objective TAP: Long-term freshwater vision for Te Awarua-o-Porirua Whaitua

131. As notified the Objective read:

Objective TAP: Long-term freshwater vision for Te Awarua-o-Porirua	
<p><u>By the year 2100 Te Awarua-o-Porirua harbour, awa, wetlands, groundwater, estuaries and coast are healthy, wai ora, accessible, sustainable for future generations, and:</u></p> <ol style="list-style-type: none"> <u>1. The practices and tikanga associated with Te Awarua o Porirua are revitalized and protected; and</u> <u>2. Mahinga kai are abundant, healthy, diverse and can be safely gathered by Ngāti Toa Rangatira and served to Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and</u> <u>3. Have restored and healthy ecosystems that support an abundance and diversity of indigenous species, and have a natural water flow and energy that demonstrate kei te ora te mauri (the mauri of the place is intact); and</u> <u>4. Provide for safe access for people and communities to enjoy a range of recreational activities including fishing, fostering a strong connection to these waterbodies; and</u> <u>5. Are taken care of in partnership with Ngāti Toa Rangatira giving effect to the rights, values, aspirations and obligations of Ngāti Toa as kaitiaki for the mana of Te Awarua-o-Porirua as a taonga; and</u> <u>6. Are resilient to the impacts of climate change; and</u> <u>7. The use of water and waterways provide for social and economic use benefits, provided that such use does not compromise the health and well-being of waterbodies and freshwater ecosystems or the take and use of water for human health needs.</u> 	

3.2.2 Objective TWT: Long term vision Te Whanganui-a-Tara Whaitua

132. As notified the Objective read:

Objective TWT: Long-term freshwater vision for Te Whanganui-a-Tara	
<p><u>By the year 2100 a state of wai ora is achieved for Te Whanganui-a-Tara in which the harbour, rivers, lakes, wetlands, groundwater, estuaries and coast are healthy, accessible, sustainable for future generations, and:</u></p> <ol style="list-style-type: none"> 1. <u>The practices and tikanga associated with Te Whanganui-a-Tara are revitalized and protected; and</u> 2. <u>Mahinga kai are abundant, healthy, diverse and can be safely gathered by Taranaki Whānui and Ngāti Toa Rangatira and served to Taranaki Whānui and Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and</u> 3. <u>Have mauri/mouri that is nurtured, strengthened and able to flourish and restored natural character, have a natural water flow, and ecosystems that support an abundance and diversity of indigenous species; and</u> 4. <u>Provide for the safe access and use of all rivers, lakes, wetlands, estuaries, harbours, and the coast for a range of recreational activities including fishing, fostering an appreciation of and connection to these waterbodies; and</u> 5. <u>Are taken care of in partnership with Taranaki Whānui and Ngāti Toa Rangatira giving effect to the rights, values, aspirations and obligations of Ngāti Toa and Taranaki Whānui that respects the mana of Te Whanganui-a-Tara and the whakapapa connection with Taranaki Whānui and Ngāti Toa Rangatira; and</u> 6. <u>Are resilient to the impacts of climate change; and</u> 7. <u>The use of water and waterways provide for social and economic use benefits, provided that such use does not compromise the health and well-being of waterbodies and freshwater ecosystems or the take and use of water for human health needs.</u> 	

133. These two long-term freshwater visions expressed as objectives in Change 1 give effect to *Te Mana o te Wai* and clauses 3.2 and 3.3 of the NPS-FM. Clause 3.3 requires that regional councils develop long-term visions for freshwater in their region and include those long-term visions as objectives in their RPS.

134. The Variation 1, s 32 Report notes that:³⁹

it is proposed that there will be a vision objective for each whaitua included within the RPS. The priority for the development of visions has been for Te Awarua-o-Porirua and Te Whanganui-a-Tara, as the change to the NRP in 2023 will

³⁹ Section 32 Evaluation report for Proposed Variation 1 to Proposed Change 1 to the Regional Policy Statement for the Wellington Region, para 18

involve the inclusion of provisions (environmental outcomes) for these two whitua. A vision is not being included for the Ruamāhanga whitua as the plan change for that whitua has not commenced yet, and therefore it is not included in this Variation. Visions are not being included for the Kāpiti or Wairarapa Coast whitua as those whitua processes have not yet concluded.

135. As discussed above under the Regulatory Framework section, Variation 1 was accepted by the Chief Freshwater Commissioner prior to public notification on 13 October 2023.

3.2.3 Submissions, Evidence and Analysis

136. There were a relatively small number of submissions to Variation 1 – a total of 9 submitters and further submitters. Most were generally supportive of the two proposed objectives. Concerns were expressed in relation to:

- a. the engagement process in the development of the objectives
- b. the content of the objectives
- c. Figure 3.4.

137. Several submitters expressed concerns at not having had opportunity to engage with the drafting of the freshwater visions and objectives, and the dislocation of this process with the Whitua processes. The s 42A Report Officer responds stating that:⁴⁰

The long-term freshwater visions are based on statements from the relevant Whitua Implementation Programmes, which were produced as part of the extensive whitua process, which engaged with tangata whenua and the wider community and which was informed by an understanding of the history of, and environmental pressures on the whitua area as required by clause 3.3 of the NPS-FM.

138. While acknowledging that wider stakeholders were not consulted during the development of Variation 1, the s 42A Officer notes that:⁴¹

The RMA requires consultation with the Minister for the Environment and other Ministers who may be affected, local

⁴⁰ Section 42A Hearing Report Hearing Stream 7 - Small topics, wrap up and Variation 1, 8 March 2024, para 48.

⁴¹ Section 42A Hearing Report Hearing Stream 7 - Small topics, wrap up and Variation 1, 8 March 2024, para 51.

authorities who may be affected, tangata whenua of the area who may be affected, and any customary marine title group in the area.

139. We explored this further at the Hearing and were assured by the Reporting Officer that the visions and objectives were drawn from the WIPs, reflecting the values statements in the WIP documents.⁴² We have considered the two WIPs and agree that the proposed Objectives reflect the Whaitua values arising from wide engagement with community and iwi through the Whaitua process.
140. There were a number of submitter suggestions to refine the wording of the Objectives and the s 42A Report proposed some amendments. Remaining concerns were in relation to the insertion of “agreement of private landowners” in clause 4 of both Objectives, that the visions should be considered in parallel with Change 1 to the NRP, whether the visions should refer to Whaitua or FMUs and whether the caveat at the end of clause 7 in relation to social and economic benefits not compromising the health and wellbeing of water bodies is appropriate in an objective.
141. The Reporting Officer at the HS7 Hearing, Mr O’Brien, agreed that it is not appropriate to require landowner agreement, noting in his Rebuttal Report⁴³ that the explicit requirement for “agreement of private landowners” has the potential to conflict with existing public access rights managed through district plans and resource consents. And further that:⁴⁴

The intent of this clause is to provide a long-term vision for freshwater and coastal water at the objective level relating to “safe and healthy access” within these two whaitua. It is not intended that these vision objectives provide direct regulation or requirements on public access. I consider that the direct reference to “agreement of private landowners” provides an unnecessary level of detail for an objective in the RPS. It also narrows the intent of Clause 4 by focusing it on the right to cross private land to access waterbodies or coastal waters when instead the emphasis should be placed on the ability of people to enjoy a recreational experience.

142. We agree with this assessment and the removal of “agreement of private landowners” in clause 4 of both Objectives. At the hearing we queried the

⁴² Hearing Transcript, HS7 – Small Topics, Wrap Up and Variation 1, Day 1, page 27, lines 1306 – 1324.

⁴³ Statement of Rebuttal Evidence of Samuel O’Brien on Behalf of Wellington Regional Council, Hearing Stream 7 – Variation 1, 4 April 2023, paras 10 - 11.

⁴⁴ Statement of Rebuttal Evidence of Samuel O’Brien on Behalf of Wellington Regional Council, Hearing Stream 7 – Variation 1, 4 April 2023, paras 10 - 11.

phrase “safe and healthy access” also in clause 4. We requested that the Officer give the issue further thought and also discuss it with Mr Brass, the planner for the DGC and Waka Kotahi who had commented on the phrase. In the Officer’s Reply, he recommends amendments to clarify the policy intent of the phrase in the Objectives.⁴⁵ We agree with those recommendations.

143. Considering the timing of the development of visions/objectives in the RPS and NRP, the s 32 Report outlines that in order to implement clauses 3.3 and 3.9(5)(b) of the NPS-FM, the RPS visions/objectives need to be developed to inform environmental outcomes and target attribute states in NRP.⁴⁶ We agree with this analysis and reject submissions that these objectives should be developed in parallel with the Change 1 NRP process.
144. Looking at the caveat at the end of clause 7 in relation to social and economic benefits not compromising the health and wellbeing of water bodies, we are of the view that this is an appropriate expression to have in the Objective. It reflects the NPS-FM prioritising the health and welfare of the river above the health needs of people and social, economic and cultural well-being. It also reflects the values in the two WIPs.
145. We are of the view that vision/objectives at the whitua level compared to FMUs or part-FMUs is the appropriate level for the RPS at this stage. NPS FM clause 3.3(2)(a) specifies that long term visions may be set at FMU, part-FMU or catchment level.

3.2.4 Finding

146. We agree with the Reporting Officer’s recommendations on Objectives TAP and TWT for the reasons above, and otherwise as set out in the Officer’s s 42A Report, or the Officer’s Rebuttal and Reply Evidence.

3.2.5 Recommendation

Objective TAP: Long-term freshwater vision for Te Awarua-o-Porirua

By the year 2100 Te Awarua-o-Porirua harbour, awa, wetlands, groundwater estuaries and coast are progressively improved to become healthy, wai ora, accessible, sustainable for future generations by the year 2100, and:

⁴⁵ Reporting Officer Right of Reply of Samuel O’Brien on behalf of Wellington Regional Council, Hearing Stream 7 – Variation 1, 30 May 2024, para 12 and Appendix A.

⁴⁶ Section 32 Evaluation report for Proposed Variation 1 to Proposed Change 1 to the Regional Policy Statement for the Wellington Region, para 15

1. The values of Ngāti Toa Rangatira are upheld by way of revitalising and protecting Ngāti Toa Rangatira practices and tikanga associated with Te Awarua o Porirua ~~are revitalized and protected~~; and
2. Mahinga kai are abundant, healthy, diverse and can be safely gathered by Ngāti Toa Rangatira and served to Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and
3. Have restored and healthy ecosystems that support an abundance and diversity of indigenous species, ~~and have a natural water flow have natural form and character~~ and energy that demonstrate kei te ora te mauri (the mauri of the place is intact); and
4. Where appropriate and with the agreement of private landowners, Pprovide for safe access and healthy access water quality for people and communities to enjoy a range of recreational activities including waka ama, swimming, and fishing, fostering a strong connection to these waterbodies; and
5. Are taken care of in partnership with Ngāti Toa Rangatira giving effect to the rights, values, aspirations and obligations of Ngāti Toa as kaitiaki for the mana of Te Awarua-o-Porirua as a taonga; and
6. Are resilient to the impacts of climate change; and
7. The use of water and waterways provide for social and economic use benefits, provided that ~~the vision for the ecological health such use does not compromise the health and well-being of waterbodies, and freshwater ecosystems and coastal waters is not compromised; or the take and use of water for human health needs.~~

Objective TWT: Long-term freshwater vision for Te Whanganui-a-Tara

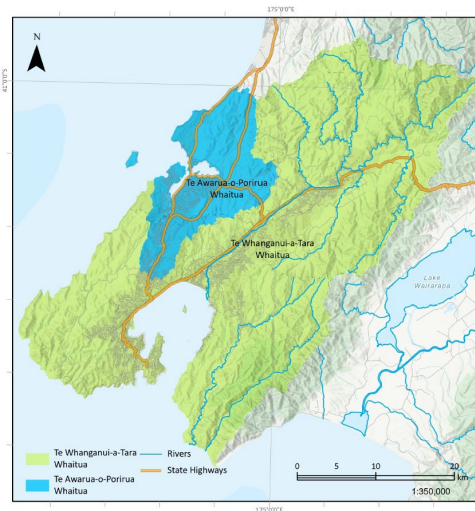
By the year 2100 a state of wai ora is achieved for Te Whanganui-a-Tara in which the harbour, awa, wetlands, groundwater estuaries and coast are healthy, accessible, sustainable for future generations, and:

1. The Mana Whenua practices and tikanga associated with Te Whanganui-a-Tara are revitalized and protected; and
2. Mahinga kai are abundant, healthy, diverse and can be safely gathered by Taranaki Whānui and Ngāti Toa Rangatira and served to Taranaki Whānui and Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and
3. Have mauri/mouri that is nurtured, strengthened and able to flourish and restored natural form and character, ~~have a natural water flow,~~ and ecosystems that support an abundance and diversity of indigenous species; and
4. Where appropriate and with the agreement of private landowners, Pprovide for ~~the~~ safe access and healthy access water quality for ~~the and~~ use of all rivers, lakes, wetlands, estuaries, harbours, and the coast for a range of recreational activities including waka ama, swimming, and fishing, fostering an appreciation of and connection to these waterbodies; and

5. Are taken care of in partnership with Taranaki Whānui and Ngāti Toa Rangatira giving effect to the rights, values, aspirations and obligations of Ngāti Toa and Taranaki Whānui that respects the mana of Te Whanganui-a-Tara and the whakapapa connection with Taranaki Whānui and Ngāti Toa Rangatira; and

6. Are resilient to the impacts of climate change; and

7. The use of water and waterways provide for social and economic use benefits, provided that **the vision for the ecological health such use does not compromise the health and well-being of waterbodies, - freshwater ecosystems and coastal waters is not compromised. or the take and use of water for human health needs.**



3.3 Objective 12 (HS 5)

147. Proposed Change 1 proposes a new Objective 12 to replace Objective 12 in the Operative RPS.

148. As notified the Objective read:

Objectives			
<p>Objective 12 </p> <p><u>Natural and physical resources of the region are managed in a way that prioritises:</u></p> <p>(a) <u>first, the health and well-being of water bodies and freshwater ecosystems</u></p> <p>(b) <u>second, the health needs of people (such as drinking water)</u></p> <p>(c) <u>third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future; and</u></p> <p><u>Te Mana o te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the</u></p>	<p><u>management of freshwater, and these principles inform this RPS and its implementation. The six principles are:</u></p> <p>(a) <u>Mana whakahaere: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater</u></p> <p>(b) <u>Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations</u></p> <p>(c) <u>Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others</u></p> <p>(d) <u>Governance: the responsibility of those</u></p>	<p><u>with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future</u></p> <p>(e) <u>Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations, and</u></p> <p>(f) <u>Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.</u></p> <p><u>And the Statements of Kahungunu ki Wairarapa and Rangitāne o Wairarapa</u></p> <p><u>The quantity and quality of fresh water:</u></p>	<p>(a) <u>meet the range of uses and values for which water is required;</u></p> <p>(b) <u>safeguard the life-supporting capacity of water bodies; and</u></p> <p>(c) <u>meet the reasonably foreseeable needs of future generations.</u></p>

149. Objective 12 as notified restated clause 2.1 of the NPS-FM (the *Te Mana o te Wai* priorities) and clause 1.3(4) (the six principles of *Te Mana o te Wai*).

3.3.1 Submissions, Evidence and Analysis

150. While there was broad support for the intent of Objective 12, submitters criticised it as repeating the NPS-FM description of *Te Mana o te Wai* and not providing regional guidance (for example HCC [S115.013]), and that it lacked clarity regarding the outcomes sought (Fish and Game [S147.007]).

151. Submitters also broadly supported the statements of Rangitāne o Wairarapa and Kahungunu ki Wairarapa but sought additional relief regarding the relationship of the statements with the Objective (for example Wellington Water [S113.005], Te Tumu Paeroa [S102.041], PCC [S30.012], and CDC [S25.010]). Taranaki Whānui sought the inclusion of its *Te Mana o te Wai* Expression into Change 1.

152. In response to these matters, Ms Pascall states:⁴⁷

In my view, both the NPS-FM clause 3.2(3) and the guidance make it clear that this objective should be regionally focused. Whilst the content from clause 1.3 of the NPS-FM, which sets out the fundamental concept of *Te Mana o te Wai*, provides a useful starting point, it is important that the RPS provides direction on how to apply this in the regional context...

153. In the s 42A Report, Ms Pascall proposes replacing the notified Objective 12 with a new, region-specific objective. She also recommends two new policies (FW.XXA and FW.XXB) are included as regulatory policies to provide direction about how mana whenua / tangata whenua statements inform decision-making on plan changes, NoRs and resource consent processes.

154. While we accept that the redrafted Objective 12 is now more specific than just repeating the NPS-FM description of *Te Mana o te Wai*, it still lacks regional focus. We recommend some minor amendments to Objective 12 to bring in more regional focus and also note that the structure and approach in new Policies FW.XXA and FW.XXB provides for new *Te Mana o te Wai* statements to be included in 'Table X' and Appendix 5 through future RPS changes. This will also provide for continuing regional focus together with additional whaitua freshwater visions / objectives which will also be included in time through future RPS changes.

155. Most submitters were generally supportive of the intent of Objective 12 other than those who considered that the freshwater component of Change 1 should be deleted and deferred to a later review of the RPS as discussed earlier.

156. Ms Burns, presenting planning evidence for Rangitāne, sought a number of amendments to Objective 12 to better incorporate the NPS-FM direction that mana whenua / tangata whenua are 'actively involved' in freshwater

⁴⁷ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 168.

management and the process of defining *Te Mana o te Wai* in the Region (including that the Objective more clearly articulate the first priority within *Te Mana o te Wai* of restoring the mana of water in its own right rather than for the community's benefit).⁴⁸ Ms Burns also sought amendments to better reflect the *Te Mana o te Wai* expressions of local mana whenua / tangata whenua in Objective 12.⁴⁹

157. Ms Campbell, expert planner for Fish and Game, provided evidence that Objective 12 does not adequately recognise wider community values (in particular recreational activities), the importance of community and stakeholder engagement, and that it should include reference to protecting freshwater habitats (including supporting healthy trout populations).⁵⁰ Ms Campbell also requested a new clause be added reflecting the importance of preserving natural character in accordance with s 6(a) of the RMA.⁵¹
158. Ms Clarke, on behalf of Winstone Aggregates, provided planning evidence that the direction requiring “protecting and enhancing”, rather than “maintaining and improving”, of all waterbodies in the region is inconsistent with Policies 5 and 8 of the NPS-FM and is not supported by evidence requiring this direction or sufficient section 32 analysis.⁵² Ms Clarke seeks that “protect and enhance” is replaced with “maintain and improve” in Objective 12.
159. Ms Berkett, providing planning evidence for WFF, stated that *Te Mana o te Wai* is not a concept defined by mana whenua / tangata whenua alone, and its application to water bodies and freshwater ecosystems in the Region requires engagement with tangata whenua and communities.⁵³ Ms Berkett sought amendments to Objective 12 to reflect community engagement.
160. At the Hearing, Ms Berkett noted that Objective 12 did not recognise the economic importance of water.⁵⁴ She explained that Objective 12 did not reflect the views of the wider community and she drew our attention to the values listed in NPS-FM Appendix 1B, in particular animal drinking water,

⁴⁸ Statement of Planning Evidence of Maggie Burns, 3 November 2023, paras 26 – 55.

⁴⁹ Statement of Planning Evidence of Maggie Burns, 3 November 2023, paras 56 - 60.

⁵⁰ Statement of Planning Evidence of Lily Campbell, HS 5, 3 November 2023, paras 14 – 27.

⁵¹ Statement of Planning Evidence of Lily Campbell, HS 5, 3 November 2023, paras 28 – 32.

⁵² Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, paras 6.9 – 6.10.

⁵³ Statement of Evidence of Natasha Berkett on behalf of Wairarapa Federated Farmers (Planning), 3 November 2023, para 20.

⁵⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 62, lines 3147 – 3149.

irrigation, cultivation and production of food and beverages, and commercial and industrial use. Ms Berkett said that the mandatory values for an FMU or part-FMU, include “economic opportunities for people, businesses and industries”.⁵⁵ Ms Berkett said including these values into Objective 12 would provide for more balance between the water, the wider environment and the community, as anticipated by *Te Mana o te Wai*, but that “balance” wasn’t about signalling a trade-off but instead, emphasising that healthy freshwater is a prerequisite for a healthy side environment and community.⁵⁶

161. Ms Pascall in her Rebuttal Evidence recommends that the majority of the amendments proposed by these planners are accepted as they provide drafting clarity on the outcomes sought for freshwater management in the Region, provide more certainty for mana whenua / tangata whenua, and address gaps regarding community involvement and recreational and community values.
162. Ms Pascall did not agree in her Rebuttal Evidence that specific reference was needed in the Objective to the habitat of trout and salmon, as this specificity could occur in the related policies. Instead, she proposed that the clause read: “Supports and protects an abundance and diversity of freshwater habitat”⁵⁷. Ms Pascall’s position on this changed in her Reply evidence on the basis that the amendment proposed was too broad and went beyond the intent of the NPS-FM.
163. However, Ms Pascall considered that Ms Campbell’s suggestion of reference to “desirable species” was too subjective and instead, she proposed support and protection for the habitat of trout and salmon “where appropriate”.⁵⁸
164. Ms Pascall did not support a specific clause in the Objective relating to the natural form and character of waterbodies, as this was outside the scope of Change 1⁵⁹, and in any event, was sufficiently addressed by clause (d) which requires the individual natural characteristics and processes of

⁵⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 62, lines 3256 – 3260.

⁵⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 62, lines 3155 – 3164.

⁵⁷ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 24.

⁵⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 24.

⁵⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 69.

waterbodies and their associated ecosystems to be recognised and provided for.⁶⁰

165. We broadly agree with Ms Berkett’s evidence. Ms Pascall also agreed, at least in part, and recommended amendments in her Reply Evidence to refer in new clauses (ga) and (gd) to broader community, stakeholder and territorial authority engagement, and the addition of a new clause recognising the role of water in supporting activities that support the Region’s economic wellbeing but at the same time are a reasonable, sustainable and efficient use of water. This restriction is to ensure the use of water is undertaken within reasonable limits.⁶¹
166. In her evidence, Ms Campbell for Fish and Game said that “the individual natural characteristics” of waterbodies had a different meaning from “natural character” as that term was understood in the NZCPS and s 6(a) of the RMA.⁶² Ms Campbell preferred that a new clause was included in Objective 12 that said “Preserves the natural character and form of waterbodies”.
167. We agree with the wording proposed in Ms Pascall’s Reply Evidence with some amendments. We recommend additional references to “the Region” and that clause (d) is amended to refer to “natural form” as this appropriately supports Policy 42(j) which refers to the “natural form and flow of the waterbody” and also aligns with s 6(a). We understand Ms Campbell’s preference to refer to “natural character” and include the verb “preserve” in relation to it, and we accept that the compulsory values in Appendix 1A of the NPS-FM include “Habitat – the physical form, structure and extent of the water body, its bed, banks and margins“, but in our view the amendment we recommend achieves an appropriate balance, bearing in mind the limitations of scope Ms Pascall outlines in her Reply.⁶³
168. We had some concerns with the structure of the Objective and the references to prioritisation and *Te Mana o te Wai*. We sought advice from Ms Allan (Special Advisor appointed by the FHP) on these issues. Ms Allan broadly agreed that there could be some unintentional interpretation difficulties with the Reply version of the Objective, and she suggested that

⁶⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 25.

⁶¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 22 – 23.

⁶² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 62, lines 3155 – 3164

⁶³ Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 69 – 70.

the words “As the first priority” are deleted from clause (ab), and that clause (h) referring to *Te Mana o te Wai* is re-located to clause (c). This would mean that the articulation of the first limb of *Te Mana o te Wai* occurs in clauses (ab) and (b) (which we suggest are renumbered to (a) and (b)), and the other limbs of *Te Mana o te Wai* which bring in the needs of people and communities, are articulated in clause (c). This re-drafting would also mean clause (b) could be shortened as clause (a) already addresses the NPS-FM requirement to “maintain the health and well-being” of waterbodies and freshwater ecosystems.

169. Ms Allan also advised that Objective 12 would be the only objective in Proposed Change 1 with a heading and she thought this should be deleted as it could lead to issues of interpretation.
170. Some submitters had queried the balance in Objective 12 with four clauses referring to mana whenua / tangata whenua. We also discussed this with Ms Allan and she suggested some amalgamation is possible without losing any of the policy intent, also noting that other policies such as Policy FW.XXA refer to mana whenua / tangata whenua partnerships.
171. We agree with the advice we received from Ms Allan.

3.3.2 Finding and s 32AA Evaluation

172. We agree with the Reporting Officer’s recommendations on Objective 12 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence, and in addition we recommend the following amendments.
173. We recommend that the heading is deleted from the Objective, the *Te Mana o te Wai* hierarchy in (h) is moved into clause (c), and the words “As the first priority” are deleted from clause (ab). We also recommend inserting the words “the Region” in two places. We recommend the opening words of clause (b) are deleted as they are provided for in new clause (a).
174. We also recommend that the words “including their natural form” are included in clause (d) and the clauses referring to mana whenua / tangata whenua values and relationships are amalgamated, which we consider can be done appropriately and without losing any of the policy intent and meaning (particularly given new Policies FW.XXA and FW.XXB).

175. We consider that these amendments clarify the outcomes sought, give better effect to the NPS-FM, and more clearly articulate the concept of *Te Mana o te Wai* and direction in s 6 of the RMA. We consider the amendments we propose are a more appropriate way to achieve the RMA's sustainable management purpose. We also consider the amendments improve the interpretation and readability of the Objective and therefore help to achieve its intent.

3.3.3 Recommendation

Objective 12 – *Te Mana o te Wai* in the Wellington Region

The *mana* of the Region's waterbodies and freshwater ecosystems is restored and protected by ongoing management of land and water that are returned to a healthy state and the ongoing management of land and water:

- (a) As the first priority, Returns the Region's water bodies and freshwater ecosystems to, and thereafter maintains them, in a state of tūhauora/good health
- (b) Protects Maintains the health and wellbeing of waterbodies and freshwater ecosystems from further degradation and Improves the health and wellbeing of the Region's degraded waterbodies and freshwater ecosystems health Restores the mana of water and its fundamental role in providing for the current and future health and wellbeing of the environment and the community
- (c) Applies the *Te Mana o te Wai* hierarchy of obligations by prioritising:
 - i. First, the health and wellbeing of waterbodies and freshwater ecosystems,
 - ii. Second, the *health needs of people*
 - iii. Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- (d) Recognises and provides for the individual natural characteristics and processes of waterbodies including their natural form, and their associated ecosystems
- (ab) As the first priority, returns water bodies and freshwater ecosystems to, and thereafter maintains them, in a state of tūhauora/good health Protects Maintains the health and wellbeing of waterbodies and freshwater ecosystems from further degradation and improves the health and wellbeing of degraded waterbodies and freshwater ecosystem health
- (e) Incorporates and protects mātauranga Māori and acknowledges and provides for the connections and relationships of mana whenua/tangata whenua with freshwater in partnership with mana whenua/tangata whenua
- (f) Re-establishes Acknowledges and provides for the connections and relationships of mana whenua/tangata whenua connections with freshwater
- (g) Provides for the ability of mana whenua/tangata whenua to safely undertake their cultural and spiritual practices associated with freshwater, including *mahinga kai*

- (h) ~~Includes Actively involves mana whenua/tangata whenua in decision-making in relation to the Region’s waterbodies~~
- (ga) ~~Includes engagement with communities, stakeholders, and territorial authorities~~
- (gab) ~~Supports the wellbeing and safety of the community, by providing for the ability to carry out recreational activities, in and around freshwater environments~~
- (gbc) ~~Supports and protects an abundance and diversity of freshwater habitats for indigenous freshwater species and, where appropriate, the habitat of trout and salmon~~
- (gd) ~~Supports the reasonable, sustainable and efficient use of water for activities that benefit the Region’s economy, including primary production activities, innovation and tourism;~~
- (i) ~~Applies the Te Mana o te Wai hierarchy of obligations by prioritising:

 - i. ~~First, the health and wellbeing of waterbodies and freshwater ecosystems;~~
 - ii. ~~Second, the health needs of people~~
 - iii. ~~Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.~~~~

3.4 Te Mana o te Wai Statements

176. *Te Mana o te Wai* statements from Rangitāne o Wairarapa and Kahungunu ki Wairarapa were included in Proposed Change 1. Taranaki Whānui have also now provided a statement through their submission.
177. As noted above, in the s 42A Report, the Officer proposes replacing the notified Objective 12 with a new objective. She also recommends two new policies (FW.XXA and FW.XXB) are included as regulatory policies to provide direction about how mana whenua / tangata whenua statements inform decision-making on plan changes, NoRs and resource consent processes.
178. Ms Pascall recommends that the RPS require mana whenua / tangata whenua statements be “recognised and provided for” to direct action by those implementing the RPS.⁶⁴

3.4.1 Submissions, Evidence and Analysis

179. A number of submitters support the intent of including the statements (for instance UHCC [S34.071] and Forest and Bird [S165.017]) but some raised concerns about their weighting and status compared to other freshwater objectives and how conflicts would be managed (PCC [S30.012]). CDC sought better linkages between the statements and the rest of the RPS ([S25.010]), and Te Tumu Paeroa [S102.041] sought an amendment to require the statements to be “recognised and provided for”. Some

⁶⁴ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, paras 182 – 183.

submitters (including Wellington Water and PCC) raised concerns about the contents of the statements.

180. In response to submitter concerns about the location of the statements (Wellington Water [S113.005]) and that placing them at the end of Objective 12 could cause confusion in interpretation, Ms Pascall stated:

to ensure the statements are given the consideration they require – that is to direct an action on behalf of those implementing the RPS – it is more appropriate to provide policy direction about the statements, rather than doing this through an objective. Objectives provide the outcome, whereas policies provide the means to achieve the objective. I therefore recommend two new policies are added to the RPS to provide policy direction about how the mana whenua/tangata whenua statements of *Te Mana o te Wai* must be considered.

181. Ms Pascall in her s 42A Report agreed with submitters that as notified there is a lack of clarity about how the statements are to be implemented,⁶⁵ but that it was not appropriate for anyone other than mana whenua/tangata whenua to amend the content of the statements.⁶⁶ We agree with this view, understand it is supported by Rangitāne and Kahungunu, and consider it gives appropriate effect to clauses 3.2 and 3.4 of the NPS-FM. We also consider that the content of the statements provides substance to direction in the NPS-FM (including Policy 2), and is consistent with the partnership approach the Council has taken with mana whenua / tangata whenua.

182. Ms Pascall notes the concerns of Ngāti Toa that it is not appropriate to move the location of the statements, but Ms Pascall supports linking the statements through the new policies she recommends, and locating the statements in an Appendix. Ms Pascall said she had discussed this approach with Rangitāne and Kahungunu in pre-hearing meetings and they had indicated this was a suitable solution.⁶⁷

183. At the Hearing mana whenua / tangata whenua expressed concerns about putting the statements in an Appendix. These concerns were further

⁶⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 182.

⁶⁶ Section 42A Report, Hearing Stream 5, paras 182 - 184.

⁶⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 185.

addressed by Ms Pascall in her Reply in Evidence. She repeated her view that:⁶⁸

putting the statement in the body of the RPS would be unworkable from an implementation perspective, largely due to the references to ‘objectives’, ‘policies’, and other content in the statements which is similar to the content in the body of the RPS. Several submitters identified that this was confusing.

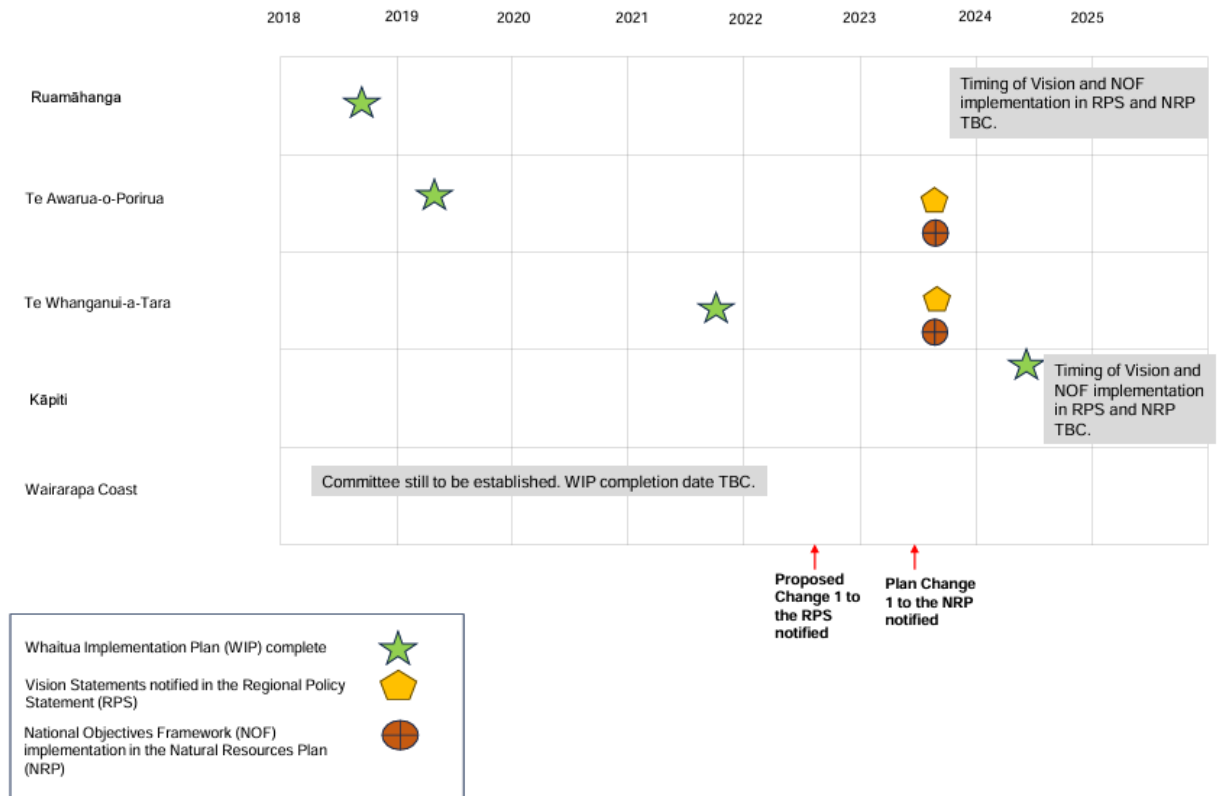
184. Ms Pascall says she does not consider locating the statements in an Appendix diminishes their importance, or that this approach is inconsistent with the *Te Mana o te Wai* principles of Mana Whakahaere, Manaakitanga, and Kaitiakitanga as stated in Ms Gibb’s evidence for Ātiawa, noting that the Appendix remains part of the statutory document of the RPS and the critical component is having the policy direction within the body of the RPS that directs how the statements are to be applied, provided in Policies FW.XXA and FW.XXB.⁶⁹
185. Ms Pascall acknowledged Ms Gibbs’ concern that the Kāpiti Whaitua process was being undertaken at present and the Te Tiriti Whare Model proposed there did not align with the approach Ms Pascall was proposing. Ms Pascall noted that that information was outside the scope of Proposed Change 1 and the Kāpiti WIP would be incorporated into the RPS through a separate Schedule 1 process.⁷⁰
186. There are 5 whaitua in the Region being Ruamāhanga, Te Awarua-o-Porirua, Whaitua Te Whanganui-a-Tara, Kāpiti, and Wairarapa Coast.
187. In Minute 18, we asked the Council to provide information on the stage of each whaitua process in the Region and to also explain the relationship between freshwater visions and mana whenua / tangata whenua statements.
188. Ms Pascall provided the following image showing the whaitua processes that have been completed to date and those anticipated. It also shows where implementation has started in the RPS and NRP.

⁶⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 73.

⁶⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 74 – 75.

⁷⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 75.

Wellington Region Whaitua Processes and Implementation



189. The Officer said that *Te Mana o te Wai* Statements of mana whenua / tangata whenua are related, but are separate from the whaitua processes. The statements form part of the RPS and support the local expression of *Te Mana o te Wai*. This is not an express requirement of the NPS-FM but it is “part of the obligation within Clause 3.2 of the NPS-FM to actively involve, and engage with, mana whenua / tangata whenua in giving effect to *Te Mana o te Wai*”.⁷¹
190. To date, the Council has received completed statements from the following mana whenua / tangata whenua:
- a. Kahungunu ki Wairarapa
 - b. Rangitāne o Wairarapa
 - c. Taranaki Whānui (via submission).

⁷¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 9.

and the Officer understood that other mana whenua / tangata whenua may seek the inclusion of statements in the future.

3.4.2 Finding

191. We agree with Ms Pascall's view and recommend that the *Te Mana o te Wai* statements from Rangitāne o Wairarapa, Kahungunu ki Wairarapa and Taranaki Whānui are provided in Appendix 5 to the RPS, supported by Policies FW.XXA and FW.XXB for the reasons above and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We support the structure in the Policies which allows for other statements to be incorporated through further changes and as the statements become available.

3.4.3 Recommendation

Appendix 5: Statements of Mana Whenua/Tangata Whenua – Te Mana o te Wai expressions

Statement of Rangitāne o Wairarapa Te Mana o te Wai expression

[...]

Statement of Kahungunu ki Wairarapa Te Mana o te Wai expression

[...]

Amendment to Statement of Rangitāne o Wairarapa Te Mana o te Wai expression

...A notable example of this is from the writings of Whatahoro Jury:

Ko Waiōhine ko Ruamāhanga ēnei e wairua tipu mai i Tararua maunga e oranga e te iwi.

These are Waiōhine and Ruamāhanga. They are like mother's milk flowing out of the Tararua mountains for the prosperity of the people.

Nā Whatahoro Jury 1841-1923

New Statement of Taranaki Whānui Te Mana o te Wai expression to into new Appendix 5:

Statement of Taranaki Whānui Te Mana o te Wai expression

He Whakapuaki mō Te Mana o te Wai

Te Kāhui Taiao have drafted a number of statements that outline a local approach on how to give effect to Te Mana o te Wai in Te Whanganui-a-Tara. With respect to Section 3.2 of the National Policy Statement for Freshwater Management 2020, the following statements are

the proffered objectives of Taranaki Whānui that describe how the management of freshwater in the region will give effect to *Te Mana o te Wai*. In Te Whanganui-a-Tara the care of freshwater gives effect to *Te Mana o te Wai* when:

1. Taranaki Whānui can exercise kaitiakitanga and lead freshwater and coastal management decision-making.
2. Taranaki Whānui can implement and practice traditional rangatiratanga management techniques, for example; rāhui to protect the mana and mōuri of water
3. Taranaki Whānui are resourced to be active and have an integral presence as Ngā Mangai Waiora (ambassadors for water) in Whaitua monitoring and management
4. Taranaki Whānui are visible in the management of mahinga kai and riparian and coastal areas through nohoanga (camp) and other cultural practices.
5. The mōuri and life-supporting capacity of water in Te Whanganui-a-Tara enables the customary practices of Taranaki Whānui such as tohi (baptism), whakarite (preparing for an important activity/event), whakawātea (cleansing) manaakitanga (hospitality) at a range of places throughout the catchment.
6. Taranaki Whānui can serve manuhiri fresh and coastal mahinga kai species by 2041.
7. The wellbeing and life of the wai is primary.
8. The mana (dignity and esteem) of water as a source of life is restored and this includes regarding and respecting all waterbodies (including āku waiheke), repo (wetland) and estuaries as living entities, and naturalising, naming, mapping, and protecting each.
9. Freshwater is cared for in an integrated way through mai i uta ki tai, from te mātāpuna (the headwaters) to the receiving environments like the Parangarehu Lakes, Hinemoana (the ocean), Te Whanganui-a-Tara (Wellington Harbour) and Raukawakawa Moana (the Cook Strait).
10. All freshwater bodies are managed holistically to allow them to exhibit their natural rhythms, natural form, hydrology, and character.
11. Freshwater bodies can express their character through a range of flows over the seasons.
12. There are sufficient flows and levels to support connectivity throughout mai i uta ki tai and between rivers and their banks to support spawning fish.
13. Key areas like te mātāpuna (headwaters), estuaries and repo (wetland) are prioritised for protection and restoration so that they are once again supporting healthy functioning ecosystems.
14. Mahinga kai species are of a size and abundance to be sustainably harvested.
15. Areas that are not currently able to be harvested (for example; coastal discharge areas and others) are able to be harvested by 2041.
16. Te Awa Kairangi, Waiwhetū, Korokoro, Kaiwharawhara, the Wainuiomata river and its aquifers are declared 'Te Awa Tupua' (an indivisible and living whole, incorporating all its physical and metaphysical elements) and given 'legal personhood' in legislation.

17. Te Awa Kairangi, Wainuiomata and Ōrongorongo are publicly acknowledged for the part they play in supporting human health through their contribution to the municipal water supply.

3.5 Policy FW.XXA: Mana whenua / tangata whenua and Te Mana o te Wai – regional and district plans

Policy FW.XXB: Mana whenua / tangata whenua and Te Mana o te Wai – consideration

192. These Policies are proposed in the s 42A Report to be included in Chapter 4.1 (Regulatory Policies), and Chapter 4.2 (Regulatory Policies – Matters to be considered)⁷² in response to submitter concerns as to how the mana whenua / tangata whenua *Te Mana o te Wai* statements should be considered by local authorities.
193. The Policies provide a regulatory basis for the statements and policy direction as to how they are to be considered and implemented in plan changes and assessed in consent applications and NoRs.
194. Policy FW.XXA requires plans to include provisions giving effect to *Te Mana o te Wai* and in doing so, “recognise and provide for” the mana whenua / tangata whenua statements in Appendix 5. The Policy includes a table with the three statements provided to date and the applicable territorial authority area. Policy FW.XXB is the equivalent regulatory policy relevant to consenting and NoRs.

3.5.1 Submissions, Evidence and Analysis

195. Muaūpoko had sought for their own expression to be included but had not provided wording for this and so this relief was not accepted by the s 42A Officer. Taranaki Whānui had provided a statement of expression with their submission, and we agree with the Officer that this to be incorporated within Proposed Change 1.⁷³
196. An explanation was added to both Policies in the Officer’s Rebuttal Evidence to provide guidance to local authorities in relation to the mana whenua / tangata whenua Statements of *Te Mana o te Wai*, and to clarify the Policies apply in accordance with local authorities’ respective functions in ss 30 and 31 of the RMA. In her Reply Evidence, Ms Pascall also recommends referencing the applicable whaitua in the tables in

⁷² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 183 and 198.

⁷³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 194 – 195.

Policy FW.XXA and Policy FW.XXB, at this stage only referencing the whaitua with a completed WIP.⁷⁴

197. We agree with Ms Pascall that it is appropriate, and gives effect to NPS-FM direction, to incorporate into the RPS the local expressions of *Te Mana o te Wai* that have been provided to date, and we support the two new policies Ms Pascall recommends. They provide clear direction to RPS users about how mana whenua / tangata whenua statements are to be considered in plan, consenting and NoR processes, and the specific jurisdictions in which they apply, which addresses at least in part, the concerns Ms Berkett raised on behalf of WFF.⁷⁵
198. We consider the direction to “recognise and provide for” the statements through the inclusion of objectives, policies, rules, and where appropriate, other methods in regional and district plans is supported by the direction in the NPS-FM, and grants the relief sought by Ms Burns for Rangitāne.⁷⁶
199. We consider the reference in the Explanation to ss 30 and 31 functions gives appropriate effect to the amendments Mr McDonnell sought on behalf of PCC.⁷⁷

3.5.2 Finding

200. We agree with the Reporting Officer’s recommendations on Policies FW.XXA and FW.XXB for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend the Council review and update numbering and Policy references as a minor correction, and we highlight some amendments below.

3.5.3 Recommendation

Policy FWXXA – Mana whenua/tangata whenua and Te Mana o te Wai – regional and district plans

District and regional plans shall include objectives, policies, rules ~~or~~ and, where appropriate, other methods to give effect to *Te Mana o te Wai*, and in doing so:

- (a) Recognise and provide for the mana whenua/tangata whenua Statements of *Te Mana o te Wai* in Appendix 5, as applicable to the territorial authority area shown in Table X. Regional plans shall apply the mana whenua/tangata

⁷⁴ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 77.

⁷⁵ Statement of Evidence of Natasha Berkett on behalf of Wairarapa Federated Farmers (Planning), 3 November 2023, para 28.

⁷⁶ Statement of Planning Evidence of Maggie Burns, 3 November 2023, para 60.

⁷⁷ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, para 20.

whenua statements as relevant to the scope and content of the plan change or review process.

- (b) Partner with *mana whenua/tangata whenua* in the development of the required district and regional plan objectives, policies, rules or other methods that give effect to *Te Mana o te Wai*.

Table X: Mana whenua/tangata whenua statements and applicable territorial authority areas

Mana whenua/tangata whenua statement	Territorial authority area(s)	Whaitua
Rangitāne o Wairarapa	Masterton District Carterton District South Wairarapa District	Ruamāhanga
Kahungunu ki Wairarapa	Masterton District Carterton District South Wairarapa District	Ruamāhanga
Taranaki Whānui	Wellington City Hutt City Upper Hutt City	Te Whanganui-a-Tara

Explanation

Policy FW.XXA sets out the requirements of local authorities in developing regional and district plans in relation to the Mana Whenua/Tangata Whenua Statements of *Te Mana o te Wai* in Appendix 5. These statements provide important guidance and information about what *Te Mana o te Wai* means to *mana whenua/tangata whenua* across the region. Local authorities must apply Policy FW.XXA to give effect to *Te Mana o te Wai* insofar as it relates to their respective functions under sections 30 and 31 of the RMA.

Policy FWXXB: Mana whenua/tangata whenua and Te Mana o te Wai – consideration

When considering an application that relates to freshwater for:

- (a) resource consent, have regard to; or
- (b) a notice of requirement, have particular regard to

~~or a change, variation or review of a regional or district plan, have regard to the mana whenua/tangata whenua Te Mana o te Wai Statements contained in Appendix 5, as applicable to the territorial authority area shown in Table X.~~

Table X: Mana whenua/tangata whenua statements and applicable territorial authority areas

Mana whenua/tangata whenua statement	Territorial authority area(s)	Whaitua
---------------------------------------------	--------------------------------------	----------------


Rangitāne o Wairarapa	Masterton District Carterton District South Wairarapa District	Ruamāhanga
Kahungunu ki Wairarapa	Masterton District Carterton District South Wairarapa District	Ruamāhanga
Taranaki Whānui	Wellington City Hutt City Upper Hutt City	Te Whanganui-a-Tara

Explanation

[Policy FW.XXB sets out the requirements of local authorities when assessing an application for resource consent in relation to *freshwater* and how they must consider the Mana Whenua/*Tangata Whenua* Statements of *Te Mana o te Wai* in Appendix 5. These statements provide important guidance and information about what *Te Mana o te Wai* means to mana whenua/*tangata whenua* across the region. Local authorities must apply Policy FW.XXB insofar as it relates to their respective functions under sections 30 and 31 of the RMA.](#)

3.6 Policy 12 – Management purposes for of surface water bodies – regional plans

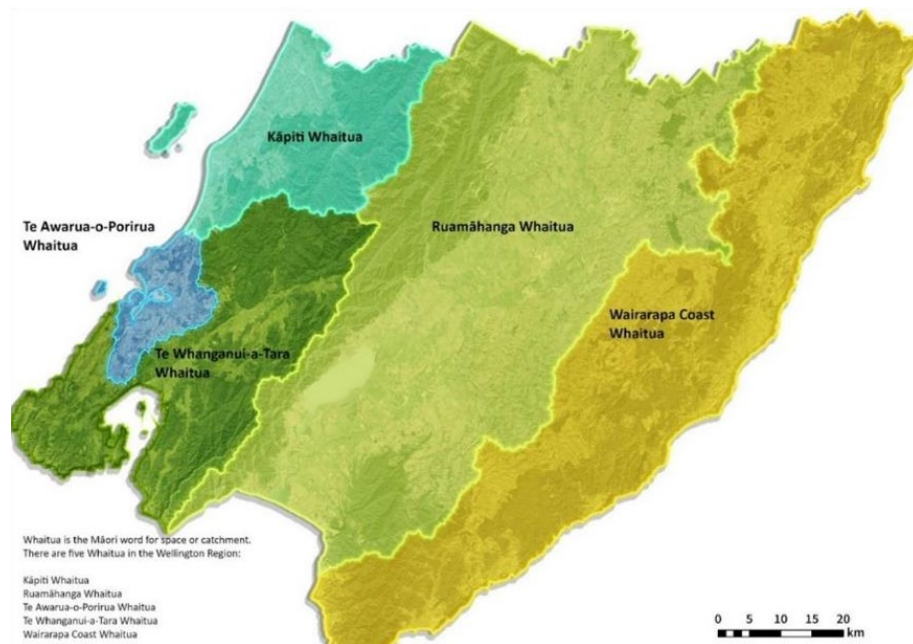
201. The notified provision of the Policy stated:

Policy 12: Management purposes for of surface water bodies – regional plans	
<p>Regional plans shall <u>give effect to <i>Te Mana o te Wai</i> and include objectives, policies, rules and/or methods that:</u></p> <p>(a) require that water quality, flows and water levels, and the aquatic habitat of surface water bodies are to be managed for the purpose of safeguarding aquatic ecosystem health; and</p> <p>(b) manage water bodies for other purposes identified in regional plans.</p> <p>(a) <u>are prepared in partnership with mana whenua / tangata whenua;</u></p> <p>(b) <u>achieve the long-term visions for freshwater;</u></p> <p>(c) <u>identify freshwater management units (FMUs);</u></p> <p>(d) <u>identify values for every FMU and environmental outcomes for these as objectives;</u></p> <p>(e) <u>identify target attribute states that achieve environmental outcomes, and record their baseline state;</u></p> <p>(f) <u>set environmental flows and levels that will achieve environmental outcomes and long-term visions;</u></p> <p>(g) <u>identify limits on resource use including take limits that will achieve the target attribute states, flows and levels and include these as rules;</u></p> <p>(h) <u>identify non-regulatory actions that will be included in Action Plans that will assist in achieving target attribute states (in addition to limits); and</u></p> <p>(i) <u>identify non-regulatory and regulatory actions in Actions Plans required by the NPS-FM</u></p> <p>Explanation</p> <p><u>Policy 12 gives effect to the national direction set by the National Policy Statement for Freshwater Management 2020, including sections 3.2 and 3.8-3.17.</u></p>	
<p>Regional plans will establish management purposes for water bodies in the region and identify limits for water quality, flows and water levels, and aquatic habitat appropriate to the management purposes identified. The management purposes identified in regional plans will support the uses and values associated with those purposes. This policy does not prevent the sustainable use of water subject to any limits (including aquatic ecosystem health) established in the regional plan.</p> <p>The limits for aquatic ecosystem health will need to recognise that different types of water bodies (for example, rivers, lakes and wetlands) will require different limits. Natural environmental differences between water bodies (for example, climate, altitude and catchment geology, or a small stream in a mountain catchment versus a large lowland river) will also require different limits to be established.</p> <p>Where a water body is assigned more than one management purpose in a regional plan, the limits associated with the most stringent water quality, river flows and water levels shall apply.</p>	

202. There were 21 submission points and 27 further submission points on Policy 12.
203. Proposed Change 1 proposes amendments to the operative Policy 12 to give effect to key aspects of national direction in the NPS-FM.

3.6.1 Submissions, Evidence and Analysis

204. A number of revisions were made in the s 42A Report in response to submitter concerns including that the Policy did not provide sufficient clarity, direction and regional context to NPS-FM requirements. Submitters also sought amendments to acknowledge the regional council *whaitua* processes, and refer to the steps in the NOF process relating to the identification of attributes and baseline states.
205. There were also submitter concerns that the importance of *mātauranga Māori* and *ki uta ki tai* were not sufficiently recognised (Ātiawa [S131.061]). The DGC [S32.011] and Forest and Bird [S165.047] sought relief to clarify that Policy 12 is not an exhaustive list of NPS-FM requirements. They seemed concerned that by paraphrasing the NPS-FM, Policy 12 could change some of its requirements inadvertently.
206. The s 42A Officer proposed amendments describing the *whaitua* ‘super-catchments’ as Freshwater Management (FMUs) Units for the Region⁷⁸ and also amendments setting out the steps required by the NOF.⁷⁹ The *whaitua* are listed in the Policy in the Officer’s amendments, and the



⁷⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 216 - 218.

⁷⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 233.

following map proposed to be inserted in the RPS showing the whaitua boundaries.

207. Following the amendments proposed in the s 42A Report, some experts noted unnecessary duplication with the NPS-FM requirements (such as Mr McDonnell for PCC)⁸⁰ and that a whaitua could be comprised of multiple FMUs.⁸¹ There was also concern that the policy did not adequately reflect the need for wider community/stakeholder involvement in the preparation of objectives, policies rules and/or methods to give effect to *Te Mana o te Wai* (Ms Campbell for Fish and Game),⁸² or identify appropriate management requirements for part FMUs (Ms Burns for Rangitāne)⁸³.
208. Ms Pascall agreed with these concerns in her Rebuttal Evidence and made further amendments to Policy 12. She included engagement with communities, stakeholders and territorial authorities in clause (a) and deleted “Freshwater Management Units” from clauses (c) and (ca) to acknowledge that freshwater management could occur at a smaller spatial scale. Ms Pascall also amended the description of the process steps set out in the NOF, noting that this duplicated NPS-FM direction but that in the absence of more regionally specific content, it was appropriate to repeat the NPS-FM “to ensure the statutory requirement to give effect to the national direction is met”.⁸⁴
209. We recommend an amendment in clause (ca) to refer to community engagement. Wider community engagement is not only a requirement of the NPS-FM, but it will also, as Ms Berkett explained “ensure the RPS has greater legitimacy with the wider Wellington community”.⁸⁵ Clause 3.7 requires the Regional Council to engage with communities and tangata whenua at each step of the NOF process and community and tangata whenua engagement is also referred to in clause 3.2(2)(b).
210. We also recommend clause (ca) require the identification of “FMUs” rather than “part FMUs” for consistency with clause 3.8 of the NPS-FM. The clause says the Council must identify “FMUs”. The definition of this term in cause 1.4 of the NPS-FM means “all or any part of a water body or water

⁸⁰ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, paras 27 -28.

⁸¹ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, paras 27 – 28.

⁸² Statement of Planning Evidence of Lily Campbell, HS 5, 3 November 2023, para 37.

⁸³ Statement of Planning Evidence of Maggie Burns, 3 November 2023, paras 70 – 83.

⁸⁴ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 72.

⁸⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 63, lines 3184 – 3186.

bodies, and their related catchments, that a regional council determines under clause 3.8 is an appropriate unit for freshwater management and accounting purposes”. The definition also refers to “part of an FMU” which has a specific meaning. We consider it is more appropriate for Policy 12 to require the identification of “FMUs” and it is up to the Council, in partnership with mana whenua / tangata whenua and any broader community engagement they consider appropriate, to determine the level or extent of this identification. We recommend “and for each part FMU” is deleted from the end of clause (ca).

211. We note the s 42A Officer recommends an amendment to the explanation text of Policy 12 to state that it sets out “the key elements” of the NPS-FM. While this adopts the relief proposed by the Director-General of Conservation, we think further amendments are needed in light of Forest and Bird’s relief [S165.047] to ensure any issues of interpretation do not arise from slightly different wording in the Policy and the NPS-FM. We recommend an amendment to clause (ca) and including a new clause (cb) to clarify that the NOF process steps are as set out in the NPS-FM.

3.6.2 Finding and s 32AA Evaluation

212. We largely agree with the Reporting Officer’s recommendations on Policy 12 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. However, we recommend including community engagement in clause (ca), amending “part FMUs” to “FMUs”, and referring specifically to the NPS-FM requirements to align with the direction in clauses 3.2, 3.7 and 3.8 of the NPS-FM, and the definition of FMU in clause 1.4. We consider that our amendments on the whole give better effect to the NPS-FM direction as they increase the likelihood of the Policy being successfully and effectively implemented to achieve the desired outcomes. We do not consider there to be any cost implications from these changes as they reflect existing direction in the NPS-FM.

3.6.3 Recommendation

Policy 12: Management purposes for surface water bodies – regional plans

Regional plans shall give effect to *Te Mana o te Wai* and include objectives, policies, rules and/or methods that:

- ~~(a) require that water quality, flows and water levels, and the aquatic habitat of surface water bodies are to be managed for the purpose of safeguarding aquatic ecosystem health; and~~

~~(b) — manage water bodies for other purposes identified in regional plans.~~

~~(a) are prepared in partnership with mana whenua / tangata whenua, and through engagement with communities, stakeholders and territorial authorities, and enable the application of mātauranga Māori ;~~

~~(aa) adopt an integrated approach, ki uta ki tai~~

~~(b) contribute to achieving the any relevant long-term visions for freshwater ;~~

~~(c) identify freshwater management units (FMUs);~~

~~(c) manage freshwater through the following freshwater management units (FMUs) whaitua which are shown on Map X:~~

~~(i) Kāpiti Whaitua~~

~~(ii) Ruamāhanga Whaitua~~

~~(iii) Te Awarua-o-Porirua Whaitua~~

~~(iv) Te Whanganui-a-Tara Whaitua~~

~~(v) Wairarapa Coast Whaitua~~

~~(ca) identify part FMUs that require specific management within the FMUs whaitua identified in clause (c), in partnership with mana whenua/tangata whenua, and through engagement with communities and for each part FMU:~~

~~(cb) For each FMU, in accordance with the NPS-FM:-~~

~~(i) Identify values and environmental outcomes for each value as objectives~~

~~(ii) Identify attributes for each value and the baseline states for those attributes as objectives~~

~~(iii) Identify target attribute states for each attribute that achieve the environmental outcomes~~

~~(iv) Set environmental flows and levels that will achieve environmental outcomes and long-term visions for freshwater, and~~

~~(v) Identify limits on resource use, including take limits that will achieve the target attribute states, flows and levels~~

~~(d) identify values for every FMU and part FMU, and environmental outcomes for each value as objectives;~~

~~(da) For each value identified in clause (d), identify attributes and the baseline states for those attributes~~

~~(e) For each attribute identified in clause (da), identify target attribute states that achieve environmental outcomes, and record their baseline state;~~

~~(f) set environmental flows and levels that will achieve environmental outcomes and long-term visions for freshwater;~~

~~(g) identify limits on resource use, including take limits that will achieve the target attribute states, flows and levels and include these as rules;~~

(h) identify non-regulatory actions that will be included in Action Plans that will assist in achieving target attribute states (in addition to limits); and


(i) identify non-regulatory and regulatory actions in Actions Plans required by the NPS-FM

Explanation

Policy 12 ~~gives~~ sets out the key elements of giving effect to the national direction set by the National Policy Statement for Freshwater Management 2020, including sections 2.2, 3.2 and 3.8-3.17.

3.7 Policy 13 – Allocating water – regional plans

213. The notified provision proposed deleting Policy 13 in the Operative RPS:

Policy 13: Allocating water – regional plans	
<p>Regional plans shall include policies and/or rules that:</p> <p>(a) establish allocation limits for the total amount of water that can be taken from rivers and lakes, taking into account aquatic ecosystem health; and</p> <p>(b) establish allocation limits for the total amount of water that can be taken from groundwater, taking into account the aquatic ecosystem health of rivers, lakes and wetlands, and preventing saltwater intrusion.</p> <p>Explanation</p> <p>Policy 13 directs the establishment of allocation limits for rivers and groundwater in a regional plan. Allocation limits for rivers are the total amount of water that is available to be taken from a river, including water behind any dam, while taking into account policy 12.</p> <p>Groundwater allocation limits must safeguard the needs of dependent ecosystems in groundwater fed streams and wetlands, and prevent saltwater intrusion.</p>	

3.7.1 Submissions, Evidence and Analysis

214. The Policy is proposed to be deleted because it is now largely covered by Policy 12.

215. Most submitters agreed with the deletion, but this was opposed by the DGC [S32.012] on the basis that Policy 13 provides specific guidance to take account of aquatic ecosystem health and saltwater intrusion. Policy 13 was not addressed in Mr Brass’ planning evidence or Ms Anton’s legal submissions for the DGC.

3.7.2 Finding

216. We agree that water allocation is now dealt with in Policy 12, in particular clauses (ca) (iv) and (v) regarding flows, levels and limits on resource use. We recommend that the Council agree to delete Policy 13 for the reasons set out in the s 42A report.⁸⁶

3.7.3 Recommendation

Policy 13: Allocating water – regional plans

~~Regional plans shall include policies and/or rules that:~~

⁸⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 239 – 243.


- (a) establish allocation limits for the total amount of water that can be taken from rivers and lakes, taking into account aquatic ecosystem health; and
- (b) establish allocation limits for the total amount of water that can be taken from groundwater, taking into account the aquatic ecosystem health of rivers, lakes and wetlands, and preventing saltwater intrusion.

Explanation

Policy 13 directs the establishment of allocation limits for rivers and groundwater in a regional plan. Allocation limits for rivers are the total amount of water that is available to be taken from a river, including water behind any dam, while taking into account policy 12. Groundwater allocation limits must safeguard the needs of dependent ecosystems in groundwater-fed streams and wetlands, and prevent saltwater intrusion.

3.8 Policy 14: Urban development effects on freshwater and the coastal marine area ~~Minimising contamination in stormwater from new development~~ – regional plans

217. The notified provision stated:

<p>Policy 14: Urban development effects on freshwater and the coastal marine area Minimising contamination in stormwater from new development – regional plans</p>	
<p><u>Regional plan objectives, policies, and methods including rules, must give effect to <i>Te Mana o te Wai</i> and in doing so must:</u></p> <ul style="list-style-type: none"> (a) <u>Enable the active involvement of mana whenua / tangata whenua in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for;</u> (b) <u>Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;</u> (c) <u>Require the control of both land use and discharge effects from the use and development of land on freshwater and the coastal marine area;</u> (d) <u>Achieve the target attribute states set for the catchment;</u> (e) <u>Require the development, including stormwater discharges, earthworks and vegetation clearance meet any limits set in a regional plan;</u> (f) <u>Require that urban development is designed and constructed using the principles of Water Sensitive Urban Design;</u> (g) <u>Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;</u> (h) <u>Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;</u> (i) <u>Require riparian buffers for all waterbodies and avoid piping of rivers;</u> (j) <u>Require hydrological controls to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;</u> (k) <u>Require stormwater quality management that will minimise the generation of contaminants, and maximise, to the extent practicable, the removal of contaminants from stormwater; and</u> (l) <u>Identify and map rivers and wetlands.</u> <p>Regional plans shall include policies, rules and/or methods that protect aquatic ecosystem health by minimising ecotoxic and other contaminants in stormwater that discharges into water, or onto or into land that may enter water, from new subdivision and development.</p> <p>Explanation</p> <p><u>Policy 14 manages the effects of urban development, including the effects of contamination in stormwater, earthworks and vegetation clearance from new and existing subdivision and development to halt and reverse the degradation of freshwater and coastal water.</u></p> <p>Ecotoxic contaminants in this policy are substances that are capable of causing ill health, injury or death to any living organism – such as heavy metals, polycyclic aromatic hydrocarbons, organochlorine pesticides and antifouling compounds.</p>	

~~Carried in stormwater, ecotoxic contaminants can bind with sediment and accumulate where the sediment settles, on the seabed or the bed of a freshwater body, particularly in low energy aquatic receiving environments.~~

~~Wellington Harbour and Porirua (Onepoto Arm and Pauatahanui Inlet) Harbour are places where ecotoxic contaminants in bottom sediments have been found to occur at concentrations that exceed guidelines for aquatic life.~~

~~There may be other low energy aquatic receiving environments in the region — such as inlets, estuaries, lakes, wetlands and lowland streams — in which the sediments contain elevated ecotoxic contaminants that may threaten aquatic life, but which have not yet been monitored.~~

~~Reducing the rate of accumulation of sediment with toxic contaminants derived from surrounding catchments can be achieved by requiring stormwater treatment devices for discharges from new subdivision and development.~~

~~Discharges to land that may enter water include discharges to existing and new stormwater infrastructure.~~

~~Stormwater design features set out in policy 42 will also reduce accumulation rates of ecotoxic contaminants in the sediments of low energy aquatic receiving environments. Policy 42 is directed at city and district councils when they are considering district plan provisions and resource consents for new subdivisions and land use. This policy and policy 42 provide an integrated approach to managing the adverse effects of stormwater discharges.~~

218. Policy 14 is an existing policy within the Operative RPS. Change 1 proposes amendments to Policy 14 to give effect to the NPS-FM specifically in an urban development context. The Policy provides direction to regional plans about how the effects of urban development on freshwater and the coastal marine area should be managed. As the Reporting Officer states, Proposed Change 1 has been drafted on the basis that urban development generates a large proportion of effects on water quality in the Region.⁸⁷

3.8.1 Submissions, Evidence and Analysis

219. Submitters expressed a range of concerns in relation to Policy 14 including clarity of drafting, the roles and responsibilities of regional councils and territorial authorities (MDC [S166.026]), the incorporation of hydrological controls to reduce the adverse effects of stormwater (Wellington Water [S113.016]), application to the coastal marine area (CMA) (DGC [S32.013] and WIAL [S148.036]), natural inland wetlands (Forest and Bird [S165.049]), and the constraints to be placed on urban development to protect freshwater and receiving environments, and whether this should be extended to ‘development’ more broadly (Rangitāne [S168.038], Ngāti Toa [S170.029]). Submitters also raised issues regarding whether ‘gully heads’ are freshwater bodies (WCC [S140.040]), protection of riparian

⁸⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 348.

margins (Kāinga Ora [S158.019]), and the use of *minimise* and *maximise* (Wellington Water [S113.019]).

220. Ms Pascall addressed many of these issues in the s 42A Report⁸⁸ and accompanying amendments, including a clause relating to avoiding the loss of extent or values of natural inland wetlands, a new policy to address hydrological controls, and amending the heading of Policy 14 - “Urban development effects on freshwater and receiving environments – regional plans” as the NPS-FM applies to receiving environments to the extent they are affected by freshwater (clause 1.5).⁸⁹
221. A number of remaining concerns were raised by submitters and discussed in Ms Pascall’s Rebuttal evidence. These are discussed below under these subheadings:
- a. Location and design of urban development (including discussion on ‘gully heads’ and ‘adjacent’)
 - b. Overlapping functions of local authorities
 - c. Pathways in natural inland wetlands
 - d. Daylighting of rivers.

3.8.1.1. Location and design of urban development

222. Mr McDonnell for PCC sought to remove references to lot boundaries and new roads in clause (h) on the basis they do not have adverse effects on freshwater and subdivision is a territorial authority function.⁹⁰ Similarly Mr Heale, providing planning evidence for Kāinga Ora raised concerns about overlapping responsibilities of the regional council and territorial authorities and that lot creation through subdivision (clause (h)) was a function of TAs under s 31(2) of the RMA.⁹¹
223. Conversely, Mr Brass for the Director General of Conservation, did not support clause (h) being limited to lot boundaries and roads as other urban development would not be captured.⁹² He also did not support the

⁸⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 315 – 363.

⁸⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 334.

⁹⁰ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, para 33.

⁹¹ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), HS 5, 3 November 2023.

⁹² Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 21.

removal of ‘gully heads’ from clause (h) as “[g]ully heads are known critical source areas for contaminant transport” and there may be water bodies within urban development, and not just adjacent to it.⁹³

224. On clause (h) the Officer notes that it is “within the remit of regional council functions under section 30 of the Act, where the regional council does have a role in managing land use for the purposes of managing water quality.⁹⁴ In her Rebuttal Evidence, Ms Pascall proposes further amendments to clauses (f), (h), (i), (k), (l), (m) and (n) in response to submitter concerns including replacing “lot boundaries and new roads” with “urban development location and design”.⁹⁵
225. Ms Pascall also agreed that “gully heads” be reinstated as they have an important role in supporting freshwater ecosystems.⁹⁶ Ms Pascall also agreed with Mr Brass that clause (h) should refer to “receiving environments”.
226. At the hearing, Mr Brass said he understood Ms Pascall’s explanation that “adjacent” applies to all the water bodies listed in clause (h), but a “receiving environment” did not have to be adjacent to the urban development. He queried whether that interpretation was in fact clear from the wording, and expressed concern that someone could try to say the “receiving environment” also had to be adjacent. Counsel for the Council provided advice on the meaning of “adjacent”, and held that the word has been interpreted as meaning “near to”, and not needing to be “adjoining” or having a “touching boundary” with.⁹⁷
227. We note Mr Brass’ concern regarding the word “adjacent” in clause (h). While we do not read the provision as requiring “receiving environments” to be adjacent to a development to engage the clause, we understand the interpretation concern. In addition, we were not certain of the rationale for clause (h) using the word “adjacent” when it is not included in Policy FW.3(k) (which is the equivalent policy for district plans). We were also

⁹³ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 22, citing a Wellington Regional Council factsheet which referred to critical source areas including gullies, swales and seeps.

⁹⁴ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 87.

⁹⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 86.

⁹⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 88.

⁹⁷ Legal submissions in reply on behalf of Wellington Regional Council – Hearing Stream 4, 23 November 2024, paras 5 – 9.

not clear why Policy FW.3(k) does not refer to “receiving environments”. In our view, it is useful to have consistent drafting in these clauses.

228. We note the similarities between Policies 14(h) and FW.3(k) and recommend amendments to align and recognise the respective councils’ mutual responsibilities. In particular, we recommend deleting “adjacent” from Policy 14(h) on the basis of evidence presented on behalf of the DGC that gully heads may be located within a site. We discussed with Ms Allan (Special Advisor) our concerns with the word “adjacent” and the different approach in Policy FW.3(k). Ms Allan said that in her experience, urban development can have downstream effects and regional council responsibilities are not limited to effects that happen “close by”. In addition, if a gully head was in a site that was being developed, it would be appropriate to take that into account. Ms Allan also commented that based on the proposed drafting of Policy 14(h) in the Reply version, it was not clear whether “adjacent” also applied to rivers and the other waterbodies mentioned, although they would be captured by “receiving environments”.
229. In response to some submitter concerns about the scope of the Policy, the Officer did not support broadening Policy 14 to development more generally as the changes in Proposed Change 1 respond primarily to the NPS-UD and the anticipated increased intensification in the Region’s urban areas as a result.⁹⁸

3.8.1.2 Overlapping functions and responsibilities

230. Mr Jeffries and Ms Cook for WCC sought that clause (f) in Policy 14 be deleted as it duplicated matters in clause (k) (water sensitive design and stormwater quality management) and was impractical in requiring adverse effects of contaminants to be avoided rather than minimised.⁹⁹ Ms McPherson for the Fuel Companies raised similar concerns, including that the requirement to avoid effects was onerous and set an unrealistic direction.¹⁰⁰

⁹⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 67; and Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 349.

⁹⁹ Joint statement of planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, HS 4, 3 November 2023, para 30 – 33.

¹⁰⁰ Joint Hearing Statement on behalf of the Fuel Companies, HS5, 3 November 2023, Ms McPherson, paras 2.5 – 2.7.

231. Mr Lewandowski for PPFL raised similar concerns about duplication of functions,¹⁰¹ and Ms Horrox for Wellington Water also sought clarity on the division of responsibilities.¹⁰² Mr Lewandowski said that specific clauses relating to urban development should be removed from the Regional Council responsibilities in Policy 14. In particular, he noted that water sensitive urban design techniques are not within the remit of regional plans and that clause (f) should be deleted. In her Rebuttal Evidence, Ms Pascall disagreed and said:¹⁰³

Water sensitive urban design techniques can be applied to address matters that fall within the functions of both regional council and territorial authorities. The RPS policy direction provides for these situations by requiring these techniques to be applied through both regional and district plans. In a practical implementation sense, the respective local authorities will have to apply these techniques to urban development within their respective functions under the Act and to the relevant context.

232. Mr Lewandowski similarly raised a concern about Policy 14(m) and the requirement to include riparian buffers adjacent to urban development as a matter more appropriate for district plans to address. In response, Ms Pascall said:¹⁰⁴

The management of riparian buffers can be undertaken by both regional council and territorial authorities, within their respective functions under the RMA. I consider that Policy FW.3 allows for this in clause (k). However, I consider that to provide more clarity, clause (i) of Policy 14 could be amended to be clearer about the matters that the regional council will manage within the riparian buffer, being the protection and enhancement of these margins for the purpose of managing the health and wellbeing of waterbodies and freshwater ecosystem health.

233. The Officer acknowledges that there is some overlap between regional council and territorial authority responsibilities in clause (f) – in relation to

¹⁰¹ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, paras 4.2 – 4.7

¹⁰² Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), HS 5, 3 November 2023, para 18.

¹⁰³ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 90.

¹⁰⁴ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 93.

water sensitive design techniques, and clause (h) – in relation to urban development locations protecting and enhancing water ways.

234. As we discuss further in our analysis of Policy FW.6, regional councils have functions regarding discharges and managing contaminants, and territorial authorities have functions regarding stormwater management from land use.

235. We accept the evidence of Mr Farrant for the Regional Council, discussing the context and drivers for hydrological controls. Mr Farrant states that:¹⁰⁵

Development activities across the Wellington region result in stormwater runoff which discharges to fresh and coastal waters at a range of scales and with varying levels of cultural, ecological and social significance. Discharge of inappropriately managed urban stormwater therefore has the potential to adversely impact on streams, rivers, wetlands, lakes, estuaries and the open coast.

236. Ms Pascall supported amendments to “minimise” adverse effects of contaminants rather than avoid them outright; and to combine clauses (f) and (k) to remove duplication. Ms Pascall did not incorporate “maximise” and “minimise” as defined terms in the Policy. We recommend the defined terms are used. Commenting on concerns regarding overlapping functions, Ms Pascall recommended some changes to clarify functions, including in clause (i) regarding the protection and enhancement of riparian margins.

237. We discussed overlapping council responsibilities with Ms Allan (Special Advisor). Ms Allan agreed with Ms Pascall that there are overlapping functions regarding the control of land use for water quality, and provisions addressing the overlap should be clear about the extent of mutual responsibilities. This point was also raised in Wellington Water’s submission [S113.020] where they said that the risk of regional or territorial authorities individually taking less responsibility due to mutual obligations should be avoided.

238. Ms Allan supported Ms Pascall’s statements about local authorities needing to work together to achieve a coordinated approach and carry out their mutual responsibilities in ss 30 and 31 of the RMA in relation to the

¹⁰⁵ Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023, para 17.

location and design of urban development as it may impact water bodies and receiving environments.

3.8.1.3 Consent pathways in natural inland wetlands

239. Mr McDonnell for PCC sought that Policy 14 provide a consent pathway for works with a functional or operational need within a wetland.¹⁰⁶ Other submitters similarly raised concerns about lack of consistency between the NPS-FM and NES-F in relation to urban development and natural inland wetlands (clause (m)), and the practicality of requiring mapping of rivers and wetlands within areas proposed for urban development (clause (l)).

240. In her Reply Evidence Ms Pascall further considers clause (ia) relating to urban development and piping of rivers and clause (m) natural inland wetlands. She recommends deleting both these clauses from Policy 14 consequential on a recommendation for new Policies 18A and 18B¹⁰⁷ which respectively provide a consenting pathway for specific activities in or near natural inland wetlands and rivers. We consider these amendments grant relief sought by various submitters including Winstone Aggregates and PPFL.

3.8.1.4 Daylighting of rivers

241. Another integration related issue that we discuss briefly here, but go on to discuss in more detail in relation to Policies FW.3 and 42, concerns the daylighting of streams / rivers. We recommend Policy 14(n) regarding the daylighting of streams is retained, but we note that similar clauses in Policies FW.3 (with our recommended amendments) and 42 refer to the daylighting of “rivers”.

242. A “river” is defined in the RMA to mean “a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse ...”. On this basis, and in light of our recommended amendments to Policies FW.3 and 42, we also recommend a consequential amendment to Policy 14(n) to replace “streams” with “rivers”. Finally, we recommend that the words “minimise” and “maximise” are italicised as defined terms (discussed in the Definitions section of this Part).

¹⁰⁶ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, paras 36 – 42.

¹⁰⁷ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 64.

3.8.2 Finding and s 32AA Evaluation

243. We largely agree with the Reporting Officer’s recommendations on Policy 14 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend an amendment to delete “adjacent” from Policy 14(h) as this will better manage potential adverse effects from urban development on the health and well-being of water bodies and receiving environments in accordance with the NPS-FM. We agree with Mr Brass that the Officer’s proposed wording in clause (h) could lead to interpretation issues, and we consider it appropriate that the clause is consistent with the similar provision in Policy FW.6. This is a good example in our view, of where mutual responsibilities that are identified in ss 30 and 31, will need to be discussed between the councils involved and their approach coordinated to achieve integrated management and appropriate management of any adverse effects in accordance with statutory functions and direction in the NPS-FM, NPS-UD and ss 30 and 31. We support the associated Methods that are aimed at fostering collaboration (discussed later in this Part).
244. We recommend replacing “streams” with “rivers” in clause (n) as a consequential change to our recommendations in Policies FW.3 and 42. We consider this is important for consistency, integration and interpretation of the concept of ‘river daylighting’ as it applies in the RPS. Recognising “minimise” and “maximise” as defined terms will assist the interpretation and application of the Policy.
245. We consider the amendments we recommend provide clearer direction on the policy intent and clarify terms which will assist with the interpretation and application of the Policy. The amendments will help to achieve the outcomes sought under Objective 12 of the RPS (as proposed to be amended), the NPS-FM, NPS-UD, and also the sustainable management purpose of the Act.

3.8.3 Recommendation

Policy 14: Urban development effects on freshwater and the coastal marine area receiving environments Minimising contamination in stormwater from new development – regional plans

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and methods for urban development including rules, must that give effect to Te Mana o te Wai and in doing so must:

- (a) Enable the active involvement of mana whenua / tangata whenua in

freshwater management (including decision-making processes); and

- ~~(ab) Identify and provide for Māori freshwater values are identified and provided for;~~
- (b) Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of *urban development*;
- (c) ~~Require the cControl of both land use and discharge effects from use and development of land~~ *urban development* on freshwater and ~~the coastal marine area receiving environments;~~
- (d) ~~Identify how to A~~ achieve the target attribute states and environmental flows and levels set for the catchment;
- (e) Require ~~the urban development~~, including stormwater discharges, earthworks and vegetation clearance to meet any limits set in a regional plan;
- (f) Require ~~that urban development to incorporate water sensitive urban design water sensitive urban design techniques to minimise the generation of contaminants from stormwater runoff, and maximise, to the extent practicable, the removal of contaminants from stormwater 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;~~
- ~~(g) Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (h) Require that ~~urban development lot boundaries and new roads for are urban development urban development is is appropriately located and designed and designed~~ to protect and enhance the health and wellbeing of adjacent ~~gully heads; gully heads~~, rivers, lakes, wetlands, springs, riparian margins and estuaries and other receiving environments including the natural form and flow of the waterbody;
- (i) Require *urban development* adjacent to natural waterbodies to protect and enhance ~~include~~ riparian margins buffers; ~~for all waterbodies and avoid piping of rivers;~~
- ~~(ia) avoid the piping of rivers for urban development urban development unless:
(i) there is a functional need for the activity in that location; and
(ii) the effects of the activity are managed by applying the effects management hierarchy;~~
- ~~(j) Require hydrological controls in urban development to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;~~
- ~~(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; and~~
- ~~(l) Identify and map rivers and wetlands within the area proposed for urban development in partnership with mana whenua/tangata whenua and affected landowners;~~

- ~~(m) require that urban development *urban development* avoids the loss of extent or values of natural inland wetlands, unless; and~~
- ~~(i) the *urban development* will contribute to a well-functioning urban environment; and~~
- ~~(ii) the *urban development* will provide significant national, regional, or district benefits; and~~
- ~~(iii) the *urban development* occurs on land identified for urban development *urban development* in operative provisions of a regional or district plan; and~~
- ~~(iv) the land proposed for *urban development* is not zoned general rural, rural production, or rural lifestyle; and~~
- ~~(v) there is no practicable alternative location for the activity within the area of the development; or~~
- ~~(vi) every other practicable alternative location in the area of the development would have equal or greater adverse effects on a natural inland wetland; and~~
- ~~(vii) the effects of the activity are managed by applying the *effects management hierarchy*; and~~
- ~~(n) promoting and enabling the daylighting of streams rivers.~~


Regional plans shall include policies, rules and/or methods that protect aquatic ecosystem health by minimising ecotoxic and other contaminants in stormwater that discharges into water, or onto or into land that may enter water, from new subdivision and development.

Explanation

Policy 14 manages the effects of ~~urban development~~ *urban development*, including the effects of *contamination in stormwater, earthworks and vegetation clearance* from new and existing subdivision and development to halt and reverse the degradation of *freshwater* and ~~coastal water in receiving environments~~.

3.9 Policy FW.3 Urban development effects on freshwater and the coastal marine area – district plans

246. The notified provision stated:

Policy FW.3: Urban development effects on freshwater and the coastal marine area – district plans	
<u>District plans shall include objectives, policies, and methods including rules, that give effect to <i>Te Mana o te Wai</i> and section 3.5(4) of the NPS-FM, and in doing so must:</u>	
<ul style="list-style-type: none"> (a) <u>Partner with mana whenua / tangata whenua in the preparation of district plans;</u> (b) <u>Protect and enhance Māori freshwater values, including mahinga kai;</u> (c) <u>Provide for mana whenua / tangata whenua and their relationship with their culture, land, water, wāhi tapu and other taonga;</u> (d) <u>Incorporate the use of mātauranga Māori to ensure the effects of urban development are considered appropriately;</u> (e) <u>Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;</u> (f) <u>Integrate planning and design of stormwater management to achieve multiple improved outcomes – amenity values, recreational, cultural, ecological, climate, vegetation retention;</u> (g) <u>Consider the effects on freshwater and the coastal marine area of subdivision, use and development of land;</u> (h) <u>Consider the use and development of land in relation to target attribute states and any limits set in a regional plan;</u> (i) <u>Require that Water Sensitive Urban Design principles and methods are applied during consideration of subdivision, the extent of impervious surfaces and in the control of stormwater infrastructure;</u> (j) <u>Require that urban development is located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;</u> (k) <u>Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;</u> (l) <u>Require riparian buffers for all waterbodies and avoid piping of rivers;</u> (m) <u>Require hydrological controls to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;</u> (n) <u>Require efficient use of water;</u> (o) <u>Manage land use and development in a way that will minimise the generation of contaminants, including building materials, and the extent of impervious surfaces;</u> (p) <u>Consider daylighting of streams, where practicable; and</u> (q) <u>Consider the effects of land use and development on drinking water sources.</u> 	
<p><u>Explanation</u></p> <p><u>Policy FW.3 requires district plans to manage the effects of urban development on freshwater and the coastal marine area.</u></p>	

247. Policy FW.3 is a proposed new regulatory Policy requiring district plans to manage the effects of urban development on freshwater and the coastal marine area.

3.9.1 Submissions, Evidence and Analysis

248. Submitters raised concerns in relation to jurisdictional issues and duplication with other policies (for instance WCC [S140.046], KCDC [S16.080] and UHCC [S34.056]), clarity of direction as to how district plans provide for tangata whenua / mana whenua and their relationships with their culture, land, water, wāhi tapu and other taonga (for instance Taranaki Whānui [S167.085] and Te Tumu Paeroa [S102.047]), integrated planning and design of stormwater management (Wellington Water [S113.017]), avoiding loss of river extent and values and natural wetlands (Fish and Game [S147.016]), protection of freshwater species, hydrological controls, application to the CMA (WIAL [S148.038]), the ability of streams and rivers to move and meander naturally (DGC [S32.033]), and suggested deletion of the Policy (Best Farm Limited/Hunters Hill Ltd/Lincolnshire Farm Ltd/Stebbing's Farmlands Ltd [S135.006]). Wellington Water also sought that clause (k) be amended to require district plans to identify water source protection requirements.

249. The s 42A report addressed many of these concerns with several amendments to the provisions, including revising the wording of the title to “Urban development effects on freshwater and receiving environments – district plans”.

3.9.1.1 Overlapping council functions and responsibilities

250. The Reporting Officer agreed that Policy FW.3 included some requirements that did not sit within the responsibilities of TAs and there was some duplication with Policy 14 (for instances clauses (b), (h), (l) and (p)), and also duplication with Policy 15(j) and Policy FW.3(n) and (q) so it was recommended that these clauses be deleted.¹⁰⁸
251. We discuss overlapping council responsibilities further in relation to Policy FW.6.
252. Among other amendments, Ms Pascall proposed changes to clause (g) to clarify the policy intention of ensuring that the location, layout and design of urban development occurs in a way that minimises effects on

¹⁰⁸ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

freshwater.¹⁰⁹ Ms Pascall noted that this direction in the RPS is consistent with clause 3.5(4) of the NPS-FM which requires TAs to include provisions in district plans to promote positive effects, and avoid, remedy or mitigate adverse effects of urban development on freshwater.¹¹⁰ Ms Pascall noted that the chapeau to the Policy provides flexibility to TAs in how they address these matters as it allows for district plans to include rules or other methods to implement Policy FW.3.¹¹¹ Ms Pascall supported relief seeking to strengthen clause (c) to provide stronger direction for how district plans should provide for mana whenua / tangata whenua relationships.¹¹²

253. Ms Pascall agreed with PCC that clause (o) duplicated clause (i) in relation to impervious surfaces and so this part of the clause could be deleted, but it was appropriate for clause (o) to require district plans to manage land use and development in a way that minimises the generation of contaminants, including in relation to the choice of building materials. Ms Pascall said that WCC had included some provisions in its proposed District Plan that control the use of copper and zinc building materials for the sole purpose of preventing contaminants entering the stormwater system without proper treatment.¹¹³ The changes that Wellington Water sought regarding hydrological controls were better addressed, according to Ms Pascall, in a new Policy.
254. In her Rebuttal Evidence Ms Pascall combines clauses (a) and (c) to reduce duplication in relation to working with tangata whenua / mana whenua, and adds clause (ka) requiring identification of aquifers and drinking water sources further to Wellington Water's relief. At the hearing, Wellington Water confirmed that this addition in new clause (ka), and information about the management of urban development in these areas, addressed the relief they had sought.¹¹⁴

¹⁰⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

¹¹⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

¹¹¹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 373.

¹¹² Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 367.

¹¹³ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

¹¹⁴ Wellington Water, Speaking Notes, presented by Mr Slyfield, HS5, Hearing Day 1, 20 November 2023, page 1.

255. Ms Pascall does not agree with submitters' concerns that there is still duplication with Policy 14 and lack of clarity of responsibilities across the regional council and territorial authorities. A number of amendments were made in her s 42A Report to clarify respective responsibilities. In response to submissions that clauses (g), (k) and (o) be deleted as they reflect regional council rather than territorial authority responsibilities, she refers back to her s 42A Report.¹¹⁵

256. On clause (g), she states in the s 42A Report that:¹¹⁶

the intention is to ensure that urban development and proposals to rezone land for urban development are planned in a way that minimises effects on freshwater. I consider that it is appropriate that urban development is planned in such a way, and I note that this would likely require an integrated approach alongside the regional council at the early development planning or rezoning stage. This could occur through structure planning for large scale development or rezoning, for example. On this basis, I consider it is appropriate for the RPS to include direction for district plans on this matter, and that this is in line with clause 3.5(4) of the NPS-FM, which requires territorial authorities to include objectives, policies, and methods in district plans to promote positive effects, and avoid, remedy or mitigate adverse effects of urban development on freshwater.

257. The Reporting Officer recommended clause (ia) be added requiring urban development to be designed, constructed and maintained to achieve hydraulic neutrality, and also a definition of "hydraulic neutrality" as a consequential amendment, using the same definition in the WCC Proposed District Plan. Clause (ia) responds to relief requested by KCDC to include hydraulic neutrality in Policy 15 regarding managing the effects of earthworks and vegetation clearance, with the Officer considering that the amendment is better placed within Policy FW.3.¹¹⁷ At the hearing, Mr McDonnell for PCC supported the wording of clause (ia) and said it aligned with the approach TAs are taking in Wellington and their functions under s 31.¹¹⁸

¹¹⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

¹¹⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 364.

¹¹⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 472 – 474.

¹¹⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 15, lines 694 – 696.

258. On clause (k) the Officer notes in her Rebuttal Evidence:¹¹⁹

....in my experience, territorial authorities are well placed to ensure urban development is located and designed to protect and enhance the waterbodies listed in the clause. District plans manage the location and design of urban development and implementation of this clause could involve the inclusion of buffers or setbacks from these waterbodies (as one example) in their zone rules or through natural environment provisions of their district plans.

259. On clause (o), the s 42A Officer's comment is:¹²⁰

the clause requires district plans to manage land use and development to minimise the generation of contaminants. In my opinion, this is a matter district plans can address under clause 3.5(4) of the NPS-FM...

260. More broadly in relation to division of responsibilities between regional and district plans the Officer acknowledges in her Rebuttal Evidence that:

¹²¹

in some instances there may be overlap in the requirements of the regional and district plans, however I consider that this remains appropriate insofar as these matters relate to the respective functions of regional councils and territorial authorities. At the implementation stage, it will require coordination between the councils and I consider this is part and parcel of integrated management.

261. Mr McDonnell for PCC maintained at the hearing that clauses (g), (i), (k) and (o) should be deleted as they are regional council functions under s 30, most relate to the discharge of contaminants to land and water,¹²² and Policy 14 requires that regional plans regulate most of these same matters.¹²³ Mr McDonnell also said that requiring district plans to regulate these matters would duplicate provisions in Plan Change 1 to the NRP, at least for Te Awarua o Porirua and Te Whanganui a Tara Whaitua.

¹¹⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 109.

¹²⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 364.

¹²¹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 114.

¹²² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 15, lines 696 – 700.

¹²³ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, para 46.

262. In her Reply Evidence, in response to questions we posed in Minute 18, Ms Pascall said she remained of the view that protecting the “natural form and flow of the waterbody” is not a function of territorial authorities and is best managed through the regional plan. Ms Pascall did agree that clause (k) should include reference to “health and wellbeing” for consistency with clause 3.5(4) of the NPS-FM,¹²⁴ and that clause (g) should be amended to refer to the “effects of” urban development on freshwater and receiving environments.
263. We agree with the majority of Ms Pascall’s views on these clauses and consider they are appropriate requirements for district plans, are consistent with clause 3.5(4) of the NPS-FM, and that effective management of urban development impacts on freshwater will require ongoing coordination between the Regional Council and territorial authorities (as we noted earlier in relation to Policy 14). We acknowledge and accept Ms Pascall’s evidence that a MOU between the respective councils would be challenging to administer in the Wellington context with eight TAs and that the more efficient way of addressing allocation of responsibilities is through polices and methods in the RPS.¹²⁵
264. Other submitters suggested that clauses (h), (m) and (n) of Policy 14 should be duplicated in this Policy. Ms Pascall’s view is that these clauses in Policy 14 are clear Regional Council water quality responsibilities. She is also of the view that natural form and flow of waterbodies and daylighting of streams are appropriately identified as Regional Council responsibilities in accordance with sections 30 and 31 of the RMA.¹²⁶
265. As we stated above in the discussion on Policy 14, we are persuaded by the evidence and submissions of the Director-General of Conservation that territorial authorities have jurisdiction to ensure urban development is located and designed to protect and enhance the waterbodies in clause (k), including through the use of buffers or setbacks in zone rules or in the natural environment provisions in district plans. We also support in part the amendment sought to include “the natural form and flow of the waterbody” in a new clause (kaa). Ms Pascall said in her Rebuttal Evidence that this did not fit within the responsibilities of territorial

¹²⁴ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 92 – 93.

¹²⁵ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 50 – 51.

¹²⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 112 – 113.

authorities.¹²⁷ However, in our view, territorial authorities are best placed to influence the location and design of urban development to achieve improved water quality outcomes.

266. We think the analysis in para 109 of Ms Pascall’s Rebuttal evidence applies equally to this issue of the “natural form and flow of the waterbody” as it does to protecting and enhancing gully heads, rivers, lakes and so on. This will require coordination between the Regional Council and city and district councils, but this is expected and required through Method IM.1. We recommend the “protection of natural flows” is included in a new clause (kaa) which we discuss further below.
267. We note that, as discussed above, Policy 14(h) which is a similar policy for regional plans, requires urban development be located etc to protect and enhance the health and wellbeing of “adjacent gully heads, rivers and so on. At the hearing, Ms Pascall confirmed that word “adjacent” applied to all of the waterbodies/areas listed in the Policy, but that “receiving environment” was broader and did not have to be adjacent. The word “adjacent” is not in Policy FW.3(k) and we think this is appropriate. However, we see no reason why “receiving environments” is not included in Policy FW.3(k) and recommend an amendment to that effect.

3.9.1.2. Daylighting of rivers

268. We were persuaded by Mr Brass’ evidence that:¹²⁸

From a practical point of view, district plans control zoning and rules for land use adjacent to rivers and streams (including setbacks), which can either provide for or preclude the ability for them to move naturally.

269. Similarly, Mr Brass was of the view that district plans should include provisions to “promote and enable the daylighting of streams”.¹²⁹ In his view, “land use matters such as subdivision design and layout, setback requirements, and location of services, can directly provide space for daylighting or block off options”.¹³⁰ Territorial authorities are tasked under s 31 of the RMA with achieving integrated management of the effects of

¹²⁷ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 112.

¹²⁸ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 31.

¹²⁹ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 38.

¹³⁰ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 35.

the use, development, or protection of land and associated natural and physical resources of the district and it is therefore appropriate to provide for the daylighting of streams through provisions in district plans. Mr Brass said that the Policy could not require daylighting of streams as that was not realistic given the streams and pipes under Wellington City as an example. However, as he explained it, “it is about having provisions that encourage it, so that things are moving in the right direction”.¹³¹

270. Mr Brass’ planning evidence was supported by Dr Boddy’s technical evidence outlining the impacts on habitat and biodiversity from hard-engineered structures and riverbanks for erosion control and flood protection. Dr Boddy said that:¹³²

Re-establishing or avoiding further loss of meanders, braided river plains, and connection between wetlands and rivers throughout the catchment may slow sediment movement, reduce flooding, increase climate change resilience and improve biodiversity.

271. Dr Boddy presented images showing how the natural flow of the Hutt River has been constrained by urban development over the decades, and how subdivision developments have impacted the natural flow and character of rivers and streams. She emphasised that there were around 700km of piped streams just within the Wellington City limits.¹³³ Dr Boddy acknowledged there are conflicts between restoring natural flow and character and protecting existing communities and infrastructure, but opportunities do exist for ‘win-win’ outcomes.¹³⁴

272. Dr Boddy also talked about the benefits of daylighting streams, which is the practice of removing rivers and streams from underground pipe networks and restoring them to open air.¹³⁵ This can restore streams to a naturalised state and bring about environmental improvements (improved habitat, increase biodiversity and improved water quality) and reduce flash flooding.¹³⁶ Having rivers exposed to daylight will aid photosynthesis, and algae can feed the invertebrates which then feed the

¹³¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 35, lines 1769 – 1775.

¹³² Evidence of Dr Nixie Boddy on behalf of the Director-General of Conservation, HS5, 3 November 2023, para 19 (citing Clearwater et al. 2022).

¹³³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 31, lines 1538 – 1539.

¹³⁴ Evidence of Dr Nixie Boddy on behalf of the Director-General of Conservation, HS5, 3 November 2023, para 24.

¹³⁵ Evidence of Dr Nixie Boddy on behalf of the Director-General of Conservation, HS5, 3 November 2023, para 34.

¹³⁶ Evidence of Dr Nixie Boddy on behalf of the Director-General of Conservation, HS5, 3 November 2023, para 34.

fish and you start to establish a food web.¹³⁷ Dr Boddy did however note the connectedness of river networks and that a catchment approach should be taken to maximise benefits.¹³⁸ Mr Brass view was that this evidence justifies including active and positive direction on daylighting of streams in the RPS.¹³⁹ Ms Downing for Forest and Bird also supported territorial authorities having a role in promoting the daylighting of streams, and said this was consistent with clause 3.5(4) of the NPS-FM which requires district plans to promote positive effects.¹⁴⁰

273. We agree and consider, based on Dr Boddy’s evidence regarding the Regional Council’s role in catchment management and the information provided by Mr Brass and Ms Downing, that it is appropriate and within the RMA’s jurisdiction for territorial authorities to consider opportunities to daylight streams in land use, subdivision and development proposals.

274. During the hearing, we asked Ms Cook and Mr Jeffries (planners for WCC) about their approach regarding the daylighting of streams. Ms Cook said that the issue has come up in higher strategic directions for Wellington City Council, however:¹⁴¹

it is considered harder for the daylighting of streams and Wellington City boundaries because the majority of them are connected up into our stormwater network.... Putting a stream underground there is also a function for them being part of our stormwater network as well. So, while I don’t believe it’s against the strategic direction WCC is going in, however it is going to be materially more difficult to achieve than in other places... just [with] the level of development that we have in places such as the city centre. Where the stream paths currently go in relation to building, such as parliament. There’s a fair few of the piped streams around there.

275. Having considered all submitters on this issue, we recommend that Policy FW.3 is amended to include a clause requiring urban development to be located and designed to protect natural flows and enable the daylighting of rivers as far as practicable. We consider this amendment is justified on the basis of the evidence and submissions we heard, it gives appropriate

¹³⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 36, lines 1788 – 1791.

¹³⁸ Evidence of Dr Nixie Boddy on behalf of the Director-General of Conservation, HS5, 3 November 2023, para 38.

¹³⁹ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 34.

¹⁴⁰ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 59, lines 2971 – 2992.

¹⁴¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 55, lines 2796 – 2811.

effect to clause 3.5(4) of the NPS-FM, and is aligned with TA functions in s 30.

276. As we discussed earlier in relation to Policy 14(n), we consider it appropriate for the provisions to refer to the “daylighting of rivers” given the definition of “river” in the RMA includes “streams”. We recommend consistent drafting is used across the Change 1 provisions that refer to the daylighting of streams/rivers. We prefer to use the term “rivers” rather than “streams” given the RMA definition of the term.
277. Policy 14(a) appropriately requires that mana whenua / tangata whenua are actively involved in freshwater management. We consider that this wording is also appropriate in Policy FW.6 including on the basis of Policy 2 and clause 3.2(2)(a) of the NPS-FM.
278. We otherwise consider that Policy FW.3 (in the Officer’s Reply Evidence) appropriately identifies the requirements of district plans for implementation of the NPS-FM in relation to managing urban development impacts on freshwater.

3.9.2 Finding and s 32AA Evaluation

279. We largely agree with the Reporting Officer’s recommendations on Policy FW.3 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend amendments to refer to the active involvement of mana whenua / tangata whenua in clause (c), “other receiving environments” in clause (k), and also a new clause (kaa) (with numbering to be reviewed and modified as required by Council) requiring urban development to be located and designed to protect natural flows and enable daylighting of rivers as far as practicable.
280. We consider that the amendments we have recommended align with territorial authority functions in s 31 of the RMA and give better effect to Policy 2, and clauses 3.2(2)(a) and 3.5(4) of the NPS-FM (the latter referring to district plans promoting positive effects). The amendments will appropriately manage potential adverse effects on freshwater and receiving environments from urban development, in line with TA functions and help to achieve Objective 12 and the sustainable management purpose of the Act.

3.9.3 Recommendation

Policy FW.3: *Urban development effects on freshwater and the coastal marine area receiving environments* – district plans

District plans shall include objectives, policies, and methods including rules *for urban development*, that give effect to *Te Mana o te Wai* and section 3.5(4) of the NPS-FM, and in doing so must:

- ~~(a) Partner with mana whenua / tangata whenua in the preparation of district plans;~~
- ~~(b) Protect and enhance Māori freshwater values, including mahinga kai;~~
- (c) ~~Partner with~~ Provide for mana whenua / tangata whenua and recognise and provide for their relationship with their culture, land, water, wāhi tapu and other taonga;
- (d) Incorporate the use of mātauranga Māori to ensure the effects of urban development urban development are considered appropriately;
- (e) Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development urban development;
- (f) Integrate planning and design of stormwater management to achieve multiple improved outcomes – amenity values, recreational, cultural, ecological, climate, vegetation retention;
- (g) Consider the effects of the location, layout and design of urban development urban development in relation to effects on on freshwater and the coastal marine area receiving environments of subdivision; use and development of land;
- ~~(h) Consider the use and development of land in relation to target attribute states and any limits set in a regional plan;~~
- (i) Require that Water Sensitive Urban Design water sensitive urban design principles and methods are applied during consideration of subdivision, including the extent of impervious surfaces and in the control of stormwater infrastructure;
- ~~(ia) Require urban development urban development to be designed, constructed and maintained to achieve hydraulic neutrality.~~
- ~~(j) Require that urban development is located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (k) Require that urban development is located and designed to protect and enhance the health and wellbeing of gully heads gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries and other receiving environments;
- ~~(ka) Identify aquifers and drinking water source areas in the district and include~~

~~information about how urban development urban development in these areas is managed in the region;~~

~~(kaa) Require that urban development is located and designed to protect natural flows and enable the daylighting of rivers as far as practicable~~

- ~~(l) Require riparian buffers for all waterbodies and avoid piping of rivers;~~
- ~~(m) Require hydrological controls to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;~~
- ~~(n) Require efficient use of water;~~
- ~~(o) Manage land use and development in a way that will minimise the generation of contaminants, including in relation to the choice of building materials, and the extent of impervious surfaces;~~
- ~~(p) Consider daylighting of streams, where practicable; and~~
- ~~(p) Consider the effects of land use and development on drinking water sources.~~

Explanation

Policy FW.3 requires *district plans* to manage the effects of **urban development urban development** on *freshwater* and ~~the coastal marine area~~ receiving environments.

Policy FW.4: Financial Contributions for urban development – district plans

~~District plans shall include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent where off site stormwater quality and quantity treatment is required, as set out in a Stormwater Management Plan (required as a condition of a network discharge consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution. A financial contribution will not be required where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose.~~

~~Note: financial contributions cannot be imposed against Minister of Education or Minister of Defence~~

Explanation

~~Policy FW.4 requires financial contributions, or alternatively development contributions to be collected for the construction of catchment scale stormwater solutions, so that urban new urban development pays their fair share.~~

3.10 Policy FW.X – Hydrological control for urban development – regional plans

281. This Policy was not in the notified Change proposal. It is a new Policy recommend through the s 42A Report in response to submitter concerns that the proposed definition for hydrological control provides guidance for how hydrological controls should be implemented rather than simply a definition¹⁴² (WCC [S140.0123], PCC [S30.0106], and also the related relief sought by Wellington Water [S113.051]).
282. In response to these submissions, the s 42A Officer has recommended that the definition of “hydrological controls” be recast as a new Policy.¹⁴³ Ms Pascall has also recommended the definition change to “hydrological control” (ie be framed in the singular) to change the focus from the methods and devices to the outcome that is sought from stormwater management in urban development.¹⁴⁴
283. Ms Pascall explained that the purpose of the Policy is to control the hydrology of a site in order to manage stormwater runoff and volume and subsequent impacts on freshwater ecosystem health,¹⁴⁵ and therefore this was appropriate direction to regional plans.¹⁴⁶

3.10.1 Submissions, Evidence and Analysis

284. There were mixed views from submitters on the need for hydrological control in comparison to hydraulic neutrality.
285. The technical evidence of Mr Farrant discusses the need for hydrological control and the distinction between hydrological control and hydraulic neutrality,¹⁴⁷ and the importance of the former for freshwater ecosystem health. According to Mr Farrant, hydraulic neutrality in isolation does not achieve the ecological benefit that is sought from hydrological control.¹⁴⁸

¹⁴² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 946.

¹⁴³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 958.

¹⁴⁴ Hearing Statement of Kate Pascall, Hearing Stream 5: Freshwater and Te Mana o te Wai (opening day of hearings), 20 November 2023, para 25.

¹⁴⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 959.

¹⁴⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 960 – 961.

¹⁴⁷ Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023.

¹⁴⁸ As summarised in Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 51.

286. In his opening statement Mr Farrant said:¹⁴⁹

Hydraulic neutrality is focused solely on peak flowrates from infrequent large rainfall events and is intended to provide resilience to flood events through detention whereby stormwater is held back and released over an extended timeframe at a throttled flowrate. Whilst I do not question the importance of flood mitigation, and the intent of hydraulic neutrality, it is important to recognize that it does not provide environmental benefit and in many instances can worsen outcomes through artificially extending the duration of elevated flowrates. Detention to support hydraulic neutrality also has no influence on the changed flow rate and frequency in small rainfall events which are fundamental to supporting freshwater ecosystem health.

287. Ms Pascall's s 42A Report provides a useful summary of the relationship between hydrological controls and hydraulic neutrality:¹⁵⁰

Hydrological controls manage stormwater flows and volumes to both control the amount of runoff from a site as well as managing the effects of contamination on freshwater ecosystem health ... Hydraulic neutrality is a mechanism for addressing stormwater peak flowrates to reduce the risks of flooding downstream through the use of stormwater detention, where stormwater is held back in tanks or similar and released at a later stage, to ensure the risks of flooding are no greater in a developed state than the existing situation. Hydraulic neutrality therefore addresses water quantity but does not address the effects of stormwater runoff on water quality.

288. Mr Jeffries and Ms Cook, providing joint planning evidence for WCC, stated that the new hydrological policy should apply to district plans rather than regional plans. Ms Pascall remained of the view that it was appropriate regional plan direction given the focus on freshwater ecosystem health, but that hydraulic neutrality would still be required through district plans.¹⁵¹

289. While it is the RPS that directs regional plans and not the converse, the Officer advised that a recently notified change to the NRP includes

¹⁴⁹ Hearing Statement of Stuart Farrant, Hearing Stream 5: Freshwater and Te Mana o te Wai (opening day of hearings), 20 November 2023, para 2.

¹⁵⁰ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 953 – 954.

¹⁵¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 962.

regional rules requiring hydrological control in all scales of urban development.¹⁵²

290. In their evidence presented at the hearing, Mr Jeffries said that while they appreciated that hydraulic neutrality is a different concept to hydrological control, both involve management of run-off from urban development and requiring the former through a regional plan, and the latter through a district plan duplicates functions and would likely require separate consents from both regional and city councils to manage the same effect and would not improve freshwater outcomes.¹⁵³ In their view, hydrological control in relation to urban development would be more effectively implemented through the district plan rather than the regional plan.¹⁵⁴ They did not support Policy FW.X and sought that it be deleted also noting that a s 32 evaluation had not been provided.¹⁵⁵ On this issue, Ms Pascall directed us to her s 42A Report where a s 32AA evaluation was provided.¹⁵⁶
291. Ms Lockyer, a Principal Consultant – Hydrology, presented evidence on behalf of Wellington Water. She said that she agreed with Ms Pascall that the purpose of hydraulic neutrality is to attenuate peak flow.¹⁵⁷ The aim is to cap the peak flow from a property post-development, to that from a property pre-development, to minimise the risk of flooding to people and property downstream.¹⁵⁸ Ms Lockyer explained that Wellington Water currently requires new development (greenfield or infill development) to be hydraulically neutral in events up to a 1% annual exceedance probability (AEP) rainfall, including the predicted impacts of climate change.¹⁵⁹ This is managed through review of the 10% and 1% AEP rainfall events. However, in Ms Lockyer’s view, it was problematic to include ‘volume’ (rather than only ‘flow’) within the definition of “hydraulic neutrality”, as that requires all the runoff from the developed site to be managed via hydrological controls such as retention on-site, and this significantly reduces the ability to develop areas and meet urban growth requirements. This was because landcover and soils had been

¹⁵² Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 39.

¹⁵³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 48, lines 2420 – 2429.

¹⁵⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 48, lines 2430 – 2431.

¹⁵⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 48, lines 2444 – 2450.

¹⁵⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 52, lines 2617 – 2619.

¹⁵⁷ Statement of Evidence of Charlotte Lockyer on Behalf of Wellington Water Ltd, HS 5, 3 November 2023, paras 18 – 19.

¹⁵⁸ Statement of Evidence of Charlotte Lockyer on Behalf of Wellington Water Ltd, HS 5, 3 November 2023, para 13.

¹⁵⁹ Statement of Evidence of Charlotte Lockyer on Behalf of Wellington Water Ltd, HS 5, 3 November 2023, para 14.

significantly altered overtime and have reduced capacity to retain this volume, and the required storage volume and site area would be large and often prohibitive to development.¹⁶⁰

292. Ms Lockyer suggested amendments to the definition of “hydraulic neutrality” to delete references to “volumes” and include magnitude events (10% AEP and 1% AEP).
293. We found Mr Farrant’s evidence on the impacts on freshwater health, the receiving environment, and resultant decline of indigenous biodiversity from inappropriately managed urban development which causes increases in the discharge of contaminants, runoff volumes and flowrates, and disruption of natural flow patterns/variability persuasive.¹⁶¹ He stated that:¹⁶²

Future greenfield and infill redevelopment without robust and resilient mitigation of stormwater impacts through hydrological controls will contribute to and exacerbate ongoing decline in waterway health and will not support the intent of regulatory drivers of the NPS-FM.

294. He also said that continuing with existing development practices without requiring hydrological controls “will accelerate the decline in environmental and social outcomes across the Wellington Region”.¹⁶³ In particular, Mr Farrant said that continuing existing practices would result in the following:¹⁶⁴

- a. Ongoing loss of indigenous biodiversity in waterbodies due to persistent scour and disturbance of natural stream form
- b. Reduced quality of water in waterways due to instream sediment mobilisation and discharge of urban contaminants adversely impacting on cultural, ecological and social values

¹⁶⁰ Statement of Evidence of Charlotte Lockyer on Behalf of Wellington Water Ltd, HS 5, 3 November 2023, paras 23 – 24.

¹⁶¹ Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023, paras 18 – 19.

¹⁶² Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023, para 37.

¹⁶³ Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023, para 39.

¹⁶⁴ Statement of Evidence of Stuart Farrant for Wellington Regional Council – Technical Evidence – Hearing Stream 5, 30 October 2023, para 39.

- c. Ongoing loss of terrestrial biodiversity through reducing riparian habitat and fragmented connections or ecological corridors
- d. Reduced resilience to future climate change including both large shocks (floods/droughts) and changing seasonal patterns
- e. Increased costs and further loss of freshwater values through the construction of instream retaining structures to ‘control’ ongoing scour and erosion resultant from modified hydrology
- f. Continuing disconnect between communities and the natural environment.

295. Given the focus of this issue in the Hearing, we provide further comments and analysis on hydrological control.

3.10.1.1 Hydrological control and water sensitive design in managing contaminants in stormwater runoff

296. From the evidence there were two main points of contention. First, the metric to be used for achieving hydrological control and the level of detail or perceived prescription in new Policy FW.X; and second, whether the HS 5 provisions duplicated related provisions within HS 3. We also consider this latter issue in the discussion on the ‘Policy CC.4 and CC.14 suite’ of provisions in HS3.

297. Mr Farrant, presenting technical evidence for the Council, supported the version of Policy FW.X in Ms Pascall’s Rebuttal evidence. He said that this provision expressed the outcome sought, rather than the methods to achieve it.¹⁶⁵

298. Other experts disagreed. Ms Lockyer, for Wellington Water, said that the Policy should require hydrological controls, but the way the Policy prescribed how these controls should be set was unclear and difficult to interpret.¹⁶⁶ In her view, the outcome should focus on freshwater ecosystem health and scale prevention, but the Policy as supported by Council in its Rebuttal Evidence, was “detailing a methodology that you

¹⁶⁵ Right of Reply of Stuart Farrant on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater, 20 December 2023, para 12.

¹⁶⁶ Statement of Evidence of Charlotte Lockyer on behalf of Wellington Water Ltd, HS5, 3 November 2023, paras 32 – 34.

need to employ, rather than [the] outcome that was trying to be achieved”.¹⁶⁷

299. Among other things, Ms Lockyer did not support the need for continuous flow modelling as this could be cost prohibitive and it was unclear whether the modelling was the responsibility of Council or the developer.
300. Ms Horrox supported a simpler version of the Policy to require retention of rainfall to manage the effects of stormwater runoff (volume and quality) on freshwater ecosystem health.¹⁶⁸
301. In her Rebuttal Evidence, Ms Pascall, relying on Mr Farrant’s technical evidence, continued to support retaining clauses (a) and (b) with some amendments, to clarify the outcome sought from hydrological control.¹⁶⁹
302. In his Speaking notes, Mr Slyfield summarised Wellington Water’s key concerns with Policy FW.X in this way:¹⁷⁰

The policy contains more specificity than necessary for an RPS. This level of specificity is more appropriate to rules, which can be developed in the NRP. Notably, the policy is more specific than any of the NRP provisions regarding hydrological controls under NRP PC1. The policy should require hydrological controls, but should not prescribe how hydrological controls must be set, given the extent of expert disagreement. Ms Lockyer and Mr Farrant do not agree on the technical foundations of the policy. The RPS is not the place to resolve these technical matters, given the RPS—in comparison to the regional plan—provides less scope for the testing of expert opinions, less opportunity for interaction between experts, and less opportunity for future refinement by privately-initiated change.

303. At the hearing, Wellington Water requested deletion of clauses (a) and (b) from the Policy because:¹⁷¹

an attempt to resolve all the technical points of difference between Ms Lockyer and Mr Farrant is unlikely to be able to be

¹⁶⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 44, lines 2221 – 2224.

¹⁶⁸ Statement of Evidence of Caroline Horrox on behalf of Wellington Water Ltd, HS5, 3 November 2023, para 33.

¹⁶⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 59 – 60.

¹⁷⁰ Wellington Water, Speaking Notes, presented by Mr Slyfield, HS5, Hearing Day 1, 20 November 2023, page 2.

¹⁷¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 40, lines 1998 – 2006.

done in this forum in a way that does justice to the science behind their respective positions.

304. In response to our questioning at the Hearing and in Minute 18, Ms Pascall responded in her Reply Evidence that there are two key issues;¹⁷² first, disagreement between the experts about the metric to be used for achieving hydrological control and the detailed nature of the policy, given this is in a RPS context. She further comments:¹⁷³

I have concerns about retaining the methodology in the new policy at this stage. Wherever the methodology is located, experts need to be confident that it can be implemented and is achievable.... this is a very detailed policy for a RPS. I have reviewed the content of Plan Change 1 to the NRP, which includes requirements for hydrological control through the rules and standards. That content is less prescriptive than the recommended RPS policy, which is inconsistent with the plan hierarchy. This could create a scenario where technically the NRP is not giving full effect to the RPS. Moreover, users of the NRP should not have to look to the RPS for this type of detail.

305. Ms Pascall recommends deleting clauses (a) and (b) of Policy FW.X and retaining the chapeau which requires regional plans to include policies, rules and methods for urban development that require hydrological control. She further opines that further discussion is needed between the Councils, Mr Farrant and other experts about the appropriate metric for hydrological control and how this should be reflected in the NRP.
306. Ideally these discussions would take place prior to the hearings for Plan Change 1 to the NRP, assuming that there is sufficient scope in submissions. Mr Slyfield commented on the need for more time to ensure robust testing of the approach.¹⁷⁴ Ms Lockyer also said that a lot of work should be done on developing an effective implementation approach that also allowed innovation and flexibility.¹⁷⁵
307. We support the approach recommended in Ms Pascall's Reply Evidence given the extent of disagreement between the technical experts and the

¹⁷² Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 78.

¹⁷³ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 79 – 80.

¹⁷⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, pages 42 – 43; lines 2132 – 2142.

¹⁷⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 43, lines 2184 – 2186.

need for more time to refine the details of how hydrological controls should be set.

3.10.1.2 Relationship with hydraulic neutrality

308. Some presenters at the Hearing observed that Plan Change 1 to the NRP (which was notified recently) includes a regional rule about hydrological control.¹⁷⁶ As Ms Cook for WCC said, “now [hydrological control has] been completely removed from the district plan [there is now an] overlap of consenting processes being for hydrological controls and other stormwater management systems that we are requiring to the PDP.”¹⁷⁷
309. We rely on the Reporting Officer’s and Mr Farrant’s evidence, and the legal submissions and evidence presented by Wellington Water which confirm that hydrological control through regional plans is an important, justified and appropriate regional council function and a means to manage the health and wellbeing of water bodies and freshwater ecosystems from the stormwater runoff. We are satisfied from the evidence that hydraulic neutrality does not achieve the same ecological benefits, even if discharges are to a stormwater network. We understand that an increased volume of stormwater runoff into waterbodies can change the natural processes and characteristics of these waterbodies, but we have some concerns with the definition of *hydrological control* supported by the Officer. The intended outcomes in the Policy can be better achieved in our view, if it is clear that stormwater flows and volumes from a site, sites or area can be assessed and managed. We discuss this further in the Definitions section of our Report but set out below the amendments we recommend to the definition:

Hydrological controls: 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, or area~~ into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments ~~in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, or scour,~~ to help protect freshwater ecosystem health and wellbeing. Hydrological control may also include methods or techniques to limit bank erosion, slumping or scour.

¹⁷⁶ For instance, Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 52, lines 2650 – 2652, per Mr Jeffries for WCC.

¹⁷⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 53, lines 2663 - 2665.

310. We recommend some minor amendments to the Explanation which align with the amendments we recommend to the definition of *hydrological control*.

3.10.2 Finding and s 32AA Evaluation

311. We agree with the Reporting Officer's recommendations on Policy FW.X for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We recommend some relatively minor amendments to the Explanation to align with our recommended amendments to the definition of *hydrological control* and to clarify that stormwater runoff may not just occur from the site or sites being developed. These amendments will help to clarify the policy intent and the expected outcomes from hydrological control provisions which will give better effect to direction in the NPS-FM.

3.10.3 Recommendation

Policy FW.X Hydrological Control for urban development – regional plans

Regional plans shall include policies, rules and/or methods for urban development 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. Hydrological control standards 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 site 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) 50% annual exceedance probability (AEP) so-called 'channel forming' (or 'bankfull') flow for the point where the fully developed area discharges to a stream, or via a stormwater network that discharges to a 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 site 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 50% annual exceedance probability (AEP) peak flow event 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.

Explanation

Policy ~~XX~~ FW.X requires *regional plans* to provide for ~~require~~ *hydrological control of urban development* *urban development* in order to manage water quantity and water quality as a result of *stormwater* runoff from impervious surfaces resulting from urban development on a site. *Hydrological control* provides multiple benefits in terms of managing the frequency of small frequent runoff events that impact on stream *resilience* and *freshwater ecosystem health*, maintaining and improving water quality through bank management and / or diverting stormwater from streams as well as supporting resilience during and after intense rainfall events. *Different requirements will apply to greenfield and brownfield developments*. The 2-year Average Recurrence Interval reflects ‘channel forming’ or ‘bankfull’ flows which is the flowrate that defines the stream structure. Flows in excess of this flowrate can breach stream banks and engage adjacent flood plains where present. Policy XX provides guidance about the outcomes that should be achieved from hydrological control, rather than the specific solutions that should be used. This approach enables solutions to be developed that are appropriate based on the characteristics of a particular area or site and supports flexibility and innovation.

3.11 Policy 42 - Effects on freshwater and the coastal marine area from urban development – consideration ~~Minimising contamination in stormwater from development – consideration~~

312. The notified provision stated:

<p>Policy 42: Effects on freshwater and the coastal marine area from urban development – consideration Minimising contamination in stormwater from development – consideration</p>	
<p><u>When considering an application for a resource consent the regional council must give effect to <i>Te Mana o te Wai</i> and in doing so must have particular regard to:</u></p>	
<ul style="list-style-type: none"> (a) <u>Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;</u> (b) <u>Protect and enhance mana whenua /tangata whenua freshwater values, including mahinga kai;</u> (c) <u>Provide for mana whenua/tangata whenua and their relationship with their culture, land, water, wāhi tapu and other taonga;</u> (d) <u>Incorporate the use of mātauranga Māori to ensure the effects of urban development are considered appropriately;</u> (e) <u>The effects of use and development of land on water, including the effects on receiving environments (both freshwater and the coastal marine area);</u> (f) <u>The target attribute states set for the catchment;</u> (g) <u>Require that the development, including stormwater discharges, earthworks and vegetation clearance meets any limits set in a regional plan;</u> (h) <u>Require that urban development is located and designed and constructed using the principles of Water Sensitive Urban Design;</u> 	
<ul style="list-style-type: none"> (i) <u>Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;</u> (j) <u>Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;</u> (k) <u>Require hydrological controls to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;</u> (l) <u>Require stormwater quality management that will minimise the generation of contaminants, and maximise, to the extent practicable, the removal of contaminants from stormwater;</u> (m) <u>Require riparian buffers for all waterbodies and avoid piping of rivers;</u> (n) <u>Daylighting of rivers, where practicable;</u> (o) <u>Mapping of rivers and wetlands;</u> (p) <u>Efficient end use of water and alternate water supplies for non- potable use;</u> (q) <u>protecting drinking water sources from inappropriate use and development; and</u> (r) <u>applying an integrated management approach to wastewater networks including partnering with mana whenua as kaitiaki and allowance for appropriately designed overflow points where necessary to support growth and consideration of different approaches to wastewater management to resolve overflow.</u> 	

~~When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, the adverse effects of stormwater runoff from subdivision and development shall be reduced by having particular regard to:~~

- ~~(a) — limiting the area of new impervious surfaces in the stormwater catchment;~~
- ~~(b) — using water permeable surfaces to reduce the volume of stormwater leaving a site;~~
- ~~(c) — restricting zinc or copper roofing materials, or requiring their effects to be mitigated;~~
- ~~(d) — collecting water from roofs for domestic or garden use while protecting public health;~~
- ~~(e) — using soakpits for the disposal of stormwater;~~
- ~~(f) — using roadside swales, filter strips and rain gardens;~~
- ~~(g) — using constructed wetland treatment areas;~~
- ~~(h) — using in situ treatment devices;~~
- ~~(i) — using stormwater attenuation techniques that reduce the velocity and quantity of stormwater discharges; and~~
- ~~(j) — using educational signs, as conditions on resource consents, that promote the values of water bodies and methods to protect them from the effects of stormwater discharges.~~

~~The stormwater design and treatment approaches set out in this policy are to reduce adverse effects of subdivision and development on the quantity and quality of stormwater. The policy only applies to regional consents.~~

~~Clauses in the policy are aimed at achieving hydraulic neutrality and aquatic ecosystem health when land is developed. It is important to take an integrated approach to management of the adverse effects of stormwater discharges, particularly on low energy aquatic receiving environments — such as Wellington Harbour, Porirua Harbour, inlets, estuaries, lakes, lowland streams and wetlands.~~

313. Policy 42 provides direction for considering an application for a regional resource consent that relates to urban development. It is an existing policy within the Operative RPS. The Policy is not intended to duplicate Policies 14 and FW.3 but instead provide regulatory direction where there is a gap in regional or district plans, or where plan changes have not yet implemented the policies of Chapter 4.1.¹⁷⁸ Change 1 proposes amendments to Policy 42 and requires that applications for resource consent relating to urban development give effect to *Te Mana o te Wai* and in doing so, have particular regard to the matters set out in the Policy.

3.11.1 Submissions, Evidence and Analysis

314. Wellington Water [S113.018] supported Policy 42 in part and sought an amendment to clause (k): “Require hydrological controls to reduce the adverse effects of excess stormwater volume on stream bank scour and aquatic ecosystem health”.

178

315. Other submitters raised concerns in relation to general drafting – grammar, linking clauses with the chapeau and consistency with the RMA and Policies 14 and FW.3, whether ‘require’ is an appropriate verb within a consideration policy, the relationship to target attribute states (Rangitāne [S168.052]), partnering with tangata whenua/mana whenua (Taranaki Whānui [S167.0108]), duplication with Policy 41 in relation to earthworks and vegetation clearance (PPFL [S118.012]), application to the coastal marine area (WIAL [S148.037] and DGC [S32.024]), protection of the natural form and flow of waterbodies (DGC [S32.025]), application of the matters in Policy 42 to district plans (PCC [S30.066] and Wellington Water [S113.018]), whether “lot boundaries” and “new roads” were outside the jurisdiction of regional council functions, and definitions of minimise and maximise (Wellington Water [S113.033 – 113.035]).
316. The s 42A report discussed these concerns with several amendments recommended to the provisions, including revising the wording of the title to “Effects on freshwater and receiving environments from urban development”, amending the chapeau and linking words in the clauses, replacing the word “require” in clause (g) with the words “the extent to which” which is language more appropriate to a consenting assessment under s 104 of the Act. This amendment grants in part the relief sought by the Fuel Companies [S157.035]. The Officer has recommended a new policy on hydrological controls and this addresses, at least in part, the relief sought by Wellington Water.
317. The Officer did not support the Fuel Companies’ relief to replace “avoid” with “reduce” in clause (k) on the basis that “this would not achieve the necessary change that is required in relation to effective management of stormwater runoff and the effects this can have on freshwater ecosystem health.” The Officer recommended that the word “minimise” is used instead in the clause to ensure effects are reduced to the smallest amount possible while recognising that it may not be possible to avoid all effects.¹⁷⁹ In addition, the Officer did not think it appropriate to apply the matters in Policy 42 to district plans as sought by Wellington Water on the basis that the matters in the Policy are matters better addressed in assessing regional resource consents.¹⁸⁰
318. Remaining submitter concerns in evidence covered reference to legal boundaries being beyond regional council functions (Mr Heale for Kāinga

¹⁷⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 412.

¹⁸⁰ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 413 – 414.

Ora¹⁸¹ and Mr Lewandowski for PPFL¹⁸²), changes to provide consistency with Policies 14 and FW.3, an amendment to the approach of absolute avoidance in clause (h) (Ms McPherson for the Fuel Companies¹⁸³), and the requirement to map rivers and wetlands, the purpose of which was unclear in a consideration policy according to Mr Lewandowski.¹⁸⁴

319. In her Rebuttal Evidence Ms Pascall agrees with many of the changes requested by the planning experts in their evidence, and recommends various amendments to Policy 42 to provide more certainty about regional council responsibilities in relation to urban development. The Officer recommends amending clause (h) to require consideration in regional consent applications of the extent to which water sensitive urban design techniques are used to minimise the generation of contaminants from stormwater runoff and maximise the removal of contaminants. The Officer described this change as removing unnecessary barriers while continuing to have environmental benefits by requiring the minimisation of contaminants in stormwater.¹⁸⁵ The Officer also recommends using the definition in the NRP of “minimise”.¹⁸⁶ We agree this is appropriate and identify both “minimise” and “maximise” as defined terms in our recommendation on the Policy as this is captured in the s 42A Report but not transferred inadvertently into the Reply version of the Policy.
320. In her Reply Evidence Ms Pascall addresses two questions we asked in relation to this Policy. Firstly whether “giving effect to *Te Mana o te Wai*” by “having regard to” is appropriate in a consideration policy. Ms Pascall responds that:

reference to ‘giving effect to’ *Te Mana o te Wai* in the chapeau is unnecessary in Policy 42, on the basis that the policy itself already gives effect to *Te Mana o te Wai*, and therefore in

¹⁸¹ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), HS 5, 3 November 2023, para 18.

¹⁸² Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, paras 4.26 – 4.27.

¹⁸³ Joint Hearing Statement on behalf of the Fuel Companies, HS 5, 3 November 2023, Ms McPherson, paras 2.5 – 2.7.

¹⁸⁴ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, paras 4.26 – 4.27.

¹⁸⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 125.

¹⁸⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 402.

implementing the policy this is implicit. Policy 42 also gives effect to Objective 12 which is focused on *Te Mana o te Wai*.¹⁸⁷

321. Secondly, we questioned the apparent duplication in clauses (h) and (l) to which Ms Pascall responded that:

The key difference between clause (h) and clause (l) is that the former provides explicit reference to the use of water sensitive design techniques to minimise the generation of contaminants and to maximise the removal of contaminants from stormwater. I recommend deleting clause (l) on the basis that clause (h) is clearer about the techniques that should be used to achieve the outcome, and this is consistent with Policy 14(f).

322. We agree with Ms Pascall’s reasoning and the deletion of giving effect to *Te Mana o te Wai* in the chapeau and deletion of clause (l).

323. We support the Policy applying to freshwater “and receiving environments” as this is consistent with clause 3.5 of the NPS-FM. We agree that it is appropriate for clause (h) to be amended to fit with the regional council’s jurisdiction, namely the incorporation of water sensitive urban design techniques in urban development to minimise the generation of contaminants from stormwater runoff, and maximise the removal of contaminants from stormwater (ie managing water quality).¹⁸⁸

324. We agree with the reference to the defined term *water sensitive design techniques* in clause (h) but consider that *hydrological control* should also be added. We note the s 42A Report says Policy 42 “complements Policies 14 and FW.3 and addresses matters to be considered in assessing regional resource consents relating to urban development”. We therefore consider it appropriate to include *hydrological control*, and not only in relation to minimising adverse effects on natural stream flows (clause (k)).

325. We discussed this with Ms Allan (Special Advisor) who advised that in her view, *hydrological control* was appropriate to add to clause (h). It addresses environmental impacts and is an appropriate regional council function that is provided for in regional plans through new Policy FW.X. Ms Allan also recommended an amendment to clause (k) for clarity: “The extent to which *hydrological control minimises* adverse effects of runoff

¹⁸⁷ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 98.

¹⁸⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 415.

quantity (flows and volumes) and other potential adverse effects on natural stream values”.

326. Ms Allan recommends changing “natural stream flows” to “natural stream values” to also include the water quality aspects which are in Policy FW.X. These are also present in clause (h), but the change to the definition of *hydrological control* that Ms Allan recommends, would mean the physical aspects of any bank works are taken into consideration. This amendment removes the reference to ‘replicating natural processes’ which could create a potential conflict according to Ms Allan, as the controls may in fact be intended to modify natural processes (such as flooding). In that instance, hydrological control may help to modify the natural stream flow to protect freshwater ecosystem health and wellbeing. Having discussed this further with Ms Allan, we recommend amendments to the definition of *hydrological control* in the Definition section of our Report. We note our recommended amendments below:

Hydrological controls: 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, or area~~ into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments ~~in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, or scour,~~ to help protect freshwater ecosystem health and wellbeing.

Hydrological control may also include methods or techniques to limit bank erosion, slumping or scour.

327. We recommend “consideration” is reinstated in the Policy heading as it seems to have been inadvertently deleted. We also note that there is no explanation to this Policy as there is to other policies in Proposed Change 1. Again, following a discussion with Ms Allan, we recommend explanatory text along these lines:

Policy 42 applies to regional resource consents which relate to urban development, where the regional plan requirements or standards are not met. The range and nature of considerations reflects the regional council’s overall responsibilities relating to the management of water in relation to urban development and its effects on water.

3.11.2 Finding and s 32AA Evaluation

328. We largely agree with the Reporting Officer’s recommendations on Policy 42 for the reasons above, and otherwise as set out in the Officer’s s 42A

Report, Rebuttal and Reply Evidence. We recommend amendments to incorporate *hydrological control* into clause (h), and amend “natural stream flows” in clause (k) to “natural stream values” and also add in the words “other potential adverse effects”. We consider these amendments are supported by the evidence we heard regarding the benefits of hydrological control and reflect regional council responsibilities relating to managing the impacts on freshwater from urban development. We consider the amendments we recommend to clause (h) and (k) align with other provisions in Proposed Change 1 including Policy FW.X and will promote the Act’s sustainable management purpose. We also recommend identifying “minimise” and “maximise” as defined terms to aid interpretation and application of the Policy and for consistency with other provisions.

3.11.3 Recommendation

Policy 42 – Effects on *freshwater* and *the coastal marine area receiving environments* from *urban development* Minimising contamination in stormwater from development –~~consideration~~ consideration

When considering an application for a *regional* resource consent ~~that relates to *urban development* *urban development*~~ the regional council ~~must give effect to *Te Mana o te Wai* and in doing so~~ must have *particular* regard to:

- (a) ~~Adopting~~ an integrated approach, *ki uta ki tai*, that recognises the interconnectedness of the whole environment to determine the location and form of ~~*urban development* *urban development*~~;
- (b) ~~Protecting~~ and ~~enhancing~~ *mana whenua / tangata whenua* Māori *freshwater* values, including *mahinga kai*, ~~in partnership with *mana whenua / tangata whenua*~~;
- (c) ~~Providing~~ for *mana whenua / tangata whenua* and their relationship with their culture, land, water, *wāhi tapu* and other *taonga*;
- (d) ~~Incorporating~~ the use of *mātauranga Māori* to ensure the effects of *urban development* are considered appropriately;
- (e) The effects of use and development of *land* on water, including the effects on receiving environments (both *freshwater* and the *coastal marine area*);
- (f) The target attribute states set for the catchment;
- (g) ~~The extent to which ~~Require that~~~~ the ~~*urban development* *urban development*~~, including *stormwater* discharges, ~~*earthworks and vegetation clearance*~~ meets any limits set in a *regional plan* ~~and the effect of any exceedances~~;
- (h) ~~The extent to which ~~Requiring that~~~~ ~~*urban development* *urban development*~~ is ~~located and designed and constructed using the principles incorporates~~ *Water Sensitive Urban Design* ~~*water sensitive urban design techniques*~~ ~~and *hydrological control*~~ ~~to *minimise*~~ the generation of *contaminants* from *stormwater* runoff, and ~~*maximise*~~, to the extent practicable, the removal of *contaminants* from

stormwater avoid adverse effects of contaminants on water bodies from the use and development of the land;


- ~~(i) Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (j) Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries; ~~The extent to which the urban development~~ *urban development is located and designed* ~~location of lot boundaries and new roads to protect~~ and enhances the health and wellbeing of adjacent *rivers, lakes, wetlands, springs, riparian margins,* and receiving environments, including the natural form and flow of the waterbody.
- (k) ~~The extent to which Require~~ *hydrological controls to avoid* ~~minimises~~ adverse effects of runoff quantity (flows and volumes) ~~and other potential adverse effects on natural stream values, and maintain, to the extent practicable, on natural stream flows;~~
- (l) ~~The extent to which Requiring~~ *urban development incorporates stormwater quality management that will minimise the generation of contaminants, and maximises, to the extent practicable, the removal of contaminants from stormwater;*
- (m) ~~Requiring~~ The provision of *riparian buffers for urban development adjacent to natural waterbodies for all waterbodies and avoid piping of rivers;*
- ~~(ma) The extent to which the development avoids piping of rivers and whether there is a functional need for the activity in that location;~~
- (n) ~~The practicability of~~ *Daylighting rivers within the area proposed for urban development area, where practicable;*
- (o) ~~The extent to which rivers and wetlands within the area proposed for urban development have been mapped, and whether the scale of the urban development necessitates such mapping~~ *Mapping of rivers and wetlands;*
- (p) Efficient end use of water and alternate water supplies for non- potable use;
- (q) ~~Protecting~~ drinking water sources from inappropriate use and development; and
- ~~(r) Applying a catchment an integrated management~~ approach to wastewater networks including partnering with mana whenua as kaitiaki and allowance for appropriately designed overflow points where necessary to support growth and consideration of different approaches to wastewater management to resolve overflow.

Explanation

Policy 42 applies to regional resource consents which relate to *urban development*, where the *regional plan* requirements or standards are not met. The range and nature of considerations reflects the regional council's overall responsibilities relating to the management of water in relation to *urban development* and its effects on water.

3.12 Policy FW.6 - Allocation of responsibilities for land use and development controls for freshwater

329. The notified Policy read:

<u>Policy FW.6: Allocation of responsibilities for land use and development controls for freshwater</u>	
<p><u>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:</u></p> <p>(a) <u>Wellington Regional Council has primary responsibility for freshwater. Wellington Regional Council shall be responsible for the control of the use and development of land for the purposes of water quality and quantity.</u></p>	
<p>(b) <u>In relation to wetlands, Wellington Regional Council is responsible for managing land use within, and within a 10m margin of natural wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream for the purpose of protecting wetlands;</u></p> <p>(c) <u>city and district councils are responsible for the control of land use and subdivision. City and district councils must include objectives, policies, and methods in district plans to promote positive effects, and avoid, remedy or, or mitigate adverse effects (including cumulative effects) of land use and subdivision on the health and wellbeing of water bodies, freshwater ecosystems and receiving environments (as required by NPS-FM 3.5 (4)). They must carry out their responsibility in regard to the NPS-FM through their functions under Section 31 of the RMA.</u></p> <p>Explanation <u>Policy FW.6 outlines the allocation of responsibilities for land use and development controls for freshwater between Wellington Regional Council and territorial authorities.</u></p>	

330. This Policy aims to address the allocation of responsibilities across Wellington Regional Council and city and district councils.

3.12.1 Submissions, Evidence and Analysis

331. Submitters raised concerns about lack of clarity and overlapping responsibilities which were addressed in the s 42A Report with some amendments supported by the Officer. Submitters still had concerns with the amendments proposed in the s 42A Report in relation to clarity of roles (see for instance the planning evidence of Ms Horrox for Wellington

Water¹⁸⁹ and Mr Jeffries and Ms Cook for WCC¹⁹⁰) but their relief was initially not supported by the Officer.

332. The Officer stated she did not agree with Forest and Bird that the definition of “natural wetlands” includes coastal wetlands as the definition in clause 3.21 of the NPS-FM specifically excludes the coastal marine area. The Officer said that Policy FW.6(b) is specific to the requirements of the NES-F, which covers natural inland wetlands as defined by the NPS-FM.¹⁹¹
333. In their evidence presented at the hearing, Mr Jeffries and Ms Cook said they recommended Policy FW.6 be amended to clarify the roles and responsibilities of councils regarding freshwater. Specifically, they recommended amendments to remove the policy overlap, and remove bureaucratic burden and duplication by clarifying that:¹⁹²
- a. territorial authorities are responsible for managing land use and development that connects to the stormwater network; and
 - b. the Regional Council is responsible for discharges to land and water to maintain and enhance water quality. This includes land use activities that discharge directly to water, as well as discharges from the stormwater network.
334. In her Rebuttal Evidence, Ms Pascall said that the changes she supported essentially repeated the statutory functions in ss 30 and 31, in response to which WCC’s planners said that even if this were the case, the Policy should still adequately define responsibilities in accordance with the integrated management requirements of the NPS-FM, and that it would add little value if it simply restated the RMA provisions without offering any additional clarity.¹⁹³

¹⁸⁹ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), HS 5, 3 November 2023, para 15.

¹⁹⁰ Joint statement of planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, HS 4, 3 November 2023, para 37-39.

¹⁹¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 814.

¹⁹² Joint statement of planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, HS 4, 21 November 2023, para 31.

¹⁹³ Joint statement of planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, HS 4, 3 November 2023, para 35.

335. Ms Horrox on behalf of Wellington Water said that:¹⁹⁴

Policy FW.6 needs to distinguish more clearly at a high level, the different roles Greater Wellington and territorial authorities have in relation to managing land development effects on water quality. This would provide the necessary framework to support the more detailed breakdown of water quality related expectations for Greater Wellington and the territorial authorities as set out in FW.3 and Policy 14.

336. Some of the specific areas identified by Ms Horrox to contain similar or overlapping obligations for regional and district plans in relation to managing the effects of urban development on freshwater and receiving environments included application of water sensitive design principles and techniques, contaminant management, and protection and enhancement of rivers, lakes, wetlands, springs, riparian margins and estuaries.¹⁹⁵

337. Ms Horrox said that she agreed that both regional and district plans had a role in managing these matters, but that the division or focus of responsibility needed to be clearer to ensure these matters are managed in an efficient and integrated way. She said the RPS is the mechanism to translate RMA requirements into policy direction for the region, and there would be a missed opportunity if that did not occur.¹⁹⁶

338. We asked the Reporting Officer in Minute 18 to give further consideration to duplication of local authority functions/roles and jurisdiction. Ms Pascall agreed that greater clarification is required in Policy FW.6 and the current wording she supported in the s 42A Report (unamended in Rebuttal) did not provide sufficient direction about the split of responsibilities or guidance on how areas of overlapping responsibility should be managed.¹⁹⁷

339. Ms Pascall further comments:

There will be areas where both the Council and territorial authorities will both be responsible for managing the effects of urban development and I consider this is appropriate given the

¹⁹⁴ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), HS 5, 3 November 2023, para 16.

¹⁹⁵ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), HS 5, 3 November 2023, para 17.

¹⁹⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 50, lines 2504 – 2510.

¹⁹⁷ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 45 and 47.

direction in the NPS-FM, particularly clause 3.5(4). I agree with Wellington Water that Policy FW.6 is the appropriate location for providing further clarity.

340. Amendments to the Policy provided in the Officer’s Reply Evidence provide further direction on local authority responsibilities, while also noting in the policy explanation that there are:¹⁹⁸

some areas of responsibility that overlap and in these cases the Wellington Regional Council and territorial authorities shall work together to develop plan provisions and operational arrangements to provide for the coordinated management and control of subdivision, use and development to maintain, and where required improve, the health and wellbeing of waterbodies and freshwater ecosystem health.

341. Ms Pascall recommended deleting clause (ba) because the management of earthworks within riparian margins is not solely the responsibility of the regional council, and district plans in the region also manage these activities.¹⁹⁹

342. We consider that the amendments in Ms Pascall’s relief largely accept WCC’s relief which, as we understand it, was primarily to add reference to discharges into the Policy in relation to regional council functions.²⁰⁰ This change is made in Policy FW.6(a): “[the Regional Council is] responsible for managing the direct effects of the use and development of land on waterbodies and receiving environments including discharge of contaminants...”.

3.12.2 Further comments on overlapping functions and responsibilities

343. We comment here about concerns raised about overlapping local authority functions and responsibilities as this theme came up in various provisions in HS5 and also in HS3 (the Policy ‘CC.4 – CC.14A suite’).
344. Some submitters were concerned that the provisions did not sufficiently differentiate between regional and territorial authority roles and responsibilities in accordance with their functions as expressed in ss 30 and 31 of the RMA.

¹⁹⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 49.

¹⁹⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 102.

²⁰⁰ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 50, lines 2508 – 2510.

345. We agree with the experts and counsel for Wellington Water that the RPS has a role in clarifying responsibilities and removing uncertainty and litigation risk at the plan change or review stage. Mr Slyfield expressed the concern well in these terms:²⁰¹

[overlapping provisions such as Policies FW.6, FW.3 and 13 are] an issue that highlights the difficulties that arise from a conventional division of responsibilities where water quality is predominantly within the Regional Council’s purview, but the land uses that give rise to potential impacts on water quality are predominantly managed at a territorial authority level. Management of freshwater issues calls for proper integration between these spheres, particularly as we strive towards target attribute states as required by the [NPS-FM].

346. At the hearing, Mr Slyfield added that overlapping responsibilities “leaves the risk that councils may not act where they perceive that it fits better in the jurisdiction of another council”.²⁰²

347. Mr McDonnell for PCC acknowledged that there is some overlap and areas where regional and district plans need to be complementary, but there was still far too much overlap between Policy FW.3 and Policy 14.²⁰³ He gave Policy FW.3(o) as an example. This clause requires district plans to “manage land use and development in a way that will minimise the generation of contaminants ... “which was, he said, very similar to the wording in s 30 of the RMA.

348. For Mr Lewandowski for PPFL, urban development is “fundamentally controlled through district plans”, therefore various clauses in Policy 14, for instance clause (f) requiring urban development to incorporate water sensitive design techniques to avoid adverse effects of contaminants on waterbodies from the use and development of land, should move to Policy FW.3 (noting that that Policy contained a similar provision), but it was not appropriate as a regional plan direction.²⁰⁴ At the hearing, Mr Lewandowski said he continued to query the appropriate line of delineation as “some of those matters around water sensitive urban design etc might create simply issues of duplication”.²⁰⁵

²⁰¹ Legal Submissions for Wellington Water Limited, HS 5, 3 November 2023, para 8.

²⁰² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 38, lines 1896 – 1898.

²⁰³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 19, lines 933 – 940.

²⁰⁴ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, paras 4.4 – 4.5.

²⁰⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 40, lines 2013 – 2015.

349. When asked for her views regarding local authority functions and responsibilities, Ms Downing for Forest and Bird said that lack of integration was a risk and that clause 3.5(4) of the NPS-FM sends some specific direction to territorial authorities in an attempt to support better integration of their functions and roles with those of the regional council.²⁰⁶

350. In her Rebuttal evidence, when commenting on whether Policy FW.6 (district plan provisions) is the more appropriate location for Policy 14(h), Ms Pascall disagreed and said:²⁰⁷

While I acknowledge that this results in some overlap in regional council and territorial authority regulation, I consider this remains within the remit of regional council functions under section 30 of the Act, where the regional council does have a role in managing land use for the purposes of managing water quality.

351. We discussed overlapping jurisdiction with Ms Pascall at the Hearing, specifically in relation to the daylighting of streams and whether this was best provided for through Policy FW.3 (district plans), Policy 42 (regional plans), or both. Ms Pascall said that there is an area of overlap in managing freshwater effects from urban development. In her view, natural inland wetlands and the daylighting of streams were within the ambit of the Regional Council.²⁰⁸ Ms Pascall went on to say:²⁰⁹

I can't see why you would have the same provision in the Regional Plan as in the District Plan in relation to the daylighting of streams. That is a particular activity in the stream that is about the freshwater ecosystem health water quality, those kinds of things, which I think is very clearly within the Regional Council's role.

352. We asked if opportunities could be missed by removing the issue from a territorial authority's assessment. Ms Pascall responded that they could be a number of things in that same camp, and so where is the line drawn?²¹⁰

²⁰⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 58, lines 2917 - 2919.

²⁰⁷ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 87.

²⁰⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 59, lines 3003 – 3007.

²⁰⁹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 59, lines 3009 – 3013.

²¹⁰ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 60, lines 3022 – 3023.

353. We were helped in our understanding of these issues by the presentation by counsel and experts for the Director-General of Conservation. Ms Anton, presenting legal submissions, said, in relation to stream daylighting and giving rivers room to meander:²¹¹

.... when it comes to the direct doing for example of stream daylighting that will be implemented by Regional Council consents. However, there won't be much opportunity for stream daylighting unless the planning for it starts with the District Council. For example, through spatial plans, through open space zoning above piped streams – which only they can do, and through general policy support to acknowledge the benefits of stream daylighting, it's the Director-General's submission that District Councils need to have that policy direction to begin planning for their part in letting stream daylighting happen in future. When it does happen, when hopefully it does happen in the future, then it will squarely be the Regional Council function to regulate how it's done and provide consents for it.

354. We found these legal submissions persuasive. The interaction between urban development and waterbodies and their margins starts, in essence, at the plan-making stage and, as Ms Anton says, if it is not done then, that could narrow the Regional Council's ability to protect, restore or manage water quality.²¹² This could happen if, for example, urban planning allows urban areas to be built up too close within certain flood margins and therefore constrain the Regional Council's ability to let rivers have room to meander.²¹³

355. Mr Brass similarly said that in his experience, “the physical location, design, servicing etc of land use and development [which are territorial authority functions] can directly constrain or provide space for rivers and daylighting” (as evidenced in Dr Boddy's evidence).²¹⁴ He went on to say that a territorial authority can require esplanade reserves for example, and zoning, setbacks, open space and so on, and these are matters that districts can and do control and they all have a role to play in allowing rivers to move.²¹⁵ A regional council may influence soft engineering solutions rather than hard engineering solutions that close off future

²¹¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 30, lines 1500 – 1511.

²¹² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 30, lines 1513 – 1516.

²¹³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 30, lines 1518 – 1520.

²¹⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, pages 31 - 32, lines 1572 – 1577.

²¹⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 34, lines 1702 – 1715.

options, so “while they’ve both got a role to play, it’s not so much an overlap, they just need to think through how that role applies to their own functions”.²¹⁶

356. Mr Jeffries for WCC noted the overlap in jurisdiction in ss 30 and 31 and that “they don’t entirely divide cleanly”.²¹⁷ He acknowledged that while it would be cleaner to have a clear distinction, perhaps ss 30 and 31 do not provide for this.²¹⁸
357. We asked the WCC planners further questions about this at the hearing. They said they thought an exclusion was justified if the discharges were managed through a stormwater network that is managed by a stormwater management strategy, because otherwise there would be duplication with the NRP. As Ms Cook said:²¹⁹

It’s a double-up because they’re requiring us to have it in the stormwater management strategy and through the catchment management plans and having that set up; having us give effect to the conditions of our consent. But then also having standalone resource consenting requirements that means that you have to go to both consenting authorities in order to get the same outcome.

358. In Minute 18 we directed the Reporting Officer in conjunction with the Officer for HS3 – Climate Resilience and Nature Based Solutions - to review alignment and workability of the nature-based solutions provisions in HS3 with the HS5 provisions regarding hydrological control, hydraulic neutrality and water sensitive urban design. We were also interested in the Officers’ views on whether there was any unnecessary or conflicting functions or responsibilities for local authorities.
359. The Reporting Officer stated in her Reply Evidence that while some of the concepts in HS5 such as water sensitive urban design, hydraulic neutrality, and hydrological control, do fall within the umbrella concept of nature-based solutions, that term is used in Change 1 to address broader climate-resilience issues such as reducing emissions, managing more extreme weather events, and restoration of indigenous ecosystems.²²⁰ Although water sensitive design and hydrological control are “subsets” of

²¹⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 34, lines 1715 – 1720.

²¹⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 53, lines 2672 – 2674.

²¹⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 53, lines 2672 – 2675.

²¹⁹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 53, lines 2743 – 2747.

²²⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 56.

nature-based solutions, the Officer said that in her opinion, it was not necessary to reference ‘nature-based solutions’ in Policies 14 and FW.3 in HS5 as they already use more specific concepts that relate directly to freshwater management.²²¹

360. The Officer did state that having reviewed the provisions in HS5 and HS3 relating to nature based solutions, hydrological control, hydraulic neutrality, and water sensitive urban design, there is some duplication and conflict between the HS3 provisions and Policies 14, FW.3, FW.X and 42.²²² The Officer, in discussion with the HS3 Officer, recommends various amendments to the HS3 provisions to resolve the unnecessary duplication and conflict, including adding text into the explanations to provide appropriate linkages to the HS5 provisions.
361. Mr McDonnell on behalf of PCC suggested that clause (ba) be reallocated into clause (a) as riparian setbacks and management of sediment are regional council functions under s 30.
362. We discussed Policy FW.6 and the allocation of council responsibilities with Ms Allan (Special Advisor). In particular, we asked Ms Allan for her views on whether jurisdiction and roles could be more expressed more clearly in the RPS. Ms Allan said that in her view clause (d) – the location and design of urban development - could not be delineated more specifically and requires the councils to be working in collaboration. The matters in clause (d) do involve overlapping functions and responsibilities.
363. In relation to trying to more clearly define and delineate functions regarding stormwater management from land use, Ms Allan said that any further attempts to allocate specific tasks to specific councils could run the risk of cutting out something (which was similar to a concern raised by Wellington Water), or missing the opportunity to work well together to achieve integrated management.
364. We note Method IM.1 in Change 1 (HS2) requires the Regional Council and district and city councils to work together to ensure consistent implementation of the objectives, policies and methods of the RPS. Ms Pascall explains the level of discussion and co-operation required in these terms:

²²¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 36 and 56.

²²² Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 37.

[Policy IM.1 and Method IM.1] apply across the RPS and necessitate a change in approach in how the Council and territorial authorities work together. For example, where a consent is required under the regional plan and a district plan, clause (d) [of Method IM.1] requires the agencies to work together to ensure consistent implementation. This is not intended to be joint processing but requires communication between the councils about the approach, key issues and ensuring consistent advice.”

365. Ms Allan did propose some drafting suggestions to improve the readability and interpretation of Policy FW.6. Ms Allan suggested that clause (a) could be restructured, and clause (c) could refer to “layout, design and materials” which is at a level of description suitable for the RPS and also more consistent with the wording in Policy FW.3(g).

366. The amendments Ms Allan suggested are:

(a) Wellington Regional Council has primary responsibility for freshwater. Wellington Regional Council shall be responsible for the maintenance and enhancement of water quality and ecosystems in water bodies, and the maintenance of water quantity, including through:

(i) managing the direct effects of the use and development of land on waterbodies and receiving environments including discharges of contaminants,

(ii) implementing the National Objectives Framework of the NPS-FM 2020,

(iii) managing the effects of stormwater runoff volumes on freshwater ecosystem health; ;and

(iv) protecting and enhancing riparian margins ~~the control of the 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.~~

~~(ba) Wellington Regional Council is responsible for earthworks and vegetation clearance in riparian margins of water bodies.~~

(c) City and district councils are responsible for managing the effects of *urban development* on the health and wellbeing of waterbodies, freshwater ecosystems and receiving environments ~~insofar as it relates to~~ including through stormwater management and managing the elements of urban development (including layout, design and materials) of development (such as roof materials and impervious surfaces) that may affect the health and wellbeing of waterbodies.

367. Having heard submitters and also having discussed Policy FW.6 with Ms Allan, we are satisfied that the Policy allocates responsibilities in accordance with ss 30 and 31 of the RMA, appropriately promotes collaboration and will support NPS-FM implementation and integrated management. We consider Ms Allan's drafting suggestions improve the interpretation and readability of the Policy, and also appropriately link it with Policy FW.3. We also recommend a minor amendment in clause (b) to clarify the intent in the NES-F.

3.10.1 Finding and s 32AA Evaluation

368. We largely agree with the Reporting Officer's recommendations on Policy FW.6 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We recommend the Policy is amended to restructure clause (a) and align clause (c) with the wording in Policy FW.3(g). We consider these amendments convey functions in ss 30 and 31 of the RMA in a clearer way to support the effective and efficient interpretation and application of the Policy to help achieve its intended outcomes, and in turn, the outcomes directed in the NPS-FM.

3.10.2 Recommendation

Chapter 4.3: Allocation of Responsibilities

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 maintenance and enhancement of water quality and ecosystems in water bodies, and the maintenance of water quantity, including through:

(i) managing the direct effects of the use and development of *land* on waterbodies and receiving environments including discharges of *contaminants*,

(ii) implementing the National Objectives Framework of the NPS-FM 2020,

(iii) managing the effects of *stormwater* runoff volumes on *freshwater ecosystem health*; and

(iv) protecting and enhancing *riparian* margins the control of the 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.**

(b) In relation to *wetlands*, Wellington Regional Council is responsible for managing land use within, and within a 100m ~~margin~~ **setback** of natural **inland** wetlands as directed by the NES-F 2020, as well as areas adjoining and/or upstream **of a wetland** for the purpose of protecting *wetlands*;

~~(ba) Wellington Regional Council is responsible for earthworks and vegetation clearance in riparian margins of water bodies.~~

(c)

~~City and district councils Territorial authorities are responsible for the control of land use and subdivision. City and district councils Territorial authorities~~ City and district councils are responsible for managing the effects of *urban development* on the health and wellbeing of waterbodies, *freshwater ecosystems* and receiving environments **insofar as it relates to including through** *stormwater* management and managing **the elements of urban development (including layout, design and materials) of development (such as roof materials and impervious surfaces)** that may affect the health and wellbeing of waterbodies.

(d) Wellington Regional Council and city and district councils have joint responsibility for the location and design of *urban development* in relation to waterbodies and receiving environments, and the protection and enhancement of waterbodies and receiving environments from the effects of *urban development* insofar as this relates to their respective functions under section 30 and section 31 of the RMA.


Explanation

Policy FW.6 outlines the allocation of responsibilities for land use and development controls for *freshwater* between Wellington Regional Council and territorial authorities. There are some areas of responsibility that overlap and in these cases the Wellington Regional Council and territorial authorities shall work together to develop plan provisions and operational arrangements to provide for the coordinated management and control of subdivision, use and development to maintain, and where required improve, the health and wellbeing of waterbodies and *freshwater ecosystem health*. This includes working collaboratively at different scales, such as during structure planning, rezoning,

subdivision, and site-development, so that the location, layout and design of development is managed in an integrated manner.

3.13 Policy 15: ~~Managing~~ Minimising the effects of earthworks and vegetation disturbance – district and regional plans

369. The notified provision states:

Policy 15: Managing Minimising the effects of earthworks and vegetation disturbance – district and regional plans	
<p>Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation disturbance to minimise <u>the extent necessary to achieve the target attribute states for water bodies and freshwater ecosystems including the effects of these activities on the life-supporting capacity of soils, and to provide for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.</u></p> <p>(a) — erosion; and</p> <p>(b) — silt and sediment runoff into water, or onto land that may enter water, aquatic ecosystem health is safeguarded.</p> <p><u>Explanation</u></p> <p>An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control earthworks and vegetation disturbance, including clearance. Large scale earthworks and vegetation disturbance on erosion prone land in <i>rural areas</i> and many <i>small scale</i> earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt</p>	
<p>and sediment to stormwater and water bodies. This policy is intended to minimise erosion and silt and sedimentation effects associated with these activities.</p> <p>Minimisation requires effects to be reduced to the extent reasonably achievable whilst recognising that erosion, siltation and sedimentation effects can not always be completely avoided.</p> <p>This policy is to ensure that Wellington Regional Council and district and city councils integrate the control of earthworks and vegetation disturbance in their regional and district plans. Method 31 is for Wellington Regional Council and city and district councils to develop a protocol for earthworks and erosion from vegetation disturbance. The protocol will assist with implementation of the policy.</p> <p>Some activities, such as major road construction, are likely to require resource consents from both the regional council and city or district councils, which will work together to control the effects of the activity</p> <p>Vegetation disturbance includes harvesting plantation forestry.</p>	

370. Policy 15 is an Operative RPS policy that addresses an area of overlapping jurisdiction between Wellington Regional Council and district and city councils. The Policy is intended to minimise erosion and silt and sedimentation effects associated with earthworks and vegetation disturbance.

3.13.1 Submissions, Evidence and Analysis

371. Submitters raised concerns in relation to the respective requirements of the Regional Council and district councils (including Kāinga Ora [S158.020], UHCC [S34.061] and KCDC [S16.049]), with some TAs seeking the Policy be amended to provide guidance about the types of plan provisions that can have positive impacts on freshwater.
372. Other submissions sought inclusion of hydraulic neutrality (KCDC [S16.049]) and removal of the requirement for district plans to manage earthworks and vegetation disturbance to achieve target attribute states (PCC [S30.040]).
373. The DGC [S32.014] on the other hand opposed the amendments and sought reinstatement of the operative Policy 15 because the changes did not require erosion and siltation to be minimised as long as the target attribute state had been met. WFF [S163.053] sought the amendments be deleted as it was more appropriate to address them in the NRP, and Forest and Bird [S165.050] sought changes to give better effect to national direction and s 6 of the Act. Other submissions sought the use of “avoid” rather than “manage” as the latter implies an acceptance of effects (Ngāti Toa [S170.030]), definitions for earthworks and vegetation clearance (Hort NZ [S128.026]), consideration of impacts on the coastal marine environment, clarification regarding the effects on the life supporting capacity of soils and provision for mana whenua/tangata whenua.
374. Ms Pascall addresses these concerns in her s 42A report by separating out the requirements for Regional Plans in clause (a) to control the effects of earthworks and vegetation clearance to achieve target attribute states and manage erosion. District Plan requirements are in new clause (b) and relate to managing the effects of land use and subdivision which can have positive effects on freshwater, and give effect to clause 3.5(4) of the NPS-FM.²²³
375. The Officer supports replacing vegetation disturbance with vegetation clearance (as a defined term), and definitions of earthworks and vegetation clearance are added as in the National Planning Standards and NRP respectively. Ms Pascall agrees that the Regional Council is responsible for achieving target attribute states and, responding to the Director-General of Conservation’s submission, recommends including a subclause that requires silt and sediment runoff to be minimised in the

²²³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 470 – 471.

absence of target attribute states in the regional plan.²²⁴ The Officer considers that providing for mana whenua / tangata whenua values and hydraulic control is now covered in the new policies FW.XXA and FW.XXB proposed to be added through the s 42A Report, and amendments to Policy FW.3 (discussed above).

376. In relation to effects on the life supporting capacity of soils, Ms Pascall, responding to Rangitāne’s submission [S168.040] notes:²²⁵

issues relating to the ‘life-supporting capacity’ of soils are addressed through other policies in the Operative RPS, such as Policy 59 and Policy 69. As such, I recommend deletion of this reference from Policy 15.

377. Remaining submitter concerns covered several of the subclauses of clause (b) requirements on district plans, including that clause (b) should be specific to urban development. While some of the subclauses are specific to urban development, Ms Pascall notes in her Rebuttal Evidence:²²⁶

Policy 15 is part of the Operative RPS and applies on a general basis – it is not specific to urban development. ... The policy explanation also highlights that the policy applies to rural areas stating ‘Large scale earthworks and vegetation clearance disturbance on erosion prone land in rural areas and many small scale earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt and sediment to stormwater and water bodies. This policy is intended to minimise erosion and silt and sedimentation effects associated with these activities.

378. Mr McDonnell for PCC sought that clauses (b)iii. and iv. should be relocated to clause (a) – Regional Plan requirements as they are regional council functions.²²⁷ Mr Heale thought that clause (b)i. regarding urban development follow existing land contours should be deleted, and was in essence captured by clause(b)ii. Also, the steep topography in the region could mean the direction could not be achieved.²²⁸

²²⁴ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 477.

²²⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 444.

²²⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 151.

²²⁷ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, paras 55 - 56.

²²⁸ Statement of Primary Evidence of Matt Heale on behalf of Kāinga Ora – Homes and Communities (Planning), HS 5, 3 November 2023, paras 4.3 – 4.7.

379. Ms Pascall disagrees with this planning evidence noting in her Rebuttal:²²⁹

... requiring setbacks from riparian margins for earthworks and vegetation clearance is within the remit of district plans, given their role in managing land use and subdivision. I also consider that the management of sediment from earthworks is within the remit of district plans, and I note that some district plans already do this, such as the Wellington City Council Operative and Proposed District Plans. However, I also note that there is an overlap of functions between the regional council and territorial authorities in terms of managing earthworks. The NRP includes rules to manage earthworks, including a permitted activity rule for earthworks up to 3000m² (subject to conditions) and earthworks required for the construction of farm tracks. District plans also manage the effects of earthworks of less than 3000m². As such, I consider an additional sub-clause is required in clause (a) of Policy 15 which makes it clear that the regional plan must manage sediment associated with earthworks. I also recommend an amendment to clause (b)(iv) to clarify that district plans manage the effects of earthworks on sites less than 3000m².

380. Ms Pascall also disagreed with Mr Heale’s evidence as the requirement to follow existing land contours was only “to the extent practicable” and did not address the issues in (b)ii. which were about the quantity of earthworks required.²³⁰ There was no duplication.

381. Mr Brass for the DGC agreed with this view. He said that in his experience, territorial authority land use consents can and do manage the risk of erosion and siltation, for example through requiring management plans.²³¹ He also noted that the Natural Resource Plan has a permitted activity standard of 3,000m² per property and, by way of comparison, the Wellington City District Plan permitted activity standard is 250m², so a much lower level. He said councils will be much more involved in actively managing earthworks.²³² Mr Brass said he concurred with Wellington Water’s statement at the hearing that it was easier to manage sediment at source rather than deal with it when it was in the stormwater network.²³³

²²⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 149.

²³⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 150.

²³¹ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 43.

²³² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 32, lines 1605 – 1614.

²³³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 32, lines 1616 – 1619.

District councils do not manage the discharges from earthworks, but, as Mr Brass said, “if you don’t manage what’s done [in] the ground before it rains then it can be an awful lot harder to control the sediment that happens.”²³⁴

382. In response to a question we posed in Minute 18, the Reporting Officer advised that all district plans in the region include rules to manage earthworks of less than 3000m² although the metric varied between plans. The key point is that they all apply a threshold over which earthworks requires consent.²³⁵ We discussed this issue with Ms Allan (Special Advisor) who considered that functions and responsibilities were as clear as possible given the recognised overlaps. Ms Allan did advise that in her view there should be a link between clauses (a) and (b) for earthworks so that it is clear that the regional council’s responsibilities do not duplicate on small sites. Ms Allan suggested that the words “except as specified in (b)(iv)” are included after clause (a)(iv). We agree with this suggestion and consider it adds clarity to the Policy and supports Mr Brass’ statement at the Hearing about the need for councils to have an understanding of “the different parts of their roles”.²³⁶
383. We consider the main outstanding issue in Policy 15 is the relief discussed by Ms Downing for Forest and Bird at the hearing. She said that a reference to wetlands should also be included in the Policy because the definition of “water body” in the RMA only refers to freshwater and geothermal water and therefore, as Downing expressed it, “what will slip through the gaps are those wetlands that are subject to saline and estuarine influence”²³⁷ and the preservation of their natural character from inappropriate subdivision, use and development is a matter of national importance under s 6 of the RMA.
384. Section 2 of the RMA defines “water body” as:
- fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.
385. Policy 15 is a general policy that is not restricted to freshwater. We consider it appropriate to provide for Forest and Bird’s relief to include

²³⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 37, lines 1846 – 1849.

²³⁵ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 105.

²³⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 37, lines 1861 – 1862.

²³⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 54, lines 2715 – 2720.

coastal wetlands in receiving environments, and noting Ms Pascall's comments about wetland protection being primarily a regional council function, we recommend the amendments below to Policy 15(a).i (for regional plans) which we consider give appropriate effect to the RMA and the NPS-FM as sought by Forest and Bird.

3.13.2 Finding and s 32AA Evaluation

386. We largely agree with the Reporting Officer's recommendations on Policy 15 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We recommend clause (a) is amended to refer to setbacks from wetlands and riparian margins and that the relationship between regional and district council functions for managing sediment from earthworks is clarified through a small drafting amendment to reflect the policy intent. This will improve the interpretation and application of the Policy.
387. The amendment we recommend to clause (a).i. is appropriate to achieve the sustainable management purpose of the RMA in that it gives expression to s 6(a) which directs the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development. The amendment also gives effect to s 6(c) of the RMA regarding the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna and policies in the NPS-FM regarding loss of river extent and values (to the extent practicable), the protection of habitats of indigenous freshwater species and integrated management that consider impacts on receiving environments (Policies 7, 9 and 3 of the NPS-FM).

3.13.3 Recommendation

Policy 15: Managing Minimising the effects of earthworks and vegetation disturbance clearance – district and regional plans

Regional and *district plans* shall ~~include policies, rules and/or methods that control earthworks and vegetation disturbance to~~ minimise ~~the extent necessary to achieve the target attribute states for water bodies and freshwater ecosystems including the effects of these activities on the life-supporting capacity of soils, and to provide for mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga~~ manage the effects of *earthworks and vegetation clearance*, as follows:

- (a) *Regional Plans* shall include policies, rules and/or methods that:
- i. ~~Control the effects of earthworks and vegetation clearance~~ including

through setbacks from wetlands and riparian margins, to achieve the target attribute states for water bodies and freshwater ecosystems, including receiving environments

- ii. In the absence of target attribute states, minimise silt and sediment runoff into freshwater and receiving environments, or onto land that may enter water; and
- iii. Minimise erosion.
- iv. manage sediment associated with earthworks except as specified in clause (b)iv.

(b) District Plans shall include policies, rules and/or methods that:

- i. Require ~~urban development~~ urban development to follow existing land contours, to the extent practicable;
- ii. Minimise the extent and volume of earthworks required for urban development
- iii. Require setbacks from waterbodies and other receiving environments for vegetation clearance and earthworks activities;
- iv. Manage sediment associated with earthworks less than 3000m²;
- v. Manage subdivision layout and design.

~~(a) — erosion; and~~


~~(b) — silt and sediment runoff into water, or onto land that may enter water, aquatic ecosystem health is safeguarded.~~

Explanation

An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control *earthworks* and *vegetation clearance disturbance, including clearance*. Large scale *earthworks* and *vegetation clearance disturbance* on erosion prone land in rural areas and many small scale *earthworks* in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt and sediment to stormwater and water bodies. This policy is intended to minimise erosion and silt and sedimentation effects associated with these activities.

3.14 Policy 41 - ~~Controlling~~ Minimising the effects of earthworks and vegetation disturbance – consideration

388. As notified, the Policy said:

Policy 41: Controlling Minimising the effects of earthworks and vegetation disturbance – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to controlling earthworks and vegetation disturbance by to minimise:</p> <p>(a) erosion; and</p> <p>(a) <u>considering whether the activity will achieve environmental outcomes and target attribute states; silt and sediment runoff into water, or onto or into land that may enter water, so that healthy aquatic ecosystems are sustained; and</u></p> <p>(b) <u>avoiding discharges to water bodies, and to land where it may enter a waterbody, where limits for suspended sediment are not met.</u></p> <p>Explanation</p> <p>An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control earthworks and vegetation disturbance, including clearance. Large scale earthworks and vegetation disturbance on erosion prone land in <i>rural areas</i> and many <i>small scale</i> earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt</p>	
<p>and sediment to stormwater and water bodies. This policy is intended to minimise erosion and silt and sedimentation effects associated with these activities.</p> <p>Minimisation requires effects to be reduced to the extent reasonably achievable whilst recognising that erosion, siltation and sedimentation effects can not always be completely avoided.</p> <p>This policy provides for consideration of earthworks and vegetation disturbance to minimise erosion and sediment runoff prior to plan controls being adopted by regional and district plans in accordance with policy 15. This policy shall cease to have effect once method 31 is implemented and policy 15 is given effect to in regional and district plans.</p> <p>Policies 15 and 41 are to ensure that Wellington Regional Council and district and city councils integrate the control earthworks and vegetation disturbance in their regional and district plans. Method 31 is for Wellington Regional Council and district and city councils to develop a protocol for earthworks and erosion from vegetation disturbance. The protocol will assist with implementation of policies 15 and 41.</p> <p>Some activities – such as major road construction – are likely to require resource consents from both Wellington regional council and district or city councils, which will work together to control the effects of the activity.</p> <p>Vegetation disturbance includes harvesting plantation forestry.</p>	

389. Policy 41 is an Operative RPS policy that applies to regional resource consents that involve earthworks and vegetation clearance

3.14.1 Submissions, Evidence and Analysis

390. Submitters raised concerns in relation to the word “controlling” in the title (Winstone Aggregates [S162.014]) and the application of the Policy to district resource consents (including SWDC [S79.043]). They also sought deletion of references to target attribute states, silt and sediment run off (UHCC [S34.063]), and amendments to ensure the operative Policy applies until outcomes and targets are identified in the NRP (DGC [S32.023]).
391. A number of amendments to the Policy have been made in the s 42A report in response to submitter concerns, including limiting the application of the Policy to regional resource consents, and reinstating consideration of erosion impacts (which accepts Ātiawa’s relief) and supports the implementation of Objective 29 of the RPS.²³⁸ The Officer did not support including reference to *Te Mana o te Wai* in the Policy on the basis that the Policy applies more broadly in the RPS than only to freshwater.
392. Fulton Hogan [S114.005] was concerned about the use of “avoid” in clause (c), whereas Ātiawa [S131.090] sought that all discharges to water are avoided regardless of whether suspended sediment limits are exceeded
393. HortNZ [S128.042] and others were concerned about the implications of the Policy given outcomes, target attribute states and limits for suspended sediment have not yet been set. There were also concerns about alignment with national direction and the RMA (Forest and Bird [S165.070]), and *Te Mana o te Wai* and mana whenua values and relationships (Ātiawa [S131.090]). Rangitāne [S168.050]. was concerned that the Policy did not set a ‘maintain’ framework where target attribute states have not yet been set.
394. Remaining submitter concerns were the need to address habitat removal associated with vegetation clearance, potential conflict/interpretation issues with the NRP, and that the Policy should be deleted or only apply until Policy 15 is implemented (Ms Landers for Hort NZ²³⁹), and

²³⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 503.

²³⁹ Statement of Evidence by Jordyn Landers for Horticulture NZ (Planning), HS5, 3 November 2023, para 18.

inconsistency of clause (c) with s 107 of the RMA (Ms Clarke for Winston Aggregates).²⁴⁰ Mr Brass, providing planning evidence for the DGC, considered that the Policy should apply to territorial authorities as well, because in his experience “most consents for the actual earthworks and vegetation disturbance sit with the territorial authority as land use matters, while regional consents are generally focussed on discharges.”²⁴¹

395. In her Rebuttal Evidence Ms Pascall has added a clause requiring consideration of the extent to which the activity results in adverse effects on aquatic ecosystem health, indigenous biodiversity in water bodies and receiving environments. Ms Pascall also recommends deleting clauses (b) and (c) as she considers “that Policy 41 should focus on situations where the regional plan has not yet set environmental outcomes, target attribute states, or limits”.²⁴² Ms Pascall considered that deleting clause (c) responds to the concerns Ms Clarke raised.

396. At the hearing, Ms Landers said that Policy 41 should cease to have effect once Policy 15 is given effect to in the NRP.²⁴³ Ms Pascall agreed that Policy 41 applies to consenting until Policy 15 is implemented for all FMUs in the region, noting that the whitua are being implemented in stages.²⁴⁴ Ms Pascall recommends including explanatory text to that effect,²⁴⁵ noting that Plan Change 1 to the NRP only includes environmental outcomes, target attribute states and suspended sediment limits for Te Awarua-o-Porirua Whitua and Te Whanganui-a-Tara Whitua.

397. Ms Downing was concerned that Policy 41 is not directive enough and should also apply to district councils.²⁴⁶ Ms Pascall did not agree stating:

²⁴⁷

the primary purpose of Policy 41 is to manage the effects of earthworks and vegetation clearance on waterbodies until the

²⁴⁰ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, para 10.3.

²⁴¹ Speaking notes of Murray Brass for the DGC, HS5, para 9.

²⁴² Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 159.

²⁴³ Hearing Statement of Elizabeth Mc Gruddy on behalf of Wairarapa Federated Famers, HS5, 15 November 2023, para 20.

²⁴⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 26, lines 1275 – 1283.

²⁴⁵ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 109.

²⁴⁶ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 54, lines 2722 – 2726.

²⁴⁷ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 161.

regional plan has set target attribute states and other requirements of the NOF.

398. We agree that the appropriate place for district council direction on this issue is Policy FW.3 (regulatory requirements for district plans), which includes provisions for managing urban development to protect and enhance the health and wellbeing of waterbodies including wetlands (Policy FW.3(k)).
399. In our view Policy 41(e) as proposed in Ms Pascall’s Rebuttal is appropriate as a consideration requirement in consenting and that jurisdiction is retained with the regional council. Concerns about whether the Policy applies to coastal wetlands are addressed, in our view, by the wording of clauses (d) and (e) which refer to runoff “into water” and effects in “water bodies and receiving environments”. Coastal wetlands would therefore be within scope.
400. In Minute 18, we asked the Officer if the ‘minimise erosion’ provision in Policy 41 could cause workability or interpretation issues. We also queried the relationship of the provision with Policy 15(a)iii which directs the regional plan to include provisions minimising erosion. The Officer noted that Policy 41 requires a consent applicant demonstrate the extent to which the proposed activity is minimising erosion and effects on aquatic ecosystem health and indigenous biodiversity.²⁴⁸ The Officer stated:²⁴⁹

In implementing the RPS and subsequent lower order documents, in theory it should be clear whether Policy 15 has been given effect to or not, and whether you need to refer to Policy 41.

401. In her Reply Evidence, the Officer also added that the direction to minimise erosion is in the Operative RPS, and that while the NRP includes a number of provisions to manage the effects of earthworks, it has not yet been updated to give full effect to the NPS-FM. The Officer recommended that Policy 41 be retained but that would no longer have effect once the NRP is updated to give full effect to Policy 15 for all FMUs.²⁵⁰ We agree with this recommendation.

²⁴⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 27, line 1312.

²⁴⁹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 27, lines 1312 – 1314.

²⁵⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 109.

3.14.2 Finding

402. We agree with the Reporting Officer's recommendations on Policy 41 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.14.3 Recommendation

Policy 41: ~~Managing~~ ~~Controlling~~ Minimising the effects of earthworks and vegetation clearance disturbance – consideration

When considering an application for a regional resource consent, ~~notice of requirement,~~ or a change, variation or review of a regional or district plan, for earthworks or vegetation clearance particular have regard ~~shall be given~~ to ~~controlling earthworks and vegetation disturbance by~~ to minimise:

- ~~(a) — erosion; and~~
- (a) the extent to which the activity *minimises* erosion;
- ~~(b) — the extent to which considering whether the activity will achieve any relevant environmental outcomes and target attribute states set for the FMU or part-FMU; silt and sediment runoff into water, or onto or into land that may enter water, so that healthy aquatic ecosystems are sustained; and~~
- ~~(c) — where suspended sediment limits have been set in a regional plan, and the activity cannot meet those limits, avoiding discharges to water bodies, and to land where it may enter a waterbody; where limits for suspended sediment are not met.~~
- ~~(ed) — in the absence of environmental outcomes, target attribute states, or limits for suspended sediment for the relevant FMU or part-FMU, the extent to which silt and sediment runoff into water, or onto or into land that may enter water, will be *minimised*.~~
- (e) the extent to which the activity results in adverse effects on *aquatic ecosystem health, indigenous biodiversity* in water bodies and receiving environments.

Explanation

Policy 41 applies to regional resource consents that involve *earthworks and vegetation clearance*. The policy intent is to manage both rates of erosion and sediment runoff into waterbodies. The policy recognises that it may not be possible in all cases to avoid the effects of these activities, but nevertheless requires that the effects be *minimised*. The policy also recognises that there may be a period of time where *environmental outcomes and target attribute states* for a FMU have not yet been set in the regional plan, and in these cases, there remains a requirement to minimise silt and sediment runoff into water. Policy 41 shall cease to have effect once Policy 15(a) has been given effect in the Regional Plan for all FMUs in the region.

~~An area of overlapping jurisdiction between Wellington Regional Council and district and city councils is the ability to control earthworks and vegetation disturbance, including~~

~~clearance. Large scale earthworks and vegetation disturbance on erosion prone land in rural areas and many small scale earthworks in urban areas – such as driveways and retaining walls – can cumulatively contribute large amounts of silt.~~

~~Minimisation requires effects to be reduced to the extent reasonably achievable whilst recognising that erosion, siltation and sedimentation effects can not always be completely avoided.~~

~~This policy provides for consideration of earthworks and vegetation disturbance to minimise erosion and sediment runoff prior to plan controls being adopted by regional and district plans in accordance with policy 15. This policy shall cease to have effect once method 31 is implemented and policy 15 is given effect to in regional and district plans.~~


~~Policies 15 and 41 are to ensure that Wellington Regional Council and district and city councils integrate the control earthworks and vegetation disturbance in their regional and district plans. Method 31 is for Wellington Regional Council and district and city councils to develop a protocol for earthworks and erosion from vegetation disturbance. The protocol will assist with implementation of policies 15 and 41.~~

~~Some activities – such as major road construction – are likely to require resource consents from both Wellington regional council and district or city councils, which will work together to control the effects of the activity.~~

~~Vegetation disturbance includes harvesting plantation forestry.~~

3.15 Policy 18 - Protecting and restoring aquatic ecological function health of water bodies – regional plans

403. The notified Policy said:

Policy 18: Protecting and restoring aquatic ecological function health of water bodies – regional plans	
<p>Regional plans shall include policies, rules and/or methods that protect and restore the ecological health of water bodies, including:</p> <ul style="list-style-type: none"> (a) <u>managing freshwater in a way that gives effect to Te Mana o te Wai;</u> (b) <u>actively involve mana whenua / tangata whenua in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for;</u> (c) <u>there is no further loss of extent of natural inland wetlands and coastal wetlands, their values are protected, and their restoration is promoted;</u> (d) <u>achieving environmental outcomes, target attribute states and environmental flows and levels;</u> (e) <u>avoiding the loss of river extent and values;</u> (f) <u>protecting the significant values of outstanding water bodies;</u> (g) <u>protecting the habitats of indigenous freshwater species are protected;</u> (h) <u>Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided;</u> (i) <u>promoting the retention of in-stream habitat diversity by retaining natural features – such as pools, runs, riffles, and the river’s natural form;</u> (j) <u>promoting the retention of natural flow regimes – such as flushing flows;</u> (k) <u>promoting the protection and reinstatement of riparian habitat;</u> (l) <u>promoting the installation of off-line water storage;</u> (m) <u>measuring and evaluating water takes;</u> (n) discourage restricting <u>the reclamation, piping, straightening or concrete lining of rivers;</u> (o) discourage restricting <u>stock access to estuaries, rivers, lakes and wetland;</u> (p) discourage restricting <u>the diversion of water into or from wetlands – unless the diversion is necessary to restore the hydrological variation to the wetland;</u> (q) discourage restricting <u>the removal or destruction of indigenous plants in wetlands and lakes; and</u> (r) <u>restoring and maintaining fish passage.</u> <p>Explanation</p> <p><u>Policy 18 lists a range of actions that will protect and restore the ecological health of water bodies. Habitat diversity, which is described in clauses (a), (b) and (c), is essential for aquatic ecosystems to survive and be self-sustaining. When areas of habitat in one part of the river, lake or wetland are degraded or destroyed by activities described in clauses (e), (f), (g) and (h), critical parts of the ecosystem may be permanently affected with consequent effects elsewhere in the ecosystem.</u></p> <p>Habitat diversity, which is described in clauses (a), (b) and (c), is essential for aquatic ecosystems to survive and be self-sustaining. When areas of habitat in one part of the</p>	

~~river, lake or wetland are degraded or destroyed by activities described in clauses (e), (f), (g) and (h), critical parts of the ecosystem may be permanently affected with consequent effects elsewhere in the ecosystem. Specific policies and regional rules can set out where it is important to retain habitat for ecological function.~~

~~Off-line water storage is constructed out of the river and do not cause adverse effects such as barriers to fish that in stream dams can.~~

404. Policy 18 is an operative RPS policy that directs regional plans to include provisions that protect and restore the ecological health of water bodies.
405. The amendments included through Proposed Change 1 aim to broaden and strengthen the policy to give effect to the NPS-FM, and in particular Policies 1, 2, 5, 6, 7, 8, 9 and 10.
406. 90 submission points and 53 further submission points were received on Policy 18.

3.15.1 Submissions, Evidence and Analysis

407. Submitters' concerns about the notified amendments to Policy 18 included drafting clarity, giving effect to national direction, and the strength of the policy direction. Drafting amendments were proposed in the s 42A Report to address these concerns including:²⁵¹
- a. Referencing *Te Mana o te Wai* in the chapeau so it is clear it is the overarching purpose (Rangitāne relief accepted)
 - b. Protecting the habitat of trout and salmon so far as this is consistent with protecting the habitat of indigenous freshwater species (Fish and Game relief accepted in part)
 - c. Amending clause (e) for consistency with Policy 7 of the NPS-FM regarding the loss of river extent and values (HortNZ relief accepted)
 - d. Removing duplication in the clauses (PCC relief accepted in part)
 - e. Retaining clause (c) regarding the protection and restoration of natural inland wetlands to give effect to Policy 6 of the NPS-FM (MPFG, Philip Clegg, Dr Sarah Kerkin relief rejected)
 - f. Retaining reference to "off-line" water storage in clause (l) as the clause is intended to promote storage alternatives such as water

²⁵¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 652 – 679.

storage lakes that are outside of rivers, rather than online options such as damming, which would be inconsistent with Policy 7 of the NPS-FM (HortNZ relief rejected)

- g. Including an ‘avoid’ directive in clause (n) other than for activities with a functional need and where the effects management hierarchy is applied (Ātiawa and Forest and Bird relief accepted), and a consequential amendment to include the NPS-FM definition of “effects management hierarchy”, and
- h. Including “adopting an integrated approach, *ki uta ki tai*” in new clause (bb) and “the use of mātauranga Māori” in new clause (bc) (Ātiawa relief accepted).

408. In evidence, Mr McDonnell for PCC sought amendments to align clause (c) with the NES-F and allow a pathway for urban development that demonstrates a functional or operational need and applies the effects management hierarchy.²⁵² Legal submissions and evidence presented by Wellington Water said that clause 3.22 of the NPS-FM allows for the potential loss of extent or values of natural inland wetlands in certain circumstances, but Policy 18(c) made no provision for these allowances.²⁵³ Mr Slyfield noted that clause 3.22 has been implemented by Policy 110 of the NRP.²⁵⁴

409. Some planning experts sought the removal of coastal wetlands in clause (c);²⁵⁵ further clarification of clause (r) to reflect NPS-FM clause 3.26 in relation to fish passage;²⁵⁶ amendments to align Policy 18 with the directive language in Policy 14 (effects of urban development);²⁵⁷ replacing “protect and enhance” in the chapeau with “maintain and improve” for consistency with Policy 5 of the NPS-FM and on the basis that there is no direction in the NPS-FM requiring enhancement of all water bodies, but rather improvement where the water body is degraded or if desired by the

²⁵² Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, para 72.

²⁵³ Legal Submissions for Wellington Water Limited, HS 5, 3 November 2023, paras 19 - 20; Evidence of Ms Horrox for Wellington Water.

²⁵⁴ Legal Submissions for Wellington Water Limited, HS 5, 3 November 2023, para 19.

²⁵⁵ Primary Statement of evidence of Catherine Heppelthwaite for Waka Kotahi, Hearing Stream 5, 3 November, para 5.3j.i.

²⁵⁶ Evidence of Murray Brass on behalf of the Director-General of Conservation, HS 5, 3 November 2023, para 22, paras 55 – 59; Statement of Planning Evidence of Lily Campbell, HS 5, 3 November 2023 and also Forest and Bird submission and Ms Downing’s legal submissions for HS5, 3 November 2023 paras 36 – 43.

²⁵⁷ Statement of Planning Evidence of Maggie Burns, 3 November 2023, paras 99 – 103.

community.²⁵⁸ Ms Clarke observed that Proposed Change 1 lacked policy direction recognising and providing for the use and development of water and waterbodies for beneficial activities beyond urban development and this did not support an integrated approach²⁵⁹ (in particular significant quarrying benefits where it is not functionally or operationally practicable to avoid waterbodies and wetlands).

410. In her Rebuttal Evidence, Ms Pascall agreed with Ms Clarke that “protect” and “enhance” in the chapeau should be replaced with “maintain” and “improve” to give better effect to the NPS-FM. The Officer also said she agreed that the RPS should be consistent with the NPS-FM and NES-F in providing a consenting pathway for urban development, but she did not think Policy 18 needed to be amended as Policy 14 already set out the requirements for regional plans in managing urban development and the Officer had proposed amendments to Policy 14 in her Rebuttal for providing for the national direction consenting pathways.²⁶⁰

411. During the hearing, we queried Ms Pascall on the absolute expression in Policy 18(c), that regional plans must include provisions to ensure there is no further loss of extent of natural inland wetlands and that their values are protected. Ms Pascall said there was a question about how specific the RPS policies needed to be as the consent pathways in clauses 3.22 and 3.24 had to be included directly in Regional Plans.²⁶¹ In response, we commented that if the RPS policy is expressed in definitive terms, then the consent pathway may only be provided for when it is included in the NRP.²⁶² Ms Pascall acknowledged this potential.²⁶³

412. Another key point was the one made by Mr Lewandowski in his evidence for PPFL:²⁶⁴

In section 104D terms, the policy gateway will be informed through the change required by the NPS-FM to the regional plan. However, if the higher order RPS contains matter (m) as presently drafted, this creates an inconsistency. I therefore

²⁵⁸ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, para 6.3

²⁵⁹ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, paras 8.6.

²⁶⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 195.

²⁶¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 31, lines 1524 – 1527.

²⁶² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 31, lines 1539 – 1543.

²⁶³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 31, lines 1549.

²⁶⁴ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, para 4.14.

consider that it is appropriate for the RPS to reference the direction of the NPS-FM. An equivalent change to Policy 40(n) and (p) would also be required.

413. At the hearing, Mr Lewandowski expressed the issue in this way.²⁶⁵

The PPFL submission or my evidence highlighted that in the absence of that you were creating a situation where the NPS made that provision. It was directive to a regional plan two tiers below, but the intervening tier simply took an avoid position, so you created an inconsistency or a clash in that subsequent jump down the hierarchy.

414. We were persuaded by this evidence. There was in our view, a disconnect between the RPS directive and NPS-FM directive, and this had the potential to cause implementation issues for the NRP. Ms Pascall referred to the points made by the HS1 Officer regarding the aggregate and mineral resources consenting pathway being out of scope of Proposed Change 1, and on this basis, she did not support the amendments sought by Ms Clarke.²⁶⁶

415. Legal advice was received on the issue and in her Reply Evidence, Ms Pascall recommends two new Policies to provide a pathway for certain activities in natural inland wetlands and rivers to give effect to clauses 3.22 – 3.24 of the NPS-FM. These Policies are considered in the following section.

416. Consequential to these new Policies, the Officer recommends removing clause (c) from Policy 18 referring to inland and coastal wetlands, clause (e) referring to river extent and values, and clause (n) referring to reclamation, piping, straightening etc of rivers.²⁶⁷

417. The Officer noted that Policy 18 applies to all use and activity, and so is not limited to effects from urban development (c.f. Policy 14), and it was therefore logical to address the issue of a pathway for aggregates and other limited activities in Policy 18 rather than in the Soils and Mineral chapter of the RPS. This is discussed further under Policies 18A and 18B.

²⁶⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 40, lines 2034 – 2038.

²⁶⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 196 – 197.

²⁶⁷ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 118.

418. The Officer recommended granting the amendment sought to clause (r) regarding fish passage, agreeing with the amendments proposed by Ms Downing in her legal submissions on behalf of Forest and Bird.²⁶⁸

3.15.2 Finding

419. We agree with the Reporting Officer's recommendations on Policy 18 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.15.3 Recommendation

Policy 18: ~~Maintaining Protecting and enhancing improving restoring ecological health~~ the health and wellbeing of water bodies and freshwater ecosystem health of water bodies – regional plans

Regional plans shall include policies, rules and/or methods that ~~give effect to Te Mana o te Wai~~, and in doing so ~~protect maintain and improve enhance restore~~ the ~~ecological health~~ ~~health and wellbeing of water bodies and freshwater ecosystem health~~ of water bodies, including by:

- ~~(a) — managing freshwater in a way that gives effect to Te Mana o te Wai;~~
- ~~(b) actively involving mana whenua / tangata whenua in freshwater management (including decision-making processes), and~~
 - ~~(ba) identifying and providing for Māori freshwater values are identified and provided for;~~
 - ~~(bb) adopting an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to ensure that ecological health of freshwater is managed using an integrated, ecosystem wide approach~~
 - ~~(bc) incorporating the use of mātauranga Māori to protect and restore ecosystem health,~~
- ~~(c) — ensuring there is no further loss of extent of natural inland wetlands and coastal wetlands, their values are protected, and their restoration is promoted;~~
- ~~(d) — achieving environmental outcomes, target attribute states and environmental flows and levels;~~
- ~~(e) — avoiding the loss of river extent and values to the extent practicable;~~
- ~~(f) protecting the significant values of outstanding water bodies~~
- ~~(g) protecting the habitats of indigenous freshwater species are protected;~~
- ~~(ga) protecting the habitat of trout and salmon, insofar as this is consistent with clause (g).~~
- ~~(h) — Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided;~~
- ~~(i) promoting the retention of retaining in-stream habitat diversity by retaining natural features – such as pools, runs, riffles, and the river's natural form to~~

²⁶⁸ Legal submissions for the Royal Forest & Bird Protection Society Inc, HS5, 3 November 2023 paras 36 – 43; Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 195.

- ~~(i)~~ ~~promoting the retention of retaining~~ *maintain in-stream habitat diversity;* natural flow regimes – such as *flushing flows;*
- ~~(k)~~ ~~promoting the protection and reinstatement of riparian habitat;~~
- ~~(l)~~ ~~promoting the installation of off-line water storage;~~
- ~~(m)~~ ~~measuring and evaluating water takes;~~
- ~~(n)~~ ~~discourage restricting avoiding the reclamation, piping, straightening or concrete lining of rivers unless:~~
 - ~~(i) there is a functional need for the activity in that location; and~~
 - ~~(ii) the effects of the activity are managed by applying the effects management hierarchy~~
- ~~(o)~~ ~~discourage restricting stock access to estuaries, rivers, lakes and wetland;~~
- ~~(p)~~ ~~discourage restricting the diversion of water into or from wetlands – unless the diversion is necessary to restore the hydrological variation to the wetland;~~
- ~~(q)~~ ~~discourage restricting the removal or destruction of indigenous plants in wetlands and lakes; and~~
- ~~(r)~~ ~~restoring and maintaining fish passage where appropriate. except where it is desirable to prevent the passage of some fish species in order to protect indigenous species, their life stages, or their habitats.~~

Explanation

Policy 18 lists a range of actions that will protect and restore *the health and wellbeing of water bodies and freshwater ecosystem the ecological health of water bodies. The ecosystem health of water bodies is dependent on water quality, water quantity, habitat, aquatic life, and ecological processes. To be a healthy freshwater ecosystem, all five components support and sustain indigenous aquatic life. Habitat diversity, which is described in clauses (a), (b) and (c), is essential for aquatic freshwater ecosystems to survive and be self-sustaining. When areas of habitat in one part of the river, lake or wetland are degraded or destroyed by activities described in clauses (e), (f), (g) and (h), critical parts of the ecosystem may be permanently affected with consequent effects elsewhere in the ecosystem.*

3.16 Policy 18A - Protection and restoration of natural inland wetlands – regional plans

Policy 18B - Protection of river extent and values – regional plans

420. As noted above in the discussion for Policy 18, Policies 18A and 18B are new policies proposed in the Reporting Officer’s Reply Evidence to give effect to NPS-FM clause 3.22 (Natural Inland Wetlands) and 3.24 (Rivers).²⁶⁹

3.16.1 Submissions, Evidence and Analysis

421. The Policies set out requirements in relation to activities resulting in the loss of extent or values of natural inland wetlands and rivers. Ms Pascall states that these policies adopt the same wording and approach as the relevant clauses of the NPS-FM, to provide certainty and clarity for all users of the RPS.
422. Initially Ms Pascall did not support including the NPS-FM pathways due to scope restrictions. Counsel for the Council provided legal submissions addressing the issue of whether Winstone Aggregate’s relief seeking the inclusion of a consenting pathway for quarrying activities, was within the scope of Proposed Change 1.²⁷⁰ Counsel helpfully set out the timeline of the relevant NPS-FM amendments including the quarrying and other consenting pathways. These amendments were gazetted on 8 December 2022, and came into force on 5 January 2023.²⁷¹ They direct the regional council to make specific amendments to the NRP without using a Schedule 1 process. Those amendments have not yet been made, but it was noted that policy direction in the RPS to support those forthcoming amendments may be appropriate.²⁷² The NPS-FM did not direct such changes to the RPS, but they could be made if that was considered appropriate and if there was scope to do so.²⁷³

²⁶⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 59 – 64.

²⁷⁰ Legal submissions in reply on behalf of Wellington Regional Council – HS5, 20 December 2023.

²⁷¹ Legal submissions in reply on behalf of Wellington Regional Council – HS5, 20 December 2023, para 4.

²⁷² Legal submissions in reply on behalf of Wellington Regional Council – HS5, 20 December 2023, para 9.

²⁷³ Legal submissions in reply on behalf of Wellington Regional Council – HS5, 20 December 2023, para 10.

423. We are not limited by the scope of submissions, but we are still limited to the scope of Change 1 itself, and the matter must have been raised during hearings, which of course it has been in Ms Tancock's and Ms Clarke's presentations. We are satisfied there is scope within Change 1 to recommend that the new Policies 18A and 18B recommended by Ms Pascall are adopted. Change 1 addresses the degradation of freshwater, and Policy 18 included a clause relating to loss of natural inland wetlands (clause (c)). Therefore, the issue of limitations and protections has been fairly 'put on the table' as the Counsel's legal submissions state.²⁷⁴ Winstone Aggregate's relief is accordingly within scope of what can be granted in Change 1. Other submitters who were interested in the issue had the opportunity to submit on the relief sought as it was included in Winstone's submission.
424. The Officer says she reviewed her previous position on Winstone Aggregate's relief for new consenting pathways being out of scope, and considers it is appropriate to grant the relief.²⁷⁵ Ms Pascall said she agreed with Ms Clarke and Ms Tancock, presenting evidence and legal submissions on behalf of Winstone Aggregates, that not giving proper effect to clauses 3.22 and 3.24 in Policy 18 will create an inconsistency in the hierarchy between the NPS-FM, the RPS and NRP.²⁷⁶ At the hearing, we noted that there was a role for the RPS in terms of being a bridge between the NPS-FM and the NRP.²⁷⁷
425. Ms Pascall therefore supports including new Policies 18A and 18B, drawing closely on the wording in the NPS-FM. Ms Pascall also recommended including the definition of "specified infrastructure" from clause 3.21 of the NPS-FM, as this activity is provided for in the consent pathways now included in Policies 18A and 18B.²⁷⁸ Ms Pascall recommends a similar provision in relation to resource consents (Policies 40A and 40B) but provides for the Policies to cease to have effect once

²⁷⁴ Legal submissions in reply on behalf of Wellington Regional Council – HS5, 20 December 2023, para 17.

²⁷⁵ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 59.

²⁷⁶ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 60 -61.

²⁷⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 42, lines 2140 – 2141.

²⁷⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 64.

Policies 18A and 18B have been given effect to in the regional plan. This signals that they have interim effect until the NRP is updated.²⁷⁹

426. Another option for the policy direction to support clauses 3.22 (and 3.24) was set out in Mr Lewandowski's evidence for PPFL. He proposed that Policy 14(m) be amended to require urban development to avoid the loss of extent of values of natural inland wetlands unless there is a functional need for the activity in that location, or the activity is otherwise identified in the NPS-FM and the effects of the activity are managed by applying the effects management hierarchy.
427. While we appreciate the more simple approach of this suggested amendment, we do not consider it gives appropriate effect to the NPS-FM as it provides broad discretion for an activity to locate if there is a functional need. Instead, the 'exemptions' are more narrowly constrained as set out in clause 3.22 of the NPS-FM. For instance, clause 3.22(1)(c) does not specify a 'functional need' test for urban development, instead there are 'higher tests' that must be met.
428. On balance, we are satisfied that Ms Pascall's proposed amendments in her Reply Evidence are appropriate, even though they restate the NPS-FM clauses. The risk with this approach is that the 'restatement' does not occur accurately, creating further potential tensions or implementation difficulties. This has occurred in our view, and in Minute 28 we asked Ms Pascall to review the cross-references and other drafting matters. Ms Pascall provided an updated version of Policies 18A and 40A with the cross-references corrected and some drafting corrections to more accurately reflect the national direction consenting pathways (shown in purple non-shaded text below).

3.16.2 Finding

429. We agree with the Reporting Officer's recommendations on Policies 18A and 18B for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence, including the Officer's response to the questions we posed in Minute 28 (and amendments shown in purple non-shaded text).

²⁷⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 65.

3.16.3 Recommendation

Policy 18A: Protection and restoration of natural inland wetlands – regional plans

Regional plans shall include policies, rules and/or methods to protect the values of natural inland wetlands, promote their restoration, and avoid the loss of extent of natural inland wetlands, unless:

- (a) the loss of extent or values arises from any of the following:
 - (i) the customary harvest of food or resources undertaken in accordance with tikanga Māori
 - (ii) wetland maintenance, restoration, or biosecurity (as defined in the National Policy Statement for Freshwater Management)
 - (iii) scientific research
 - (iv) the sustainable harvest of sphagnum moss
 - (v) the construction or maintenance of wetland utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)
 - (vi) the maintenance or operation of specified infrastructure, or other infrastructure (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020
 - (vii) natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020); or
- (b) the loss of extent or values is a result of use and development within natural inland wetlands that:
 - (i) is necessary for the purpose of the construction or upgrade of specified infrastructure that will provide significant national or regional benefits; or
 - (ii) is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development 2020), and:
 - a. the urban development will provide significant national, regional or district benefits; and
 - b. the activity occurs on land that is identified for urban development in operative provisions of a regional or district plan; and
 - c. there is no practicable alternative location for the activity within the area of the development, or every other practicable location in the area of the development would have equal or greater adverse effects on a natural inland wetland; or
 - (iii) is necessary for the purpose of quarrying activities and the extraction of the aggregate will provide significant national or regional benefits; or
 - (iv) the activity is for the purpose of the extraction of minerals (other than coal) and ancillary activities and the extraction of the mineral will provide significant national or regional benefits; or
 - (v) the activity is necessary for the purpose of constructing or operating a new or existing landfill or cleanfill area and:
 - a. The landfill or cleanfill area:
 - b. will provide significant national or regional benefits; or
 - c. is required to support urban development as referred to in Policy 14(m) Policy 18A(b)(ii); or
 - d. is required to support the extraction of aggregates as referred to in clause (b)(ii),(iii),

- e. is required to support the extraction of *minerals* as referred to in clause (b)(iii)(iv); and
- f. there is either no practicable alternative location in the region, or every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland *wetland*; and
- (vi) in relation to clauses (b)(i), ~~to (b)(iii), and (b)(iv)~~ there is a *functional need* for the activity to be done in that location; and
- (vii) in all cases, the effects of the activity will be managed through applying the *effects management hierarchy*; and
- (viii) where the activity will result (directly or indirectly) in the loss of extent or values of a natural inland *wetland*:
 - a. require an assessment of the loss of extent or values of the *wetland* in relation to the values of: *ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values*; and
 - b. if *aquatic offsetting* or *aquatic compensation* is applied, require compliance with principles 1 to 6 in Appendix 6 and 7 of the National Policy Statement of Freshwater Management 2020, and have regard to the remaining principles in Appendix 6 and 7, as appropriate; and
 - c. ensure that the offsetting or compensation will be maintained and managed over time to achieve the conservation outcomes; and
 - d. ensure that any conditions of consent apply the *effects management hierarchy* including conditions that specify how the requirements in clause (b)(vii)(viii)c. will be achieved.

Explanation

Policy 18A gives effect to clause 3.22 of the National Policy Statement for Freshwater Management 2020 by setting out the circumstances under which the loss of extent and values of natural inland *wetlands* may be appropriate.

Policy 18B: Protection of river extent and values – regional plans

Regional plans shall include policies, rules and/or methods to avoid the loss of *river* extent and values, unless:


- (a) there is a *functional need* for the activity in that location; and
- (b) the effects of the activity are managed by applying the *effects management hierarchy*; and
- (c) where clauses (a) and (b) apply, and the activity will result (directly or indirectly) in the loss of extent or values of a *river*:
 - (i) require an assessment of the loss of extent or values in relation to the values of: *ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity*; and
 - (ii) if *aquatic offsetting* or *aquatic compensation* is applied, require compliance with principles 1 to 6 in Appendix 6 and 7 of the National Policy Statement for Freshwater Management 2020, and have regard to the remaining principles in Appendix 6 and 7, as appropriate; and
 - (iii) ensure that the offsetting or compensation will be *maintained* and managed over time to achieve the conservation outcomes; and
 - (iv) ensure that any conditions of consent apply the *effects management hierarchy* including conditions that specify how the requirements in (c)(iii) will be applied.

Explanation

Policy 18B gives effect to clause 3.24 of the National Policy Statement for Freshwater Management 2020 and provides direction for the content of *regional plans* in managing the loss of *river* extent and values. The policy requires the avoidance of the loss of *river* extent and values, unless there is a *functional need* and the *effects management hierarchy* has been applied.

3.17 Policy 40 – Maintaining Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems aquatic ecosystem health in water bodies – consideration
Policy 40A – Loss of extent and values of natural inland wetlands – consideration
Policy 40B – Loss of river extent and values - consideration

430. The notified version of Policy 40 states:

<p>Policy 40: Maintaining <u>Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems aquatic ecosystem health in water bodies – consideration</u></p>	
<p>When considering an application for a <u>regional</u> resource consent, particular regard shall be given to:</p>	
<p>(a) requiring <u>that water quality, flows and water levels and aquatic habitats of surface water bodies are managed in a way that gives effect to <i>Te Mana o Te Wai</i> and protects and enhances the health and well-being of waterbodies and the health and wellbeing of freshwater ecosystems for the purpose of safeguarding aquatic ecosystem health;</u></p>	
<p>(b) that, requiring <u>as a minimum, water quality in the <i>coastal marine area</i> is to be managed in a way that protects and enhances the health and well-being of waterbodies and the health and wellbeing of marine ecosystems.; for the purpose of maintaining or enhancing aquatic ecosystem health; and</u></p>	
<p>(c) managing water bodies and the water quality of coastal water for other purposes identified in regional plans.</p>	
<p>(c) <u>providing for mana whenua / tangata whenua values, including mahinga kai;</u></p>	
<p>(d) <u><i>maintaining</i> or enhancing the functioning of ecosystems in the water body;</u></p>	
<p>(e) <u><i>maintaining</i> or enhancing the ecological functions of riparian margins;</u></p>	
<p>(f) <u>minimising the effect of the proposal on groundwater recharge areas that are connected to surface water bodies;</u></p>	
<p>(g) <u><i>maintaining</i> or enhancing the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1;</u></p>	
<p>(h) <u>protecting the significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed in Table 16 of Appendix 1;</u></p>	
<p>(i) <u><i>maintaining</i> natural flow regimes required to support aquatic ecosystem health;</u></p>	
<p>(j) <u><i>maintaining</i> or enhancing space for rivers to undertake their natural processes;</u></p>	
<p>(k) <u><i>maintaining</i> fish passage;</u></p>	
<p>(l) <u>protecting and reinstating riparian habitat, in particular riparian habitat that is important for fish spawning;</u></p>	
<p>(m) discouraging <u>restricting stock access to estuaries rivers, lakes and wetlands; and</u></p>	
<p>(n) discouraging <u>avoiding the removal or destruction of indigenous wetland plants in wetlands.</u></p>	

Explanation

Policy 40 provides criteria for considering regional consents to protect the health and wellbeing of waterbodies, particularly during the transition period before regional plans are changed to give effect to the NPS-FM.

Clause (a) identifies ecosystem health as a water management purpose for surface water bodies and clause (b) identifies water quality in the coastal marine area is to be managed for the purpose of aquatic ecosystem health. Other water management purposes for water bodies and coastal waters in clause (c) are to be established in regional plans as required by policies 5 and 12.

Application for a resource consent refers to all types of resource consent. Policy 40 shall cease to be considered for resource consents processed by the Wellington Regional Council once policy 5 and 12 are given effect to in a regional plan. Policy 40 shall continue to be considered by city and district councils when processing resource consents, notices of requirement and making changes, variations or reviews of district plans.

District and city councils could implement this policy by requiring setback distances between buildings and rivers, wetlands and the coastal marine area to protect riparian areas, limiting the amount of impervious surfaces allowed in new developments in some catchments, requiring rooftop rainwater collection for gardens, requiring roadside swales, filter strips and 'rain gardens' for stormwater runoff instead of kerb and channelling, encouraging advanced community sewerage schemes rather than septic tanks in areas where groundwater is vulnerable, and encouraging the treatment of stormwater at source in car parks and industrial yards.

431. Policy 40 is an Operative RPS Policy that provides criteria for considering regional consents to protect the health and wellbeing of waterbodies. Proposed Change 1 broadens and strengthens the Policy to give effect to the NPS-FM, particularly during the transition period before regional plans are changed to give effect to the NPS-FM.
432. Policies 40A and 40B are new policies proposed in the Reporting Officer's Reply evidence to give effect to NPS-FM clause 3.22 and 3.24 in regional resource consenting. They will cease to have effect when Policies 18A and 18B respectively are given effect to in the regional plan.

3.17.1 Submissions, Evidence and Analysis

433. Submitters raised a number of drafting concerns and clarification queries. These included that the Policy does not require that *Te Mana o te Wai* is given effect to (Forest and Bird [S165.069] and Rangitāne [S168.048]) and clause (d) should be deleted as it duplicates clauses (a) and (b) (PCC [S30.064]). Powerco [S134.015] considered the requirement to enhance as well as protect the health and wellbeing of water bodies and freshwater ecosystems in all situations is onerous and does not recognise regionally significant infrastructure (RSI).

434. Many of these concerns were addressed in the s 42A Report. Remaining submitter concerns with the s 42A provisions included the absolute avoidance approach in Policy 40(n) going beyond the NPS-FM in requiring avoidance of all effects on indigenous wetland plants, including in constructed or artificial wetlands, and lack of application of the effects management hierarchy of the NPS-FM.²⁸⁰ Other experts and counsel sought that clauses (n) and (p) should align with the NES-F and allow a pathway for urban development that demonstrates a functional or operational need and which applies the effects management hierarchy;²⁸¹ consistency with Policy 18(c) in relation to obligations to coastal wetlands which are part of the “receiving environment” in the NPS-FM;²⁸² the use of the phrase ‘to the extent practicable’ in clause (o);²⁸³ a link to the pathways in clauses 3.22(1) and 3.24(1) of the NPS-FM,²⁸⁴ and reference to maintain/maintained/maintenance due to impracticalities of applying the defined term of “maintaining” in the RPS.²⁸⁵
435. In her Rebuttal Evidence, Ms Pascall removes the italicising of “maintenance”, noting that where this term is used in Policy 40, the term has its ordinary meaning.²⁸⁶ She acknowledges concerns with going beyond the requirements of the NPS-FM and not providing for functional or operational need and application of the effects management hierarchy in clause (n).
436. In response to questions from the Panel in Minute 18 and after hearing submitters, the Officer recommends:
- a. Amending the chapeau to read “have regard to” rather than “have particular regard to”, consistent with the s 104 RMA consenting assessment,²⁸⁷

²⁸⁰ Statement of Evidence of Christine Foster called by Meridian Energy Limited, HS5, 2 November 2023, paras 3.9 – 3.10.

²⁸¹ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), HS5 – 2 November 2023, para 75.

²⁸² Legal submissions for the Royal Forest & Bird Protection Society Inc, HS5, 3 November 2023 paras 45 – 49.

²⁸³ Statement of Planning Evidence of Lily Campbell, HS 5, 3 November 2023, paras 43 – 50.

²⁸⁴ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, para 9.4 and section 8.

²⁸⁵ Statement of Evidence of Catherine Clarke on behalf of Winstone Aggregates, HS5, 3 November 2023, section 7.

²⁸⁶ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 217.

²⁸⁷ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 112.

- b. Including two new policies (Policy 40A and 40B) to provide consenting pathways for certain activities in natural inland wetlands in accordance with the effects management hierarchy and clauses 3.22 and 3.24 of the NPS-FM,²⁸⁸
- c. Including reference to the “coastal marine area” in clause (b) in order to give effect to Objective 6 of the Operative RPS which states that the quality of coastal waters is maintained or enhanced to a level that is suitable for the health and vitality of coastal and marine ecosystems.²⁸⁹

437. During the hearing, we queried with Ms Pascall whether it was appropriate for Policy 40, being a consenting policy, to require the regional council to “give effect to *Te Mana o te Wai*” and in doing so “have particular regard to” the matters listed in the Policy.

438. In her Reply Evidence, Ms Pascall agreed that “have regard to” was more appropriate and she recommended that amendment. She commented on the words “give effect to *Te Mana o te Wai*” in Policies 44 and FW.5 which are also consenting policies. She said:²⁹⁰

the reference to ‘giving effect to’ *Te Mana o te Wai* in the chapeau is unnecessary in these policies because the policies themselves already give effect to *Te Mana o te Wai*, and therefore in implementing the policy this is implicit. These policies also give effect to Objective 12 which is focused on *Te Mana o te Wai*.

439. We think that this same reasoning applies to Policy 40. The Policy itself gives effect to *Te Mana o te Wai*, and therefore the chapeau should be consistent with the requirements of s 104 of the RMA, which require a consent authority to “have regard to” the provisions of the RPS.

440. We agree that amending Policy 40 to state “maintains and improves” rather than “protects and enhances”, gives better effect to Policy 5 of the NPS-FM. However, in our view, Policy 5 requires degraded water bodies and freshwater ecosystems to be improved, and others to be maintained, and if communities choose, improved (which is the process that will be

²⁸⁸ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 113 – 116; para 65.

²⁸⁹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 25 – 27.

²⁹⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 33.

undertaken through implementing the NOF through the whitua process). We recommend an amendment to Policy 40(a) to better reflect this wording in Policy 5 of the NPS-FM.

441. In her legal submissions, Ms Downing sought that Policy 40(b) be retained largely as notified as the changes in the Officer's s 42A and Rebuttal Evidence no longer directed the protection or maintenance and enhancement of coastal water. In her Reply Evidence, Ms Pascall accepted that amendments were needed to Policy 40(b) to implement Objective 6 of the RPS. We agree with Ms Pascall's amendments but consider a further amendment is needed to address the policy gaps Ms Downing identifies.
442. There are two gaps in our view. Clause (b) would implement Objective 6 more appropriately if it referred to the need to "protect and enhance health and wellbeing" where "coastal waterbodies" were degraded. We note that "water body" is defined in the RMA (s 2) to exclude the CMA. Clause (b) (as Ms Pascall now supports it) is specific to the CMA, so the addition of "coastal" before "waterbodies" is perhaps unnecessary but may assist readability.
443. Also, Objective 6 of the RPS requires coastal water quality to be maintained or enhanced to a level that is suitable for the health and vitality of coastal and marine ecosystems. We consider that the wording we recommend, to "protect and enhance where degraded" is an appropriate cascade from Objective 12.
444. We make further comments in relation to coastal wetlands as this issue came up in various provisions in HS5.

3.17.1.1 Coastal wetlands

445. Forest and Bird sought greater protection for coastal wetlands, including in Policies 40, 41 and FW.6. They were concerned that the provisions in Proposed Change 1 did not give appropriate effect to the NZCPS.
446. Similarly, Ms Anton, counsel for the DGC said that the Council needed to take care when implementing the NPS-UD and NPS-FM, that NZCPS implementation did not "fall through the cracks"²⁹¹ or that any existing RPS provisions that are amended by Proposed Change 1, do not have the coastal provisions diluted as a consequence.²⁹² Ms Anton gave the

²⁹¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 29, lines 1446 – 1447.

²⁹² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 29, lines 1455 – 1458.

specific example of Policy 40(b), which in the s 42A and Rebuttal version, had specific reference to the coastal marine area deleted, and instead captured as part of the “receiving environment”. “Coastal marine area” was restated in the Officer’s Reply Evidence, something which Ms Anton, accurately in our view, said was required as a matter of law in order to not lose the NZCPS-implementation that had existed with the operative provision.²⁹³

447. Objective 1 of the NZCPS is:

To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land by [among other things] maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.

448. We also note, as Ms Downing directed us to, Policy 22(3) of the NZCPS, which requires the sedimentation impacts of vegetation removal to be controlled.²⁹⁴ In addition, Policy 22(3) requires local authorities to ensure that subdivision, use or development will not result in a significant increase in sedimentation in the coastal marine area, or other coastal water.

449. In response to our question about Proposed Change 1 giving effect to the NZCPS, Ms Pascall at the hearing, said that the NPS-FM and NES-F only apply to the coastal environment in so far as it is a receiving environment, and if a provision applies directly to the coast, it should locate in the coastal chapter of the RPS²⁹⁵ (which was of course outside the scope of Proposed Change 1).

450. The NES-F applies to natural inland wetlands, which are defined in the NPS-FM to exclude the coastal marine area.

451. This does not mean that the regional council has no obligations relating to coastal wetlands (see for instance Objective 6 in Chapter 3.2 of the Operative RPS and also Method 53).

²⁹³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 30, line 1495.

²⁹⁴ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 54, lines 2732 - 2740.

²⁹⁵ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 55, lines 2789 – 2820.

452. Provisions within Proposed Change 1 only reference the coastal marine area insofar as they are part of the receiving environment of freshwater bodies.²⁹⁶
453. We recommend amendments to Policy 40 to appropriately address and manage potential effects on wetlands, including coastal wetlands as receiving environments. We also recommend that the consenting pathways provisions the Officer recommends (Policies 40A and 40B are also adopted) as these give appropriate effect to national direction. We recommend a minor amendment to clause (k) to ensure alignment with Policies 9 and 10 of the NPS-FM and other provisions in the Change 1.
454. We note that following questions we posed in Minute 28, the Officer issued a replacement ‘Reply Evidence’ version of Policy 40A correcting some incorrect cross-references and articulation of the national direction. We recommend this version is accepted including the Officer’s purple non-shaded amendments below.

3.17.2 Finding and s 32AA Evaluation

455. We largely agree with the Reporting Officer’s recommendations on Policies 40, 40A and 40B for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence, including the Officer’s response to the questions we posed in Minute 28. We recommend some amendments to Policy 40 to delete the reference to *Te Mana o te Wai* for consistency with Policies 44 and FW.5 and because the Policy itself gives expression to *Te Mana o te Wai* therefore it does not need to be referenced in the chapeau. We also recommend amendments to clause (a) to align with the NPS-FM, in particular Policy 5 which requires the health and well-being of degraded water bodies to be improved. These amendments give effect to higher order direction in the NZCPS and NPS-FM, they provide clarity on the outcomes sought, and are more effectively and efficiently integrated with other provisions in Proposed Change 1.

3.17.3 Recommendation

Policy 40: Maintaining ~~Protecting~~ Maintaining and improving enhancing the health and well-being of water bodies and freshwater ecosystems aquatic ecosystem health in water bodies – consideration

When considering an application for a regional resource consent, ~~the regional council must give effect to *Te Mana o te Wai* and in doing so must have particular~~ regard shall be given to:

²⁹⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 815.

- (a) requiring ~~that managing~~ water quality, flows and water levels and aquatic habitats of surface water bodies ~~are managed~~ in a way that ~~gives effect to Te Mana o te Wai and~~ ~~maintains protects and improves~~ ~~enhances~~ the health and well-being of ~~degraded~~ waterbodies and ~~freshwater ecosystems, and at least maintains~~ the health and wellbeing of ~~all other water bodies and freshwater ecosystems~~ for the purpose of safeguarding aquatic ecosystem health;
- (b) ~~that, requiring managing as a minimum, freshwater quality in the coastal marine area in the coastal marine area is to be managed~~ in a way that ~~protects maintains and, where degraded, protects and enhances~~ ~~improves enhances~~ the health and well-being of ~~coastal waterbodies and the health and wellbeing of marine ecosystems~~ ~~waterbodies and the health and wellbeing of marine ecosystems receiving environments.:~~ for the purpose of maintaining or enhancing aquatic ecosystem health; and
- (c) ~~managing water bodies and the water quality of coastal water for other purposes identified in regional plans:~~
- (c) providing for mana whenua / *tangata whenua* values, including *mahinga kai*;
- ~~(ca) partnering with mana whenua/tangata whenua~~
- ~~(d) maintaining or enhancing the functioning of ecosystems in the water body;~~
- (e) ~~maintaining~~ maintaining or enhancing the ecological functions of *riparian* margins;
- (f) minimising the effect of ~~the proposals such as gravel extraction, exploratory drilling, flood protection and works in the beds of lakes and rivers on groundwater~~ recharge areas that are connected to surface water bodies;
- (g) ~~maintaining~~ maintaining or enhancing the amenity and recreational values of *rivers* and lakes, including those with significant values listed in Table 15 of Appendix 1;
- (h) protecting the ~~values of rivers and lakes that have~~ significant indigenous ecosystems and habitats with significant indigenous biodiversity values ~~of rivers and lakes, including those listed as identified~~ in Table 16 of Appendix 1;
- (i) ~~maintaining~~ maintaining natural flow regimes required to support aquatic *ecosystem health*;
- (j) ~~maintaining~~ maintaining or enhancing space for *rivers* to undertake their natural processes;
- (k) ~~maintaining~~ maintaining fish passage ~~except when this conflicts with clause (q);~~
- (l) protecting and reinstating *riparian habitat*, in particular *riparian habitat* that is important for fish spawning;
- (m) ~~discouraging~~ restricting stock access to estuaries *rivers, lakes and wetlands*;
- and
- (n) ~~discouraging~~ avoiding the removal or destruction of *indigenous wetland plants in wetlands*;
- ~~(o) avoiding the loss of river extent or values, to the extent practicable~~
- ~~(p) ensuring there is no further loss of extent of natural inland wetlands, and their values are protected;~~
- ~~(q) protecting the habitat of indigenous freshwater species~~
- ~~(r) protecting the habitat of trout and salmon, insofar as this is consistent with clause (q).~~

Explanation

Policy 40 provides criteria for considering regional consents to protect the health and wellbeing of waterbodies, particularly during the transition period before *regional plans* are changed to give effect to the NPS-FM.

Policy 40A: Loss of extent and values of natural inland wetlands – consideration

When considering an application for a regional resource consent for use and development within natural inland *wetlands* the regional council must not grant consent unless:

- (a) there will be no loss of extent of natural inland *wetlands* and their values will be protected; or
- (b) any loss of extent or values, arises from any of the following:
 - (i) the customary harvest of food or resources undertaken in accordance with *tikanga Māori*
 - (ii) *wetland* maintenance, restoration, or biosecurity (as defined in the National Policy Statement for Freshwater Management)
 - (iii) scientific research
 - (iv) the sustainable harvest of sphagnum moss
 - (v) the construction or maintenance of *wetland* utility structures (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)
 - (vi) the maintenance or operation of *specified infrastructure*, or other *infrastructure* (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020)
 - (vii) natural hazard works (as defined in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020); or
- (c) any loss of extent or values is a result of use and development within natural inland *wetlands* that:
 - (i) is necessary for the purpose of the construction or upgrade of *specified infrastructure* that will provide significant national or regional benefits; or
 - (ii) is necessary for the purpose of *urban development* that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development 2020), and:
 - a. the *urban development* will provide significant national, regional or district benefits; and
 - b. the activity occurs on *land* that is identified for *urban development* in operative provisions of a regional or *district plan*; and
 - c. the activity does not occur on land that is zoned in a *district plan* as general rural, rural production, or rural lifestyle; and
 - d. there is no practicable alternative location for the activity within the area of the development, or every other practicable location in the area of the development would have equal or greater adverse effects on a natural inland *wetland*; or
 - (iii) is necessary for the purpose of quarrying activities and the extraction of the *aggregate* will provide significant national or regional benefits; or

- (iv) is for the purpose of the extraction of *minerals* (other than coal) and ancillary activities and the extraction of the *mineral* will provide significant national or regional benefits; or
 - (v) is necessary for the purpose of constructing or operating a new or existing landfill or cleanfill area and:
 - a. The landfill or cleanfill area:
 - b. will provide significant national or regional benefits; or
 - c. is required to support *urban development*; or
 - d. is required to support the extraction of *aggregates* as referred to in clause ~~(b)(ii), (c)(iii)~~
 - e. is required to support the extraction of *minerals* as referred to in clause ~~(b)(iii) (c)(iv)~~; and
 - f. there is either no practicable alternative location in the region, or every other practicable alternative location in the region would have equal or greater adverse effects on a natural inland *wetland*; and
 - (vi) in relation to clauses (c)(i) ~~to (b)(iii), (c)(iii), and (c)(iv)~~ there is a *functional need* for the activity to be done in that location; and
 - (vii) in all cases, the effects of the activity will be managed through applying the *effects management hierarchy*; and
- (d) For any activity listed in clauses (b)-(c), other than sub-clause (b)(i), the council is satisfied that:
- (i) The applicant has demonstrated how each step of the *effects management hierarchy* will be applied to any loss of extent or values of the *wetland* (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of *ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values*; and
 - (ii) Where *aquatic offsetting* or *aquatic compensation* is applied, the applicant has complied with principles 1 to 6 in Appendix 6 and 7 of the National Policy Statement ~~of for~~ Freshwater Management 2020, and has had regard to the remaining principles in Appendix 6 and 7, as appropriate; and
 - (iii) There are methods or measures that will ensure that the offsetting or compensation will be maintained and managed over time to achieve the conservation outcomes; and
 - (iv) Suitable conditions will be applied to the consent (if granted) that apply the *effects management hierarchy*, require the monitoring of the *wetland* at a scale commensurate with the risk of the loss of extent or values of the *wetland*, and specify how the requirements in clause (d)(iii) will be achieved.

Explanation

Policy 40A sets out the matters that must be considered and applied when assessing a resource consent for activities within natural inland *wetlands* and when loss of extent and values of natural inland *wetlands* will be considered. In all other cases the loss of extent and values must be avoided. The policy gives effect to Clause 3.22 of the NPS-FM but will cease to have effect when Policy 18A has been given effect in the regional plan.

Policy 40B: Loss of river extent and values

When considering an application for a regional resource consent for use and development within *rivers* the regional council must not grant consent unless:


- (a) There will be no loss of *river* extent and values; or
- (b) There is a *functional need* for the activity in that location; and
- (c) the activity will be managed by applying the *effects management hierarchy*; and
- (d) the applicant has demonstrated how each step in the *effects management hierarchy* will be applied to any loss of extent or values of the *river* (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of: *ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity*; and
- (e) if *aquatic offsetting or aquatic compensation* is applied, the applicant has complied with principles 1 to 6 in Appendix 6 and 7 of the National Policy Statement for Freshwater Management 2020, and has had regard to the remaining principles in Appendix 6 and 7, as appropriate; and
- (f) there are methods or measures that will ensure that the offsetting or compensation will be maintained and managed over time to achieve conservation outcomes; and
- (g) Suitable will be applied to the consent (if granted) that:
 - (i) apply the *effects management hierarchy*
 - (ii) specify how the requirements in clause (f) will be achieved.

Explanation

Policy 40B applies to resource consents for activities in *rivers* and aims to ensure these activities result in no loss of extent of rivers unless there is a *functional need* for the activity in that location and the *effects management hierarchy* has been applied. Policy 40B gives effect to clause 3.24 of the NPS-FM but will cease to have effect when Policy 18B has been given effect in the *regional plan*.

3.18 Policy 17 – ~~Water allocation~~ Take and use of water for the health needs of people – regional plans

456. As notified, the Policy read:

Policy 17: Water allocation Take and use of water for the health needs of people – regional plans	
<p>Regional plans shall include policies, rules and/or methods to ensure the allocation that prioritises the health and wellbeing of the waterbody and freshwater ecosystems first, and then prioritises any take and use of water from any river or groundwater source provides sufficiently for the health needs of people, including: <u>The health needs of people include:</u></p> <ul style="list-style-type: none"> (a) the taking of water by any statutory authority that has a duty for public water supply under any Act of Parliament; (b) the taking of water for reticulation into a public water supply network; (c) the taking of water for community supplies; <u>and</u> (d) <u>the taking of water for marae.</u> <p>Explanation</p> <p><u>Policy 17 gives effect to the objective of the National Policy Statement for Freshwater Management 2020 by prioritising the health and wellbeing of waterbodies first, and then providing for the take and use of water for the health needs of people, before other uses of water.</u></p> <p>This policy recognises the need to ensure that the health needs of people when allocating and using water are paramount.</p> <p>The Resource Management Act, in section 14, enables water to be taken for fire fighting purposes, an individual's reasonable domestic needs and the needs of an individual's animals for drinking water, provided there are no, or not likely to be any, adverse effects on the environment.</p>	

457. Policy 17 gives effect to the objective of the NPS-FM (clause 2.1) by prioritising the health and wellbeing of waterbodies first, and then providing for the take and use of water for the health needs of people, before other uses of water.

3.18.1 Submissions, Evidence and Analysis

458. Submitters generally supported Policy 17 as notified, although several of those submitters (including Rangitāne [S168.041]) sought amendments including clarifying that second priority water takes are only for drinking water and sanitation and then only as needed for the health needs of

people, and that all other uses are within the third priority of the *Te Mana o te Wai* hierarchy.

459. Forest and Bird sought that clause (c) is amended to refer to community drinking water supplies [S165.051]. MDC [S166.028] requested inclusion of economic and cultural needs, Te Tumu Paeroa [S102.046] supported by Ngāti Toa, sought an amendment to the Policy to include papakāinga in clause (d) to ensure water can be provided to such developments.
460. These submissions were addressed in the s 42A and Rebuttal Evidence by inserting the NRP definition of the “health needs of people” into Proposed Change 1. The definition excludes the use of water outside except for water for animal consumption, and water used by industry as process water or cooling water.²⁹⁷ The definition includes drinking water and sanitation and so therefore accepts the relief sought at least in part, by Rangitāne. The Officer considered there was scope to include the definition from the NRP through PCC’s relief in relation to definitions.²⁹⁸ The Officer did not agree that consideration of the health needs of people was limited to drinking water as limb (b) of *Te Mana o te Wai* states that drinking water is an example of health needs.²⁹⁹ The Officer supported including papakāinga in clause (d) of Policy 17.
461. The Officer did not agree with Ms Berkett’s proposal to include all the priorities from the *Te Mana o te Wai* hierarchy into Policy 17. It was appropriate for the RPS to direct the regional plan as to the priorities for water take and use, but this did not mean that other takes could not be considered.³⁰⁰ As Ms Pascall explained in response to questions on this point in the Hearing, the purpose of Policy 17 is “to reiterate what the priorities are in allocating takes and use of water”,³⁰¹ but this does not mean that the third limb in *Te Mana o te Wai* does not apply at all, it is just not prioritised above the health and wellbeing of water or the health needs of people.³⁰²

²⁹⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 562 – 563.

²⁹⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 564.

²⁹⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 561.

³⁰⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 167.

³⁰¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 27, lines 1327 – 1328. Note there is a typo / error in the transcript which refers to “taken use of water”, which we understand should have read “takes and use of water”.

³⁰² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 27, lines 1323 – 1328; and lines 1202 – 1203.

462. Ms Pascall confirmed this position in her Reply Evidence having heard WFF’s presentation at the hearing.³⁰³ Ms Pascall agreed with Ms Landers for Hort NZ and Mr Brass that the chapeau to the Policy needed amendment so that the “health needs of people” was not defined differently both times it was mentioned.
463. HortNZ sought relief to add food production that contributes to domestic food supply as a new clause to the list of matters that are considered ‘the health needs of people’. This submission was supported by Ms Landers’ planning evidence and the industry statement filed by Ms Levenson.³⁰⁴ HortNZ sought support for their position from clause 3.33 of the NPS-FM which sets out specific provisions for two identified Specified Vegetable Growing areas. We note these provisions were removed from the NPS-FM in December 2023, and in any event, applied to areas outside the Wellington Region. However, it is the s 42A Officer’s view that it is not appropriate to recognise the domestic supply of fruit and vegetables as a ‘priority 2’ *Te Mana o te Wai* issue, and instead it is part of the third priority in the hierarchy – the ability of people and communities to provide for their social, economic and cultural wellbeing, now and in the future.³⁰⁵
464. In the Officer’s Reply Evidence, she states that following the Hearing, her view had not changed and that the domestic supply of fruit and vegetables should come within the third priority.³⁰⁶ She also notes the relief sought would cause a conflict with the NRP.
465. WFF sought to delete the notified amendments to Policy 17 and defer these changes to 2024. This relief was rejected as Ms Pascall considered the amendments are necessary to give effect to the NPS-FM and implement the *Te Mana o te Wai* hierarchy of obligations.
466. We agree with Ms Pascall’s analysis and think it is appropriate for Policy 17 to specify a priority for water take and use, and this priority gives appropriate regional expression to the direction in the NPS-FM. The Policy does not say that other takes and use of water cannot be provided for. We

³⁰³ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 42 – 43.

³⁰⁴ Industry Statement by Emily Levenson for Horticulture New Zealand, HS5, 2 November 2023, para 42.

³⁰⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 565.

³⁰⁶ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 111.

also consider it appropriate to cross reference the NRP definition of “health needs of people”.

467. Ms Downing for Forest and Bird supported the definition of “health needs of people” but noted that it extended to water consumed by animals, but this was not needed because drinking water for livestock was already allowed for by s 14(3)(b)(ii) of the RMA and didn’t sit well with the second-order *Te Mana o te Wai* priority which targets the health needs of people.³⁰⁷ We agree that water for livestock is covered in the Act, however we see no risk with it also being addressed in the definition of “health needs of people” and think it is a useful reference there for RPS-users.

3.18.2 Finding

468. We agree with the Reporting Officer’s recommendations on Policy 17 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence.

3.18.3 Recommendation

Policy 17: ~~Water allocation~~ Take and use of water for the *health needs of people* – regional plans

Regional plans shall include policies, rules and/or methods ~~to ensure the allocation that prioritises the health and wellbeing of the waterbody and *freshwater* ecosystems first, and then prioritises any take and use of water from any river or groundwater source provides sufficiently for the *health needs of people, including:*~~ *including: The health needs of people include:*

- (a) the taking of water by any statutory authority that has a duty for public water supply under any Act of Parliament;
- (b) the taking of water for reticulation into a public water supply network;
- (c) the taking of water for community supplies; and
- (d) the taking of water for marae and papakāinga.


Explanation

Policy 17 gives effect to the objective of the National Policy Statement for Freshwater Management 2020 by prioritising the health and wellbeing of waterbodies first, and then providing for the take and use of water for the *health needs of people*, before other uses of water.

³⁰⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 54, lines 2750 – 2754.

3.19 Policy 44 - Managing water takes and use to give effect to *Te Mana o te Wai* ensure efficient use – consideration

469. The notified Policy stated:

Policy 44: Managing water takes and use to give effect to <i>Te Mana o te Wai</i> ensure efficient use – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional plan to take and use water, <i>Te Mana o te Wai</i> must be given effect to so that: particular regard shall be given to:</p> <ul style="list-style-type: none"> (a) <u>Māori freshwater values, including mahinga kai are provided for;</u> (b) <u>sites of significance, wāhi tapu and wāhi tupuna are protected;</u> (c) <u>Environmental flows and levels, including variability of flows, are achieved;</u> (d) <u>Take limits are achieved that provide for flow or level variability, safeguard ecosystem health, provide for the life cycle needs of aquatic life, and take into account environmental outcomes;</u> (e) whether the applicant has demonstrated that the volume of water sought is reasonable and justifiable for the intended use, including consideration of soil and crop type when water is taken for irrigation purposes; (f) requiring the consent holder to measure and report the actual amount of water taken; and (g) requiring the consent holder to adopt water conservation and demand management measures and demonstrate how water will be used efficiently; <u>and</u> (h) <u>there is consideration of alternate water supplies such as storage or capture of rainwater for use during the drier summer months</u> <p>Explanation Efficient water use relies on people taking only the amount of water that is needed and having systems in place to avoid waste. The amount of water taken should be measured and reported on to allow assessment as to whether allocation limits and permissible low flows have been set at appropriate levels. <u>Appropriate consideration of mana whenua values has been added. Consideration of alternative water supplies is also required.</u></p>	

470. Policy 44 is a consideration policy in the Operative RPS. It was amended in the notified Change to give effect to *Te Mana o te Wai*.

3.19.1 Submissions, Evidence and Analysis

471. Various submitters supported the Policy but sought amendments, including to give effect to Policies 9 and 10 of the NPS-FM regarding the habitat of trout and salmon (Fish and Game [S147.015]), and amendments regarding take limits (including Hort NZ [S128.043]. Wairarapa Water

Users Society [S157.044] was concerned that clause (h) placed additional requirements for new consents and the renewal of existing consents. PCC [S30.067] sought an amendment to clarify that the Policy only addresses regional council matters; Ātiawa sought a reference to *ki uta ki tai* and Taranaki Whānui to partnering with mana whenua / tangata whenua.

472. The Reporting Officer accepted many of these submission points, including limiting the Policy to regional consents or changes, variation or review of a regional plan, including reference to *ki uta ki tai*, the habitat of trout and salmon provided protection of this habitat was also consistent with the protection of the habitat of indigenous freshwater species. The Officer agreed with Taranaki Whānui's relief in part and recommended a new clause regarding early engagement with mana whenua / tangata whenua which she considered to be appropriate for a consenting process and other decision-making.
473. In response to submitters who were concerned that the proposed clause imposes a requirement for water storage, Ms Pascall said the amended clause requires a consideration of this solution through the assessment of a resource consent on a case-by-case basis, and considers that this would be a suitable alternative where water allocation is close to over-allocation.³⁰⁸ In Ms Pascall's opinion, clause (h) gives effect to Policy 11 of the NPS-FM which states "Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided". Ms Pascall also recommended an amendment to clause (h) to include reference to alternate water supplies for non-potable use.
474. In light of Ms Berkett's planning evidence for WFF, the Officer recommended an amendment to the chapeau to clarify that the Policy applies to plan changes, variations or a review of a regional plan that relate to the take and use of water. The Officer recommended retaining the reference to plan changes, variation and review processes because the Policy will assist in addressing any time lag between Proposed Change 1 becoming operative and the Council giving full effect to Policy 12 which directs the setting of limits on resource use, including take limits.³⁰⁹
475. At the hearing, we asked Ms Coughlan, Resource Officer for Wellington Fish and Game who presented evidence on the habitat of trout and salmon and interaction with indigenous species, to talk more about how

³⁰⁸ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 583.

³⁰⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 175.

co-habitation of species works in practice. Ms Coughlan said that based on her research and others, it is:³¹⁰

really clear that [species] co-exist in a vast majority of places, but we do have some incredibly special unique treasure species that we would need to make sure aren't being impacted by gradation of trout or salmon or birds. Protection of the habitat in those spaces would require some sort of nuance look at species interaction.

476. Ms Coughlan said that in her research, that would be about 10% of waterways and for the rest, it would be a matter of habitat restoration.
477. After hearing submitters' presentations at the hearing and reviewing the Policy further, Ms Pascall advised in her Reply Evidence that the reference to "giving effect to" *Te Mana o te Wai* in the chapeau is unnecessary (as she had also considered it to be in both Policies 44 and FW.5) because the Policies themselves already give effect to *Te Mana o te Wai*, and therefore it was not necessary for them to state this; it was implicit. Ms Pascall recommended deleting the reference to *Te Mana o te Wai* from the Policy (as well as Policies 41, 42, 44 and FW.5 to provide a consistent approach).³¹¹
478. We are comfortable with this amendment and also note that the heading of the Policy includes "to give effect to *Te Mana o te Wai*" and it also cascades from Objective 12 which is focused on *Te Mana o te Wai*. We also support the amendments proposed to align the Policy better with a consideration Policy (eg through the addition of the words "the extent to which" and "whether").
479. Irrigation New Zealand supported in part Policy 44 and sought an amendment to give effect to the National Policy Statement on Highly Productive Land (NPS-HPL). This relief was not accepted by Ms Pascall saying the NPS-HPL came into effect after Change 1 was notified and the Council has signalled through its s 32 report that amendments to the RPS to give effect to the NPS-HPL will be undertaken through a future change to the RPS.

³¹⁰ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 4, lines 165 – 172.

³¹¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 33 – 34.

3.19.2 Finding

480. We agree with the Reporting Officer's recommendations on Policy 44 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.19.3 Recommendation


Policy 44: Managing water takes and use to give effect to *Te Mana o te Wai* ensure efficient use – consideration

When considering an application for a **regional** resource consent to **take or use water; notice of requirement**, or a change, variation or review of a **regional plan that relates to the take and use water**, ***Te Mana o te Wai* must be given effect to so that have regard to:** particular regard shall be given to:

- (a) **The extent to which** Māori freshwater values, including *mahinga kai* are provided for;
- (ab) **The extent to which** **Early engagement has occurred** with mana *whenua/tangata whenua*;
- (b) **Whether** **s**sites of significance, wāhi tapu and wāhi tupuna **will be** **are** protected;
- (ba) **The extent to which** **integrated management, ki uta ki tai** **is** **has been considered**
- (bb) **Whether** **The** **habitats of indigenous freshwater species** are protected,
- (bc) **Whether** **The** **habitat of trout and salmon** is protected, insofar as this is consistent with clause (bb)
- (c) **Environmental flows and levels, including variability of flows, are achieved;**
- (d) **Where take limits have been set, whether take limits will be** **are achieved** **not exceeded; Take limits are achieved that provide for flow or level variability, safeguard ecosystem health, provide for the life cycle needs of aquatic life, and take into account environmental outcomes;**
- (e) **whether** **the applicant has demonstrated that** **whether** **t**the volume of water sought is reasonable and justifiable for the intended use, including consideration of soil and crop type when water is taken for irrigation purposes;
- (f) **requiring the** **whether the** **c**consent holders **will** **are required to** measure and report the actual amount of water taken; **and**
- (g) **requiring the** **whether the** **c**consent holders **to** **will** adopt water conservation and demand management measures and **will** demonstrate how water will be used efficiently; **and**
- (h) **whether** **t****There is consideration of** alternate water supplies for non-potable water use such as storage or capture of rainwater for use during the drier summer months **has been considered.**

3.20 Policy 43 – Protecting aquatic ecological function of waterbodies – consideration

481. The notified Policy read:

Policy 43: Protecting aquatic ecological function of water bodies – consideration	
<p>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, particular regard shall be given to:</p> <ul style="list-style-type: none"> (a) — maintaining or enhancing the functioning of ecosystems in the water body; (b) — maintaining or enhancing the ecological functions of riparian margins; (c) — minimising the effect of the proposal on groundwater recharge areas that are connected to surface water bodies; (d) — maintaining or enhancing the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1; (e) — protecting the significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed in Table 16 of Appendix 1; (f) — maintaining natural flow regimes required to support aquatic ecosystem health; (g) — maintaining fish passage; (h) — protecting and reinstating riparian habitat, in particular riparian habitat that is important for fish spawning; (i) — discouraging stock access to rivers, lakes and wetlands; and (j) — discouraging the removal or destruction of indigenous wetland plants in wetlands. <p>Explanation</p> <p>This policy identifies key elements of habitat diversity that are essential for healthy aquatic ecosystems to survive and be self-sustaining.</p> <p>When areas of habitat in one part of a river or lake are degraded or destroyed by people’s activities, critical parts of the ecosystem may be permanently affected, with consequential effects elsewhere in the ecosystem. Specific policies and regional rules can set out where it is important to retain habitat for ecological function. Remedying and mitigating of effects can include offsetting, where appropriate.</p> <p>Application for a resource consent refers to all types of resource consent. Policy 43 shall cease to be considered for resource consents processed by the Wellington Regional Council once policies 18 and 19 are given effect to in a regional plan. Policy 43 shall continue to be considered by city and district councils when processing resource consents, notices of requirement and making changes, variations or reviewing district plans.</p> <p>The rivers and lakes with significant amenity and recreational values listed in Table 15 of Appendix 1 were identified by the community as places that are regularly used for recreational activities.</p> <p>The rivers and lakes with significant indigenous ecosystems were selected using indicators of aquatic invertebrate community health, the diversity of indigenous migratory fish species, the presence of nationally threatened fish species and the location of inanga spawning habitat. The criteria used to assess rivers and lakes with significant indigenous ecosystems are given in Appendix 1.</p>	

3.20.1 Submissions, Evidence and Analysis

482. Proposed Change 1 proposes deletion of Policy 43 as new and updated policies are proposed that give effect to the NPS-FM, therefore Policy 43 is no longer required.
483. The majority of submissions were supportive of its deletion including HCC [S115.068] and Ātiawa [S131.092].
484. We agree with the Officer that the deletion of Policy 43 is appropriate as Change 1 is proposing new and updated policies that give effect to the NPS-FM.

3.20.2 Finding

485. We agree with the Reporting Officer's recommendations on Policy 43 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.20.3 Recommendation

~~Policy 43: Protecting aquatic ecological function of water bodies – consideration~~

~~When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, particular regard shall be given to:~~

- ~~(a) — maintaining or enhancing the functioning of ecosystems in the water body;~~
- ~~(b) — maintaining or enhancing the ecological functions of riparian margins;~~
- ~~(c) — minimising the effect of the proposal on groundwater recharge areas that are connected to surface water bodies;~~
- ~~(d) — maintaining or enhancing the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1;~~
- ~~(e) — protecting the significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed in Table 16 of Appendix 1;~~
- ~~(f) — maintaining natural flow regimes required to support aquatic ecosystem health;~~
- ~~(g) — maintaining fish passage;~~
- ~~(h) — protecting and reinstating riparian habitat, in particular riparian habitat that is important for fish spawning;~~
- ~~(i) — discouraging stock access to rivers, lakes and wetlands; and~~
- ~~(j) — discouraging the removal or destruction of indigenous wetland plants in wetlands.~~

Explanation

This policy identifies key elements of habitat diversity that are essential for healthy aquatic ecosystems to survive and be self-sustaining.

When areas of habitat in one part of a river or lake are degraded or destroyed by people's activities, critical parts of the ecosystem may be permanently affected, with consequential effects elsewhere in the ecosystem. Specific policies and regional rules can set out where it is important to retain habitat for ecological function. Remedying and mitigating of effects can include offsetting, where appropriate.


Application for a resource consent refers to all types of resource consent. Policy 43 shall cease to be considered for resource consents processed by the Wellington Regional Council once policies 18 and 19 are given effect to in a regional plan. Policy 43 shall continue to be considered by city and district councils when processing resource consents, notices of requirement and making changes, variations or reviewing district plans.

The rivers and lakes with significant amenity and recreational values listed in Table 15 of Appendix 1 were identified by the community as places that are regularly used for recreational activities.

The rivers and lakes with significant indigenous ecosystems were selected using indicators of aquatic invertebrate community health, the diversity of indigenous migratory fish species, the presence of nationally threatened fish species and the location of inanga spawning habitat. The criteria used to assess rivers and lakes with significant indigenous ecosystems are given in Appendix 1.

3.21 Policy FW.1 - Reducing water demand – regional plans

486. The notified Policy read:

Policy FW.1: Reducing water demand – regional plans	
<p>Regional plans shall include policies, rules and/or methods to reduce demand of water from registered water suppliers and users, including:</p> <ul style="list-style-type: none">(a) <u>provisions addressing public and private water losses, including leaks;</u>(b) <u>provisions requiring efficient end use of water for new developments;</u>(c) <u>provisions addressing alternate water supplies for non-potable uses, particularly in the summer months; and</u>(d) <u>water conservation measures, particularly in the summer months.</u> <p>Explanation <u>Policy FW.1 requires regional plans to address the reduction of demand in municipal water supplies.</u></p>	

487. This is a new policy providing direction to regional plans to address water demand in the Region and to give effect to Policies 4 and 11 of the NPS-FM.³¹²

3.21.1 Submissions, Evidence and Analysis

488. The policy is supported as notified by a range of submitters (KCDC [S16.054], PCC [S30.043], PPFL [FS25.076], Ātiawa [S131.067], Ngā Hapu [FS29.337], WCC [S140.044], Fish and Game [S147.056], BLNZ [FS30.225]) and Forest and Bird [S165.053].

489. UHCC [S34.068] said the issue of leaks was a maintenance concern. Other submitters expressed concern over its breadth of application, clarity and the extent of its direction. SWDC [S79.031] sought that the words “increase efficiency” replace “reduce demand”. Others raised concerns about the terms “registered water supplies and users” and “municipal water supplies”.

490. Many of these concerns were addressed in the s 42A Report and revisions to the Policy were recommended. The Officer recommended the direction change from “addressing” to “promoting” to clarify the intent. The Officer also agreed with Wellington Water to align terminology and definitions with the NRP and Taumata Arowai. The NRP has a definition of *community drinking water supply* and *group drinking water supply* and the Officer recommended these definitions are included. These terms would also

³¹² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 733.

provide clarity that the Policy does not apply to activities like irrigation and is limited to drinking water supply.³¹³

491. In response to relief sought that the Policy should be deleted, the Reporting Officer notes:³¹⁴

the policy is appropriate to include in the RPS, with my recommended amendments. The policy provides appropriate direction in order to give effect to the NPS-FM and address water demand in the region. The policy supports other provisions relating to freshwater and the broader integrated approach the Council has taken in Change 1 to manage the effects of urban development and a growing population.

492. Concerns raised in submitter evidence included in relation to monitoring, enforcement and the cost of compliance (Ms Rojas on behalf of UHCC). The Reporting Officer responded that she did not consider that the Policy would place additional costs or requirements on territorial authorities because it only applies to regional plans.³¹⁵

493. We agree with the Officer's recommendations and consider that the Policy is appropriate regulatory direction for regional plans to support Policy 11 of the NPS-FM and reduce water demand in the Region.

3.21.2 Finding

494. We agree with the Reporting Officer's recommendations on Policy FW.1 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.21.3 Recommendation

Policy FW.1: Reducing water demand – regional plans

Regional plans shall include policies, rules and/or methods to reduce demand of for water from ~~registered water suppliers and users community drinking water supplies and group drinking water supplies~~, including:

- (a) ~~provisions addressing requiring a reduction in public and private water losses, including leaks targets for the reduction of water losses and leaks from community drinking water supplies and group drinking water supplies;~~
- (b) ~~provisions~~ requiring efficient end use of water for new developments;
- (c) ~~provisions addressing promoting alternate water supplies for non-potable uses, particularly in the summer months; and~~

³¹³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 736.

³¹⁴ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 744.

³¹⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 127.

(d) requiring water conservation measures, particularly in the summer months.

Explanation

Policy FW.1 requires regional plans to address the reduction of demand in *community drinking water supplies or group drinking water supplies* ~~municipal water supplies~~.

3.22 Policy FW.2 - Reducing water demand – district plans

495. The notified Policy stated:

Policy FW.2: Reducing water demand – district plans	
<p>District plans shall include policies, rules and/or methods to reduce demand of water from registered water suppliers and users, including where practicable:</p> <p>(a) <u>provisions improving the efficiency of the end use of water on a per capita basis for new developments; and</u></p> <p>(b) <u>provisions requiring alternate water supplies for non-potable use in new developments.</u></p>	
<p>Explanation</p> <p><u>Policy FW.2 requires district plans to address the reduction of demand in municipal water supplies.</u></p>	

496. This is a new Policy requiring district plans to include provisions to reduce water demand.

3.22.1 Submissions, Evidence and Analysis

497. Some submitters (eg KCDC [S16.055] and Kāinga Ora [S158.021] expressed concerns that measures to improve efficiency (as required by clause (a)) are outside the scope of RMA s 31 or cannot be addressed by territorial authorities. Wellington Water [S113.025] sought clarity about what water supplies the Policy applies to and it also sought consistency across policies. Ms Pascall acknowledged that:³¹⁶

improving the efficiency of the end use of water is an important part of reducing demand, [and] this is a very challenging issue to address through RMA mechanisms.

498. Ms Pascall said this issue is more appropriately addressed under the Building Act and non-regulatory methods outside of the RMA and therefore recommended deleting clause (a). However, Ms Pascall said the requirement in clause (b) to include provisions in district plans requiring alternative water supplies for non-potable use was appropriate but that the verb “promoting” was appropriate instead of “requiring”. The Officer recommended consistent terminology to that recommended in Policy FW.1.

499. Mr Jeffries and Ms Cook on behalf of WCC recommended that the Policy be deleted as the issue was better addressed out of the District Plan including through water pricing, addressing leaks, and infrastructure investment as identified through Council’s Long Term Plan and other

³¹⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 746.

funding mechanisms.³¹⁷ They also said it duplicated the hydrological control policy.

500. Ms Pascall responded that:³¹⁸

The two policies are required for a different purpose one possible method for achieving hydrological control is the use of rainwater tanks for retention, and this could also be used to meet Policy FW.2. I also do not agree that clause (b) is better addressed through other avenues outside of the district plan. While those tools can and should be used, there is still a role for the district plan in promoting alternate supplies to support resilience and climate change adaptation.

3.22.2 Finding

501. We agree with the Reporting Officer's recommendations on Policy FW.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.22.3 Recommendation

Policy FW.2: Reducing water demand – district plans

District plans shall include policies, rules and/or methods to reduce demand ~~offor~~ water from ~~registered water suppliers and users~~ *community drinking water supplies and group drinking water supplies*, including where practicable:

- (a) ~~provisions improving the efficiency of the end use of water on a per capita basis for new developments; and~~
- (b) *provisions* requiring *promoting* alternate water supplies for non-potable use in new developments, *such as the requirement to install rainwater tanks.*

Explanation


Policy FW.2 requires district plans to address the reduction of demand in *community drinking water supplies or group drinking water supplies* ~~municipal~~ water supplies.

³¹⁷ Joint statement of supplementary planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, 21 November 2023, paras 26 – 27.

³¹⁸ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 131.

3.23 Policy FW.4 - Financial contributions for urban development – district plans

502. The notified Policy read:

<u>Policy FW.4: Financial contributions for urban development – district plans</u>	
<u>District plans shall include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent where off site stormwater quality and quantity treatment is required, as set out in a Stormwater Management Plan (required as a condition of a network discharge</u>	
<u>consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution. A financial contribution will not be required where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose.</u>	
<u><i>Note: financial contributions cannot be imposed against Minister of Education or Minister of Defence</i></u>	
Explanation <u>Policy FW.4 requires financial contributions, or alternatively development contributions to be collected for the construction of catchment scale stormwater solutions, so that urban new urban development pays their fair share.</u>	

503. This is a new Policy supporting the inclusion of financial contributions in district plans.

3.23.1 Submissions, Evidence and Analysis

504. While submitters were generally not opposed to financial contributions, many, including most territorial authorities requested its deletion for reasons such as financial contributions are inefficient and duplicate the existing approach of requiring development contributions and developer agreements administered under the Local Government Act 2002 (PCC [S30.046]). HCC [S115.046] said that how stormwater is funded is a decision for territorial authorities and their communities under the LGA.

505. Kāinga Ora [S158.022] considered that financial contributions for stormwater mitigation should be limited to the effects at point of connection for a development allotment, and alternative solutions for stormwater treatment should be provided for to manage quality and quantity of stormwater within a development, which would then offset the payment of financial contributions.

506. In response to submitters' concerns, the Reporting Officer recommended the Policy be deleted, stating:³¹⁹

I consider that the policy is unnecessary and, as noted by some territorial authorities, there are a range of funding tools available to territorial authorities for this purpose. Many councils already charge development contributions which is a more development-specific response. I consider flexibility should be retained for territorial authorities to choose the right funding tools and mechanisms for the local situation, and it is unnecessary for the RPS to specify which tools to utilise.

3.23.2 Finding

507. We agree with the Reporting Officer's recommendations on Policy FW.4 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence.

3.23.3 Recommendation

~~Policy FW.4: Financial Contributions for urban development – district plans~~

~~District plans shall include policies and rules that require financial contributions to be applied to subdivision and development as a condition of the resource consent where off site stormwater quality and quantity treatment is required, as set out in a Stormwater Management Plan (required as a condition of a network discharge consent for that catchment). The district plan policy shall outline how a fair share of the cost is determined, and the nature of the contribution. A financial contribution will not be required where a development contribution (as required by a Development Contribution Policy under the Local Government Act) has been collected from the same development for the same purpose.~~

~~Note: financial contributions cannot be imposed against Minister of Education or Minister of Defence~~


~~Explanation~~

~~Policy FW.4 requires financial contributions, or alternatively development contributions to be collected for the construction of catchment scale stormwater solutions, so that urban new urban development pays their fair share.~~

³¹⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 770.

3.24 Policy FW.5 - Water supply planning for climate change and urban development

The notified Policy read:

<u>Policy FW.5: Water supply planning for climate change and urban development – consideration</u>	
<u>When considering a change, variation or review of a regional or district plan particular regard shall be given to:</u>	
(a) <u>climate change impacts on water supply, including water availability and demand;</u>	
(b) <u>demand from future population projections;</u>	
(c) <u>development of future water sources, storage, treatment and reticulation;</u> <u>and</u>	
(d) <u>protection of existing and future water sources.</u>	
Explanation	
<u>Policy FW.5 requires water supply planning to adequately considered including the impacts of climate change and new urban development.</u>	

508. This is a new policy requiring consideration of climate change impacts and new urban development in any change, variation or review of a regional or district plan.

3.24.1 Submissions, Evidence and Analysis

509. UHCC [S34.048] supported the intent but considered the Policy should be specific to changes, variations or reviews which deal with public potable supply only. Wellington Water [S113.039 and S113.040] sought reference to the potential for saline intrusion into the aquifer and also *ki uta ki tai* for protection of water sources. A number of submitter concerns are addressed in the s 42A Report, with several wording changes proposed to the Policy. Mr McDonnell on behalf of PCC queried whether the Policy can be given effect to through a district plan as the supply of water and protection of sources of water supply are addressed through other regulatory and funding mechanisms. Ms Landers on behalf of PCC sought clarification in the chapeau that the Policy specifically applies to urban development.

510. The Reporting Officer, Ms Pascall agreed with the relief sought as it provided drafting clarity and supports the efficient and effective application of the Policy.³²⁰

³²⁰ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 135..

511. In her Reply Evidence she further comments that:³²¹

the reference to ‘giving effect to’ Te Mana o te Wai in the chapeau is unnecessary because the policies themselves already give effect to Te Mana o te Wai, and therefore in implementing the policy this is implicit. These policies also give effect to Objective 12 which is focused on Te Mana o te Wai.

512. Therefore, the Reporting Officer recommends removal of “give effect to Te Mana o te Wai” in the chapeau. As we have stated elsewhere in this Report, we agree with this recommendation.

3.24.2 Finding

513. We agree with the Reporting Officer’s recommendations on Policy FW.5 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence.

3.24.3 Recommendation

Policy FW.5: Water supply planning for climate change and urban development – consideration

When considering a change, variation or review of a regional ~~or district~~ plan ~~that relates to urban development~~ *urban development*, ~~local authorities~~ the regional council ~~must give effect to Te Mana o te Wai, and particular regard shall be given to~~ have regard to:

- (a) climate change impacts on *community drinking water supplies and group drinking water supplies*, including water availability and demand ~~and the potential for saline intrusion into aquifers~~;
- (b) demand from future population projections;
- (c) development of future water sources, storage, treatment and reticulation; and
- (d) ~~an integrated approach, ki uta ki tai, in the~~ protection of existing and future water sources.


Explanation

Policy FW.5 requires water supply planning to adequately considered including the impacts of climate change and new ~~urban development~~ *urban development*.

³²¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 33.

3.25 Policy FW.7 - Water attenuation and retention – non regulatory

514. The notified Policy stated:

Policy FW.7: Water attenuation and retention – non-regulatory		
Promote and support water attenuation and retention including:		
(a)	<u>nature based solutions including slowing water down in the landscape and increasing groundwater recharge (riparian management, wetland enhancement/restoration, flood management); and</u>	
(b)	<u>built solutions including storage at community, farm, and domestic (rain tanks) scales, groundwater augmentation, built retention (wetlands, bunds).</u>	
Explanation		
<u>Policy FW.7 promotes and supports natural and built solutions to attenuate and retain water.</u>		

515. This new Policy was initially intended to apply to the rural sector and in particular to support the implementation of the Wairarapa Water Resilience Strategy (WWRS).

3.25.1 Submissions, Evidence and Analysis

516. The notified Policy was supported by BLNZ [S78.002], Wairarapa Water Users Society [S145.003], Fish and Game [S147.080] and others. It was opposed by Wellington Water, and KCDC [S16.073] considered that water attenuation and retention should be required via regulatory methods. WFF [S163.083] sought that the Policy be expressed as an objective given the scale and urgency of the water resilience challenge. Wellington Water [S113.045] sought that clause (b) should be amended to say, “while ensuring appropriate consideration of public health outcomes”.

517. In the s 42A Report, the Officer said that clause (b) was an inclusive rather than an exclusive list, and so other solutions could also be considered. The Officer supported Wellington Water’s relief for the provision to support public health outcomes, but it should, instead, refer to the “health needs of people” to be consistent with amendments proposed to Policy 17.³²²

518. Ms McGruddy in her evidence statement said the provision should be reframed as an objective and state (or words to this effect): “Provide for secure and reliable access to water to provide for social, economic and cultural wellbeing.”³²³

³²² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 840.

³²³ Hearing Stream 5, Hearing Statement of Elizabeth McGruddy on behalf of Wairarapa Federated Farmers, 15 November 2023, para 33.

519. The Officer did not support Ms McGruddy’s request for the Policy to be reframed as an objective as the Policy supports the implementation of Objectives 12 and 20 (relating to natural hazard and climate change mitigation and adaptation) and therefore there was already support at an objective level for the matters addressed in the Policy.³²⁴
520. Ms Landers for HortNZ said that the Policy is relevant for rural areas outside of the Wairarapa and there was no rationale for limiting it to this area. Ms Pascall agreed in her Rebuttal Evidence that the Policy should be broadened to apply to all rural areas and recommended that the reference to “Wairarapa” be removed.³²⁵
521. At the hearing, Ms McGruddy said WFF wanted the Policy “to enable” both nature-based solutions and built solutions. The Officer considered that more directive wording was not appropriate for a non-regulatory policy and she recommended the words “promote and support” be retained.³²⁶ Both Ms Landers and Ms McGruddy considered that the “health needs of people” should be deleted from clause (b). At the hearing, Ms Landers said she was concerned that the Policy may be ‘read down’³²⁷ and therefore that water attenuation and retention may only be promoted “where it’s for drinking water”.³²⁸
522. In her Reply Evidence, Ms Pascall acknowledged the concerns raised in relation to water storage and said that the new consenting pathway in Policy 18A would apply to ‘water storage’ as specified infrastructure within natural inland wetlands. She also said that it was appropriate to consider the health needs of people (as defined) when undertaking built solutions, but that this did not mean other considerations (which we understood would include the third priority limb of *Te Mana o te Wai*) could not also be considered.³²⁹ The Officer also noted that Policy FW.7 gives effect to a broader range of objectives and not just those in the Freshwater chapter,

³²⁴ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 842.

³²⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 141.

³²⁶ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 58.

³²⁷ This was not Ms Lander’s term, but instead our understanding of the evidence she presented at the hearing, Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 23, lines 1142 – 1144.

³²⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 23, line 1144.

³²⁹ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 141 – 142.

and it was therefore appropriate to use the broader term *nature-based solutions* in the Policy.³³⁰

523. We do not interpret Policy FW.7 to be limited to only storage for drinking water purposes or for only other “health needs of people”. Clause (b) states that attenuation and retention are to be promoted and supported including for built solutions while ensuring appropriate consideration of the health needs of people. We do not consider this wording to be inconsistent with *Te Mana o te Wai* or other provisions in the NPS-FM.

3.25.2 Finding

524. We agree with the Reporting Officer’s recommendations on Policy FW.7 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence.

3.25.3 Recommendation

Policy FW.7 – Water attenuation and retention in Wairarapa rural areas

Promote and support water attenuation and retention *in rural areas of the Wairarapa* including:

- (a) *nature based solutions* including slowing water down in the landscape and increasing groundwater recharge (*riparian management, wetland enhancement/restoration, flood management*); and
- (b) built solutions including storage at community, farm, and domestic (rain tanks) scales, *groundwater augmentation, built retention (wetlands, bunds) while ensuring appropriate consideration of the health needs of people.*


Explanation

Policy FW.7 ~~supports the implementation of the Wairarapa Water Resilience Strategy by promoting *sing*es and supports *ing*s natural and built solutions to attenuate and retain water in rural areas.~~

³³⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 57.

3.26 Method FW.1 - Freshwater Action Plans

525. The notified Method stated:

Method FW.1: Freshwater Action Plans	
<p><u>Prepare Freshwater Action Plans in partnership with mana whenua / tangata whenua, as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP, for each whatua no later than December 2026. The freshwater action plans will outline non-regulatory measures, which, along with limits and other rules, will achieve target attribute states. Where an action plan is required by the NPS-FM it shall contain both regulatory and non-regulatory actions.</u></p>	
<p><i>Implementation: Wellington Regional Council</i></p>	

526. This is a new regulatory Method aimed at achieving target attribute states and environmental outcomes through action plans (clauses 3.12(1), 3.12(2)(a) and 3.12(4) of the NPS-FM).³³¹

3.26.1 Submissions, Evidence and Analysis

527. Submitter concerns including that the Method should include communities and stakeholders in the preparation of Freshwater Action Plans in accordance with cause 3.15 of the NPS-FM were addressed in the s 42A Report with the addition of “engagement with communities and stakeholders and territorial authorities”.³³² This was amended to city and district councils in the Officer’s Reply Evidence for consistency across the document. Clarification was also sought and provided that Freshwater Plans may include both regulatory and non-regulatory methods.

528. There were other concerns raised with timing and funding which were addressed in the s 42A Report but no changes made.³³³

529. There were no further submitter concerns presented at the Hearings.

3.26.2 Finding

530. We agree with the Reporting Officer’s recommendations on Method FW.1 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence.

³³¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 855.

³³² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 857.

³³³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 858-862.

3.26.3 Recommendation


Method FW.1: Freshwater Action Plans

Prepare Freshwater Action Plans in partnership with mana whenua / tangata whenua, and through engagement with communities, stakeholders and territorial authorities city and district councils, as required by the NPS-FM to contribute to achieving the target attribute states set in the NRP, for each whitua no later than December 2026. The freshwater action plans may describe both regulatory and non-regulatory measures to achieve target attribute states. will outline non-regulatory measures, which, along with limits and other rules, will achieve target attribute states. Where an action plan is required by the NPS-FM it shall contain both regulatory and non-regulatory actions.

Implementation: Wellington Regional Council

3.27 Method 48 - Water allocation policy review

531. The notified Method stated:

Method 48: <u>Water allocation policy review</u> Investigate the use of transferable water permits	
<p><u>Review water allocation policy in the regional plan so that:</u></p> <ul style="list-style-type: none">(a) <u>Freshwater is allocated and used efficiently;</u>(b) <u>All existing over-allocation is phased out and future over-allocation is avoided;</u>(c) <u>Avoid allocating water beyond a limit;</u>(d) <u>improve water allocation efficiency- including transferable permits;</u>(e) <u>provide for iwi and hapū rights and interests;</u>(f) <u>alternatives to first in first served are considered;</u>(g) <u>provide for equitable allocation;</u>(h) <u>adapt to climate change;</u>(i) <u>land use change to more climate resilient uses is promoted;</u>(j) <u>government direction on water allocation is considered; and</u>(k) <u>all matters regarding giving effect to the NPS-FM are considered</u> <p>Investigate whether allowing water permits to be transferred will provide a more equitable use of allocated water.</p> <p><i>Implementation: Wellington Regional Council</i></p>	

532. Method 48 is a non-regulatory method requiring Wellington Regional Council to review water allocation policy in the regional plan. It replaces Operative RPS Method 48 “Investigate the use of transferable water permits”. In her s 42A Report, Ms Pascall notes that “Method 48 is an important method to implement Policies 17 and 44, and give effect to the NPS-FM as it directs a change in approach for water allocation across the region.”³³⁴

3.27.1 Submissions, Evidence and Analysis

533. Wellington Water proposed various amendments to the Method, including that clause (a) refer to “appropriate” allocation rather than “efficient”. The Officer preferred the word “efficient” as it better conveys the policy intent that where water is allocated, that allocation is being fully utilised, which then allows for other ‘new’ users to use the resource.³³⁵ We agree with this assessment.

³³⁴ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 592.

³³⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 595.

534. The Officer also recommended, based on Wellington Water’s relief, that clause (c) is amended to refer to the (forthcoming) limits which will be set in the NRP. We also agree with this amendment. The Officer did not agree that clauses (f) and (g) are duplicates but did recommend that the clauses are combined as alternatives to first in first served do not necessarily mean that those alternatives will result in equitable allocation.³³⁶ We also support this amendment but note that it is not carried through into the track changed provisions the Officer supports. We incorporate the amendment in our recommendations below.
535. The HortNZ submission sought an amendment to clause (i) of Method 48 to include reference to lower emissions and to correct grammatical errors in other clauses of the Method. Ms Landers, presenting planning evidence for Hort NZ, did not agree with the s 42A Officer³³⁷ that the need for land use change to lower emissions is not related to how water is allocated.³³⁸ Ms Levenson presenting the industry statement for Hort NZ discussed in her evidence that horticulture is low emissions land use but that the availability of water can be a barrier to land use change.³³⁹ Citing research, Ms Levenson said that “Domestically produced fruits and vegetables have far lower lifecycle emissions than processed foods, which are often imported, and New Zealand-produced animal products”.³⁴⁰ On this basis, Ms Landers supported Method 48 being amended to refer to “lower emissions” and that this should not be a matter that is only addressed in the Hearing Stream 3 provisions.³⁴¹ She notes the amendment was also supported by Policy 4 of the NPS-FM which says that “Freshwater is managed as part of New Zealand’s integrated response to climate change”.
536. In her Rebuttal Evidence, Ms Pascall supported Ms Lander’s suggested amendment to clause (i). Ms Levenson had also sought clarification on the difference between “climate resilient uses” (clause (i)) and “climate change adaptation” (clause (j)), and suggested using the phrase “lower emissions or more climate resilient uses” to provide clarification.

³³⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 595.

³³⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 597.

³³⁸ Statement of Evidence by Jordyn Landers for Horticulture NZ (Planning), HS5, 3 November 2023, para 42.

³³⁹ Industry Statement by Emily Levenson for Horticulture New Zealand, HS5, 2 November 2023, para 42.

³⁴⁰ Above.

³⁴¹ Statement of Evidence by Jordyn Landers for Horticulture NZ (Planning), HS5, 3 November 2023, paras 44 – 46.

537. Ms Pascall informed us that the s 42A Reporting Officer for the Climate Change: Climate Resilience and Nature-Based Solutions topic, recommended the addition of a new definition of ‘climate-resilience/resilient’, as follows:³⁴²

The capacity and ability of natural and physical resources, including people, communities, businesses, infrastructure, and ecosystems, to withstand the impacts and recover from the effects of climate change, including natural hazard events.

538. Ms Pascall said the National Adaptation Plan (NAP) defines ‘adaptation’ as follows:³⁴³

In human systems, the process of adjusting to actual or expected climate and its effects, to moderate harm or take advantage of beneficial opportunities. In natural systems, the process of adjusting to actual climate and its effects. Human intervention may help these systems to adjust to expected climate and its effects

539. Ms Pascall considered the term “climate change adaptation” is a broader term that refers to society’s ability to change systems, processes and lifestyles to prepare for the effects of a changing climate, and “climate-resilient” is a narrower term referring to the capacity for systems and processes to change.

540. Ms Pascall supported Ms Levenson’s amendment to clause (i).

541. Rangitāne raised various concerns with Method 48. Ms Burns, presenting planning evidence for Rangitāne sought, among other things, that clauses (f) and (g) are combined, that clause (c) duplicates clause (b) and so should be deleted, and that clause (h) takes climate change adaptation into account rather than supporting it as otherwise this could allow inefficient water use and the continuation of existing climate-impacted activities.³⁴⁴

542. We understand Ms Burns’ concerns and note that the NPS-FM (Policy 4) requires freshwater to be managed as part of New Zealand’s integrated

³⁴² Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 181 (footnotes omitted).

³⁴³ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 182 (footnotes omitted).

³⁴⁴ Statement of Planning Evidence of Maggie Burns, 3 November 2023, paras 111 -112.

response to climate change, and clause 3.16 requires the Regional Council to have regard to the foreseeable impacts of climate change when setting environmental flows and levels. However, we agree with the Reporting Officer that Ms Burns' amendments predetermine the outcome of the water allocation policy review which Method 48 requires (albeit as a non-regulatory method).³⁴⁵ We also agree with the Officer that clause (b) relates to existing allocation and clause (c) relates to future allocation (and non-exceedance of limits that have not yet been set in the NRP). Deleting clause (c) would therefore leave a gap.

543. Te Tumu Paeroa, in Method 48(e) considers “rights and interests” do not recognise the full extent of Māori rights, interests and responsibilities in freshwater, including the preservation of those rights and interests. Te Tumu Paeroa submits, there is an express need to include 'responsibilities' to guarantee Māori rights, interests and responsibilities in freshwater are appropriately recognised and provided for. Te Tumu Paeroa seek the following specific amendment to clause (e):

provide for iwi, hapū and Māori landowners [sic] rights, and interests and responsibilities.

544. Ms Pascall agreed that clause (e) should also refer to “responsibilities” in addition to ‘rights and interests’ of iwi and hapū. However, she disagreed with the inclusion of reference to “Māori landowners” as it would broaden the scope and intent of the application beyond those who whakapapa to the area.³⁴⁶ She therefore agreed to accept the relief sought by Te Tumu Paeroa in part.
545. Wellington Water sought clarification as to the alternatives to ‘first in, first served’ in clause (f). At the Hearing, Ms McGruddy sought an amendment to clause (f) to include consideration of the efficiency of use of existing investments in water supply/reticulation/irrigation systems.³⁴⁷ Wellington Water confirmed at the Hearing that the Officer’s amendments addressed the relief they had sought.³⁴⁸

³⁴⁵ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 185.

³⁴⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 596.

³⁴⁷ The submission point was to delete Method 48 or defer to a future review in 2024 [S163.0101] but para 11.14 of the submission did set out detailed reasons for this relief and the efficiency of use of existing investments as a key consideration.

³⁴⁸ Legal Submissions for Wellington Water, 3 November 2023, page 9.

3.27.2 Finding and s 32AA Evaluation

546. We agree with the Reporting Officer's recommendations on Method 48 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence. We recommend the Method is amended to combine clauses (f) and (g) as recommended by the Officer in the s 42A Report (although inadvertently not reflected in the recommended drafting). This amendment improves clarity and the effectiveness of the Method.

3.27.3 Recommendation

Method 48: Water allocation policy review Investigate the use of transferable water permits

Review water allocation policy in the *regional plan* so that:


- (a) ~~_____ Freshwater is allocated and used efficiently;~~
- (b) ~~_____ All existing over-allocation is phased out and future over-allocation is avoided;~~
- (c) ~~_____ Avoid allocating w~~ **Water allocation limits set in the regional plan are not exceeded beyond a limit;**
- (d) ~~_____ improve water allocation efficiency~~ **is improved, -including consideration of transferable permits;**
- (e) ~~_____ provide for~~ **iwi and hapū rights, and interests and responsibilities are provided for;**
- (f) ~~_____ alternatives to the first in first served approach to water allocation are considered and equitable allocation of water is provided for;~~
- (g) ~~_____ provide for equitable allocation of water is provided for;~~
- (h) ~~_____ water allocation policy supports~~ **adapt to climate change adaptation;**
- (i) ~~_____ land use change to lower emission or more climate resilient uses is promoted;~~
- (j) ~~_____ government direction on water allocation is considered; and~~
- (k) ~~_____ all matters regarding giving effect to the NPS-FM are considered~~

~~Investigate whether allowing water permits to be transferred will provide a more equitable use of allocated water.~~

Implementation: Wellington Regional Council

3.28 Method FW.2 - Joint processing urban development consents

547. As notified, the Method stated:

<u>Method FW.2: Joint processing urban development consents</u>		
<u>The Wellington Regional Council, district and city councils shall:</u>		
(a)	<u>jointly process notified resource consents (where both regional and district consents are notified) for urban development and regionally significant infrastructure;</u>	
(b)	<u>encourage resource consent applicants to engage with mana whenua / tangata whenua early in their planning</u>	
(c)	<u>collaborate on pre-application processes;</u>	
(d)	<u>collaborate on the processing of non-notified resource consents;</u>	
(e)	<u>collaborate on monitoring of consent conditions; and</u>	
(f)	<u>exchange information and data to support integrated management.</u>	
<u>Implementation: Wellington Regional Council, district and city councils</u>		

548. Method FW.2 was introduced in Proposed Change 1. It is a non-regulatory, integrating method that implements Policy 14, Policy FW.3 and Policy 42. It directs the joint processing of notified resource consents for urban development or regionally significant infrastructure consents that relate to freshwater, where both the regional and district consents are notified.

3.28.1 Submissions, Evidence and Analysis

549. Submitters raised concerns in relation to requirements to engage with mana whenua / tangata whenua (Ngāti Toa [S170.069], with Taranaki Whānui seeking that the engagement be a ‘requirement’ rather than something which councils ‘encourage’ - [S167.0152]). HCC sought that the Method be deleted as they opposed the inclusion of non-regulatory policies and methods applying to territorial authorities [S115.099]. PCC sought clarity about the interpretation of the Method and when it applies [S30.093].

550. Ms Pascall addressed these issues in the s 42A Report by adding an additional clause requiring early engagement by the Regional Council and territorial authorities with mana whenua / tangata whenua, and by clarifying that the requirement for joint processing only applies to publicly notified consents for urban development and RSI that affect freshwater.³⁴⁹

³⁴⁹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 419.

551. Ms Pascall rejected HCC’s relief and did not agree that the Method should be deleted because even though it was a non-regulatory method, it provided useful direction about how local authorities can work together to achieve their obligations for integrated management under the RMA.³⁵⁰ Ms Pascall recommended that the title to the Policy be amended to read “Joint processing of resource consents for urban development or regionally significant infrastructure that relate to freshwater.”
552. No submitter presented evidence on Method FW.2.
553. The Reporting Officer recommended in her Reply Evidence that Method FW.2 be categorised as a P1S1 provision because it relates to operational processes of territorial authorities and the Regional Council.³⁵¹ However, as we discuss earlier in this Report, the Panels consider that the provision is appropriately categorised as part of the FPI because the chapeau refers to the processing of consents “that affect freshwater”.
554. For consistency with provisions in HS2, Ms Pascall recommends in her Reply Evidence that “city and district councils” be reinstated.³⁵² The FHP agrees with this change and recommends it is also transferred over to the ‘Implementation’ line (which seems to be an inadvertent omission).
555. In light of HCC’s and PCC’s relief sought, we queried the practical application of the Method with Ms Allan (Special Advisor). Ms Allan reviewed the provision and advised that clause (e) should provide for collaboration on monitoring except where specific responsibilities are specific in consent conditions. Ms Allan also queried the word “exchange” in clause (f) and said that “share” would be more appropriate as ‘exchange’ could just involve handing documents to each other rather than actually sharing information to support integrated management.
556. Having considered the Method further in light of Ms Allan’s suggestions, we recommend that clause (e) is amended to note that collaboration on monitoring is to occur except where specific responsibilities are specified in consent conditions; and clause (f) is recommended to read “share information” rather than “exchange information”.

³⁵⁰ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 428.

³⁵¹ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 121.

³⁵² Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 48.

3.28.2 Finding and s 32AA Evaluation

557. We largely agree with the Reporting Officer's recommendations on Method FW.2 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal and Reply Evidence. We recommend the amendments below to clauses (e) and (f) to improve the workability of the Method and ensure it achieves its intent of fostering collaboration where required and the sharing of information to support integrated management. We consider that our recommended amendments will help to achieve integrated management and the respective councils' functions in ss 30 and 31 of the RMA, and improve the practical interpretation and implementation of the Method. The amendment to the 'Implementation' line corrects an inadvertent omission.

3.28.3 Recommendation

Method FW.2: Joint processing of resource consents for urban development or regionally significant infrastructure consents that relate to freshwater

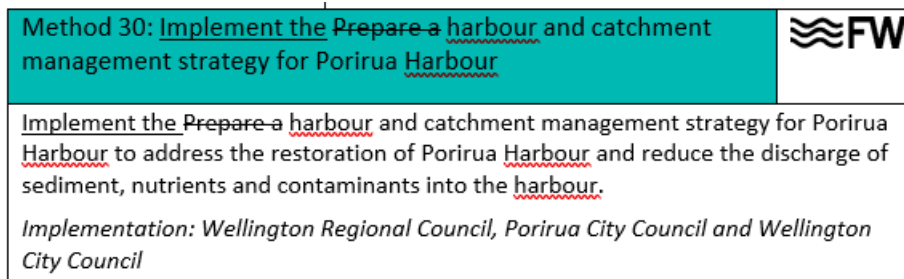
When processing resource consents for urban development or regionally significant infrastructure that affect freshwater, the Wellington Regional Council, ~~district and city councils and territorial authorities~~ city and district councils shall:

- (a) jointly process publicly notified resource consents (where both regional and district consents are publicly notified) for *urban development* and *regionally significant infrastructure*;
(ab) engage early with mana whenua/tangata whenua about the effects of the proposal on freshwater
- (b) encourage resource consent applicants to engage with mana whenua/tangata whenua early in their planning
- (c) collaborate on pre-application processes;
- (d) collaborate on the processing of non-notified resource consents;
- (e) collaborate on monitoring of consent conditions **except where specific responsibilities are specified in consent conditions**; and
- (f) **exchange share** information and data to support integrated management.

Implementation: Wellington Regional Council; **and territorial authorities** **city and district councils** ~~district and city councils~~.

3.19 Method 30 - Implement the ~~Prepare~~ a harbour and catchment management strategy for Porirua Harbour

558. The notified Method stated:



559. This is an amendment to Method 30 in the Operative RPS to change the direction from “prepare” to “implement” in both the heading and Method.

3.28.4 Submissions, Evidence and Analysis

560. Submitters requested the addition of the words “in partnership with mana whenua / tangata whenua”, and that the partnership be enabled by funding and resourcing. The Reporting Officer agreed to include a partnership approach for the implementation of the Method but notes that because the Council has now established Kaupapa Funding Agreements with mana whenua/tangata whenua partners in the Region, the Method did not need to refer to funding or resourcing.

3.28.5 Finding

561. We agree with the Reporting Officer’s recommendations on Method 30 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence.

3.28.6 Recommendation


Method 30: Implement the ~~Prepare~~ a harbour and catchment management strategy for Porirua Harbour

Implement the ~~Prepare~~ a harbour and catchment management strategy for Porirua Harbour, ~~in partnership with mana whenua/tangata whenua~~, to address the restoration of Porirua Harbour and reduce the discharge of sediment, nutrients and *contaminants* into the harbour.

Implementation: Wellington Regional Council, Porirua City Council and Wellington City Council

3.29 Method 34 - Preparing a regional water supply strategy

562. The notified Method stated:

Method 34: Prepare a regional water <u>supply</u> strategy	
<p>With interested parties, prepare a regional water <u>supply</u> strategy, in partnership with mana whenua / tangata whenua, to guide local authorities on how to:</p> <ul style="list-style-type: none">(a) <u>improve and maximise efficient allocation of water including economic, technical and dynamic efficiency; sustainable water use</u>(b) reduce leakage and wastage from reticulation <u>systems</u>;(c) encourage efficient use of water including through onsite <u>storage</u>;(d) <u>secure sustainable water supplies for communities across the region, preparing for climate change</u>;(e) <u>plan additional sources of water, including through storage (including raintanks), treatment, and distribution systems</u>;(f) demand management and water conservation programmes and security of <u>supply</u>; and(g) <u>developing methods to protect future and existing sources, rural and urban water quality</u> <p><i>Implementation: Wellington Regional Council* and city and district councils, and water infrastructure providers</i></p>	

563. This is an existing non-regulatory method in the Operative RPS that directs the preparation of a water strategy. Proposed Change 1 proposes to amend this Method so that it is specific to water supply along with several other amendments to give effect to the NPS-FM and support the implementation of other provisions in Change 1.

3.29.1 Submissions, Evidence and Analysis

564. Submitters raised a number of issues, many of which were addressed in the s 42A Report with a number of revisions proposed.³⁵³ This included removal of the Method’s application to territorial authorities, amending the chapeau to refer to communities, and adding “water scarcity, population growth and operational resilience” in clause (d) as sought by Wellington Water [S113.046].

565. The Officer also recommended that the Method cease to have effect on the date that the Wellington Water Services Entity is established.

566. In her evidence statement, Ms McGruddy for WFF sought that clause (d) refer to “urban and rural” communities, the words “while considering the health needs of people” be deleted from clause (e), a date be added for preparation/ completion of the strategy, and a clause be inserted to

³⁵³ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, paras 904 – 913.

provide for prioritising the collection of real-time data to support dynamic management of water.³⁵⁴

567. The Officer supported retaining the words “health needs of people” and including it as a defined term to ensure health outcomes are considered. We recommend the amendments the Officer proposes are accepted.
568. The Water Services Entity Act 2022 was repealed by the Water Services Act Repeal Act 2024. We recommend that as a minor amendment, the Note to the Method is deleted or amended to reflect the appropriate water infrastructure provider.

3.29.2 Finding

569. We largely agree with the Reporting Officer’s recommendations on Method 30 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend for clarity and efficiency, that the Note below the Method is either deleted or amended as appropriate to reflect the appropriate water infrastructure provider.

3.29.3 Recommendation

~~With interested parties p~~ Prepare a regional water supply strategy, in partnership with mana whenua / tangata whenua; **and consultation with communities**, to guide local authorities on how to:

- (a) improve and maximise efficient allocation of water including economic, technical and dynamic efficiency; sustainable water use
- (b) reduce leakage and wastage from reticulation systems;
- (c) encourage efficient use of water including through onsite storage;
- (d) secure sustainable water supplies for communities across the region, preparing for climate change, water scarcity, population growth and improving operational resilience;
- (e) plan additional sources of water, including through storage (including raintanks), treatment, and distribution systems, while considering the health needs of people;
- (f) manage water demand including through demand management and water conservation programmes and security of supply; and
- (g) developing methods to protect future and existing sources, taking into account the requirements of Taumata Arowai. rural and urban water quality

³⁵⁴ Hearing Statement of Elizabeth McGruddy on behalf of Wairarapa Federated Farmers, Hearing Stream 5, 15 November 2023, para 35.


- (h) implement water safety plans and other requirements of Taumata Arowai as appropriate
- (i) Apply ki uta ki tai to source protection.

Implementation: Wellington Regional Council ~~and city and district councils,~~ and water infrastructure providers*

Note: Method 34 shall cease to have effect on the date that the Wellington Water Services Entity is established, under the Water Services Entity Act 2022. [Either delete or amend to reflect the appropriate water infrastructure provider]

3.30 Method 35 – Prepare a regional stormwater plan

570. The notified proposal was to delete Operative Method 35:

Method 35: Prepare a regional stormwater action plan	
Prepare a regional stormwater action plan that is developed and agreed to by the region's local authorities.	
<i>Implementation: Wellington Regional Council* and city and district councils</i>	

3.30.1 Submissions, Evidence and Analysis

571. Most submissions on this provision supported its deletion. Ātiawa [S131.0132] expressed concern that with the deletion of this Method there will be no mechanism to prepare a regional approach to stormwater management. The s42A Officer responded that the Method will be unnecessary given the direction to prepare Freshwater Action Plans under the NPS-FM and proposed Method FW.1. The Officer said these action plans will set out the steps required to achieve target attribute states and that the more directive policies proposed in the RPS in relation to urban development and the management of stormwater will remove the need for specific action planning in relation to stormwater.

572. We recommend the Method is deleted.

3.30.2 Finding

573. We agree with the Reporting Officer's recommendations on Method 35 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence.

3.30.3 Recommendation

~~Method 35: Prepare a regional stormwater action plan~~

~~Prepare a regional stormwater action plan that is developed and agreed to by the region's local authorities.~~

Implementation: Wellington Regional Council and city and district councils

3.31 Method FW.X – Engagement with water regulators

574. This is a new Method proposed in the s 42A Report in response to relief sought by Wellington Water [S113.048] that it would be beneficial for water services regulators to work together in an integrated manner.³⁵⁵
575. The Officer agreed that a Method that directs engagement with Taumata Arowai and the water services economic regulator would be useful in the RPS.³⁵⁶

3.31.1 Finding

576. We agree with the Reporting Officer’s recommendations on Method FW.X for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.31.2 Recommendation

Method FW.X: Engagement with Water Regulators

Engage with Taumata Arowai and the water services economic regulator (when established) to ensure a consistent approach to *Te Mana o te Wai*, including consideration of limits, measures, targets and relationships, particularly where there are overlaps in functions and roles.

Implementation: Wellington Regional Council

³⁵⁵ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 919.

³⁵⁶ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 921.

3.32 Method FW.X – Technical guidance for stormwater management in urban development

577. This is a new non-regulatory– information and guidance Method proposed in the s 42A Report for the Regional Council to provide technical guidance for stormwater management in urban development, in collaboration with territorial authorities and Wellington Water. The purpose of the guidance is to addresses hydrological control and hydraulic neutrality processes, methods, devices, and outcomes.

578. In the s 42A Report, Ms Pascall states:³⁵⁷

I note that the requirement to achieve hydrological control in the regional plan and requirements to achieve hydraulic neutrality in district plans may create an overlap between the requirements of the two plans and ultimately the solutions that are required to achieve both. To assist plan users and those undertaking urban development where these devices will be required, I recommend a new method is added to the RPS that directs the development of technical guidance on these stormwater management techniques. I consider that such guidance is necessary in this relatively new area of resource management in the Region.

579. This Method will support Policy FW.X – Hydrological control for urban development, acknowledging that more work is needed on hydrological control and neutrality outcomes and methodology.

3.32.1 Submissions, Evidence and Analysis

580. Ms Pascall noted that the new Method she proposed was not within the scope of submissions, but that the FHP was able to make recommendations that go beyond the scope of submissions in respect of matters raised at the hearing. The issue of the respective functions of territorial authorities and the Regional Council in respect of hydrological control was raised in many hearing presentations. For instance, Ms Cook and Mr Jeffries on behalf of WCC said that they were concerned that the proposed hydrological control provision duplicated the provisions in the Wellington Proposed District Plan which require development to achieve hydraulic neutrality through on-site stormwater management methods in addition to Water Sensitive Urban Design and minimum permeable

³⁵⁷ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 970.

surfaces.³⁵⁸ They said at the Hearing that “on a practical level it is also difficult to see how private developers could respond to these requirements other than through on-site methods.”³⁵⁹

581. We consider that the issue of respective roles and functions of local authorities has been sufficiently canvassed at the Hearing and the Technical Guidance developed through Method FW.X will be useful in clarifying these roles and functions.
582. Ms Pascall recommended in the s 42A Report that “city and district councils” be replaced with “territorial authorities”. However, for consistency with provisions in HS 2, Ms Pascall recommended in her Reply that “city and district councils” be reinstated.³⁶⁰
583. We note that the Proposed Change 1 now includes two Methods titled ‘Method FW.X’, but this can be corrected as a minor amendment when Council is finalising the provisions and issuing its decisions.

3.32.2 Finding

584. We agree with the Reporting Officer’s recommendations on Method FW.X for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal and Reply Evidence. We recommend that the numbering is corrected when the Council issues its decisions as Proposed Change 1 includes two methods numbered FW.X.

3.32.3 Recommendation

Method FW.X: Technical Guidance for Stormwater Management in Urban Development

Prepare technical guidance for stormwater management in ~~urban development~~ urban development, in collaboration with ~~territorial authorities~~ city and district councils and Wellington Water, that addresses hydrological control and hydraulic neutrality processes, methods, devices, and outcomes for application in the integrated planning and design of ~~urban development~~ urban development.

Implementation: Wellington Regional Council.

³⁵⁸ Joint statement of supplementary planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, 21 November 2023, para 16;

³⁵⁹ Joint statement of supplementary planning evidence of Joe Jeffries and Maggie Cook on behalf of Wellington City Council, 21 November 2023, para 22; Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 2, page 48, lines 2444 – 2445.

³⁶⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, para 48.

3.33 Method FW.XX: Best practice guidance for managing urban development effects on freshwater

585. This is a new non-regulatory method proposed in the s 42A Report for Wellington Regional Council to provide guidance in relation to the matters set out in Policy 14.

3.33.1 Submissions, Evidence and Analysis

586. The inclusion of the Method grants relief sought by SWDC [S79.028] seeking non-regulatory guidance on the matters in Policy 14. In recommending the inclusion of the Method, Ms Pascall notes:³⁶¹

The requirements of the NPS-FM and subsequent changes to the regional and district planning framework to give effect to it [Policy 14] will necessitate a significant change in urban development practice. I consider non-regulatory best practice guidance will assist in implementing this change and achieving the outcomes sought by the RPS.

587. No submitters presented evidence on Method FW.XX.

3.33.2 Finding

588. We agree with the Reporting Officer's recommendations on Method FW.XX for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence.

3.35.3 Recommendation

Method FW.XX: Best practice guidance for managing urban development effects on freshwater

Develop best practice guidance for managing the effects of ~~urban development~~ urban development on waterbodies and freshwater ecosystems.

Implementation: Wellington Regional Council

³⁶¹ Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 333.

3.34 Freshwater Anticipated Environmental Results – Objective 12 (except AER 6)

589. The notified Objective 12 AER stated:

Objective 12

Natural and physical resources of the region are managed in a way that prioritises:

- (a) first, the health and well-being of water bodies and freshwater ecosystems
- (b) second, the health needs of people (such as drinking water)
- (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future; and

Te Mana o te Wai encompasses six principles relating to the roles of tangata whenua and other New Zealanders in the management of freshwater, and these principles inform this RPS and its implementation.

The six principles are:

- (a) Mana whakahaere: the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater
- (b) Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the



1. Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out over time.

1. Water quality in lakes, rivers and aquifers is supporting healthy functioning aquatic ecosystems or any other management purposes identified in regional plans.



2. River flows and lake levels support healthy functioning aquatic ecosystems or any other management purposes identified in regional plans.



3. Groundwater is managed to support healthy functioning aquatic ecosystems or any other purpose for managing water bodies identified in regional plans.



4. Erosion, silt or sediment has not adversely affected the healthy functioning of aquatic ecosystems.



5. The water catchments for public water supply are protected so that public health is safeguarded.




6. Eighty per cent of residents perceive that water pollution is not a problem.



7. A regional plan contains policies, rules and/or methods that:

- (a) require, as a minimum, that water quality, flows and water levels are managed for the purpose of maintaining or enhancing aquatic ecosystem health; and
- (b) manage water bodies for other identified purposes.

benefit of present and future generations	
(c) <u>Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others</u>	8. A regional plan contains policies and/or rules that: (a) establish allocation limits for the total amount of water that can be taken from surface water; and (b) establish allocation limits for the total amount of water that can be taken from groundwater.
(d) <u>Governance: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future</u>	9. A regional plan contains policies, rules and/or methods that reduce ecotoxic contaminants in stormwater that discharge into water, or onto or into land that may enter water, from new subdivision and development.
(e) <u>Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations, and</u>	10. Regional and district plans contain policies, rules and methods that control earthworks and vegetation disturbance.
(f) <u>Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.</u>	11. A regional plan contains policies, rules and/or methods to: (a) promote discharges of human and/or animal waste to land rather than water, particularly discharges of sewage; and (b) promote the use of collective sewage treatment systems that discharge to land.
<u>And the Statements of Kahungunu ki Wairarapa and Rangitāne o Wairarapa</u>	

590. The Operative RPS has a list of 11 detailed Objective 12 AERs. Change 1 proposes to replace these with one overarching AER referring to the principles of *Te Mana o te Wai* and over allocation. We note that all AERs other than AER 6 are considered through the FPP process.

3.34.1 Submissions, Evidence and Analysis

591. There was general support by submitters for the new AER with several submissions requesting addition of a timeframe and some seeking an additional AER on partnership with mana whenua.

592. In relation to the timeframe, the s 42A Reporting Officer responded there should be more specificity than the current reference to “over time” but noted that imposing specific timeframes in the RPS at this stage may be premature. The Officer said she considered this matter could be addressed through the upcoming NRP changes where the detail on water allocation will be provided. However, the Officer recommended replacing the words “over time” with “as soon as practicable”.³⁶²

³⁶² Section 42A Hearing Report, Hearing Stream 5, 20 October 2023, para 937.

593. Considering an additional AER on partnership with mana whenua, the Officer comments that she agrees that this partnership approach is necessary and a fundamental part of *Te Mana o te Wai* and giving effect to the NPS-FM. However, she did not consider that this AER is necessary on the basis that this partnership approach has been woven into the objectives and policies of Change 1, including in Objective 12 and the related policies.
594. In Minute 23, we asked the Council Officers to review all the AERs in Change 1. The Officer recommended including the *Te Mana o te Wai* principles which were included in the notified version of Objective 12 but not in the proposed replacement Objective. The Officer also recommended moving the reference to over allocation to a separate AER. We agree with the proposed amendments.

3.34.2 Finding

595. We agree with the Reporting Officer's recommendations on the Objective 12 AERs (other than AER 6 which is considered in the P1S1 process) for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence.

3.34.3 Recommendation

1. Freshwater quality and quantity in the Wellington Region is managed in accordance with the following principles of Te Mana o Te Wai: and

(a) Mana whakahaere: the power, authority and obligations of tangata whenua to make decisions that maintain, protect and sustain the health and well-being of, and their relationship with, freshwater

(b) Kaitiakitanga: the obligation of tangata whenua to preserve, restore, enhance, and sustainably use freshwater for the benefit of present and future generations

(c) Manaakitanga: the process by which tangata whenua show respect, generosity, and care for freshwater and for others

(d) Governance: the responsibility of those with authority for making decisions about freshwater to do so in a way that prioritises the health and well-being of freshwater now and into the future

(e) Stewardship: the obligation of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations

(f) Care and respect: the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

2.2 Over allocation in relation to both the quantity and quality of freshwater is phased out as soon as practicable over time.

3.35 Objective 13 AER

596. Notified Objective 13 AER stated:

Objective 13

The region’s rivers, lakes and wetlands support healthy functioning ecosystems.



1. Macro-invertebrate diversity in rivers and lakes is ~~maintained~~ improving across the Region.



2. Flow regimes in, and discharges to, rivers and lakes are not resulting in algal cover and/ or biomass that is adversely affecting aquatic ecosystems.



3. There are no new barriers to fish passage and the number of existing impediments is reduced.



4. There is no loss of existing fish habitat, nor reduction in fish populations and diversity



5. There is no loss of the significant amenity and recreational values or significant indigenous ecosystems associated with the rivers and lakes identified in Appendix 1.



6. ~~There is no decline in~~ The condition and extent of wetlands is improving across the Region.



7. ~~A regional plan contains policies, rules and/ or methods to protect aquatic ecological function.~~



8. ~~A regional plan contains policies and rules to protect: (a) the significant amenity and recreational values associated with the rivers and lakes listed in Appendix 1; and (b) the significant indigenous ecosystems of the river and lakes listed in Appendix 1.~~

597. The Operative Plan includes 8 Objective 13 AERs. These are reduced to 6 in Change 1.

3.35.1 Submissions, Evidence and Analysis

598. Submitters proposed adding sensitive macroinvertebrate taxa abundance as well as macro-invertebrate diversity to AER 1, and revisions to provide more clarity of outcomes for AER4. Amendments taking account of these concerns were made in the s 42A Report, with further refinements in the Officer’s Rebuttal Evidence.

599. Fish and Game sought an amendment to AER 4 to give better effect to the NPS-FM, especially Policy 10. They sought the AER read “The protection of existing Existing fish habitat supports healthy fish populations.. “. The

Officer supported the amendment but proposed to delete the word “existing”.³⁶³

600. At the hearing we asked Mr Malone, counsel for Fish and Game whether the deletion of “existing” was material, and he confirmed that it was not.

3.35.2 Finding

601. We agree with the Reporting Officer’s recommendations on the Objective 13 AERs for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.35.3 Recommendation

1. Macro-invertebrate diversity ~~and sensitive macroinvertebrate taxa abundance~~ in rivers and lakes is ~~maintained~~ improving; improved where degraded, or otherwise maintained, across the Region.
4. ~~There is no loss of existing fish habitat, nor reduction in fish populations and diversity. The protection of Existing fish habitat supports healthy, fish populations, and the diversity of valued fish fauna is maintained or increased across the region.~~

Objective 14 Freshwater Anticipated Results

1. Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of Te Mana o Te Wai and over allocation in relation to both the quantity and quality of freshwater is phased out as soon as practicable over time.

³⁶³ Appendix 2 to the Supplementary Evidence of Ms Pascall, HS5 – Freshwater and Te Mana o te Wai Rebuttal, page 22.

3.36 Objective 14 AER

602. The Operative Plan includes 4 Objective 14 AERs. These are reduced to 1 in Change 1, with the same AER as for Objective 12, referring to the principles of *Te Mana o te Wai* and over allocation.
603. As with Objective 12 AER “as soon as practicable” was added in the s42A Report, with the same rationale.

3.36.1 Finding

604. We agree with the Reporting Officer’s recommendations on the Objective 14 AER for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.36.2 Recommendation

Freshwater quality and quantity in the Wellington Region is managed in accordance with the principles of *Te Mana o Te Wai* and over allocation in relation to both the quantity and quality of freshwater is phased out **as soon as practicable over time.**

3.37 Definitions (HS5)

605. Other than in relation to the definitions of “hydrological controls” and “hydraulic neutrality”, we agree with the Reporting Officer’s recommendations on the definitions coded to HS5 for the reasons below, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.37.1 *Aquatic compensation and aquatic offset*

606. In her Rebuttal Evidence, the Officer recommends including definitions of “aquatic compensation” and “aquatic offset” in response to Ms Clarke’s Evidence (on behalf of Winstone Aggregates). The definitions are the same as those in the NPS-FM and support the definition of *effects management hierarchy*.
607. The definitions seem appropriate to us and are aligned with definitions in the NPS-FM. We recommend they are included in Proposed Change 1.

3.37.2 Recommendation

Aquatic compensation

A conservation outcome resulting from actions that are intended to compensate for any more than minor residual adverse effects on a *wetland* or *river* after all appropriate avoidance, minimisation, remediation, and aquatic offset measures have been sequentially applied.

Aquatic offset

A measurable conservation outcome resulting from actions that are intended to:

(a) redress any more than minor residual adverse effects on a *wetland* or *river* after all appropriate avoidance, minimisation, and remediation, measures have been sequentially applied; and

(b) achieve no net loss, and preferably a net gain, in the extent and values of the *wetland* or *river*, where:

(i) no net loss means that the measurable positive effects of actions match any loss of extent or values over space and time, taking into account the type and location of the *wetland* or *river*; and

(ii) net gain means that the measurable positive effects of actions exceed the point of no net loss.

3.38 *Community drinking water supply and Group drinking water supply*

608. These definitions are introduced in the HS5 s 42A Report. The terms are in Policies FW.1 and FW.2. Wellington Water [S113.024] sought alignment of terminology used by Taumata Arowai and the NRP. The NRP has a definition of *Community drinking water supply* and the Officer recommends in the s 42A that the same definition is used in the RPS.

609. We recommend that the definitions are approved.

3.38.1 Recommendation

Community drinking water supply

A drinking-water supply that is recorded in the drinking-water register maintained by the Chief Executive of the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year.

Group drinking water supply

A registered drinking water supply that is recorded in the drinking water register maintained by the Ministry of Health (the Director-General) under section 69J of the Health Act 1956 that provides more than 25 people with drinking water for not less than 60 days each calendar year.

3.40 *Effects Management hierarchy*

610. This definition is in new Policies 18A, 18B, 40A and 40B. The Reporting Officer recommended a definition be included through the s 42A Report as a consequential amendment to a change recommended in clause (n) in Policy 18. This clause is now reflected in the new Policies recommended in the Officer's Reply Evidence (Policies 18A, 18B, 40A and 40B). The definition proposed for "effects management hierarchy" is the same definition in the NPS-FM. The Officer considered PCC's general submission on definitions provided scope [S30.099].

611. We recommend the definition is adopted.

3.38.2 Recommendation

Effects management hierarchy

In relation to natural inland *wetlands* and *rivers*, means an approach to managing the adverse effects of an activity on the extent or values of a *wetland* or *river* (including cumulative effects and loss of potential value) that requires that:

(a) adverse effects are avoided where practicable; then

(b) where adverse effects cannot be avoided, they are minimised where practicable; then

(c) where adverse effects cannot be minimised, they are remedied where practicable; then

(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, *aquatic offsetting* is provided where possible; then

(e) if *aquatic offsetting* of more than minor residual adverse effects is not possible, *aquatic compensation* is provided; then

(f) if *aquatic compensation* is not appropriate, the activity itself is avoided.

3.39 *Health needs of people*

612. The second limb of Te Mana o te Wai refers to the “health needs of people” but the phrase is not defined in the NPS-FM. Operative Policy 17 includes the phrase. Various submitters had queried its meaning and where other uses sit within the Te Mana o te Wai hierarchy.
613. In her s 42A Report, the Officer recommended including a definition of “the health needs of people” that aligned with the definition in the NRP. The Officer considered there was scope to do under PCC’s general submission on definitions (PCC [S30.099]).
614. Ms Levenson on behalf of HortNZ sought an amendment to the proposed decision to include water used to enable the supply of fresh fruit and vegetations. Ms Berkett for WFF sought a grammatical correction to the definition to clarify the status of water consumed by animals. Mr Brass for the DGC also recommended amendments as he considered the water takes in Policy 17 were not included in the definition.
615. In the Officer’s Rebuttal Evidence, she agrees that Ms Berkett’s grammatical correction is required for clarity. As set out in the analysis for Policy 17, the Officer also recommends an amendment to the chapeau to provide a clearer connection with clauses (a) to (d), and to ensure the ‘health needs of people’ is not defined differently in two different places.³⁶⁴
616. We agree with the Officer’s recommendations to the definition of “health needs of people” for the reasons given in the s 42A Report and Rebuttal Evidence. The definition is very similar to the NRP definition but with a minor amendment to improve the interpretation and application of the definition.

3.39.1 Recommendation

Health needs of people

The amount and quality of water needed to adequately provide for people’s hygiene, sanitary and domestic requirements. It does not include:


(a) water used outside, (e.g. for irrigation, vehicle or house washing or hosing), other than but not including water consumed by animals, or

(b) water used by industry as process water or cooling water.

³⁶⁴ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, paras 168 and 170.

3.41 Hydrological control

617. The notified definition read:

Hydrological controls	
<p><u>For greenfield development:</u></p> <p>(a) <u>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 (pastoral) state</u></p> <p>(b) <u>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 (pastoral) state.</u></p> <p><u>For brownfield and infill development:</u></p> <p>(a) <u>the modelled mean annual runoff volume generated by the fully developed area must, when compared to the mean annual runoff volume modelled for the site prior to the brownfield or infill development, be reduced as far as practicable towards the mean annual runoff volume modelled for the site in an undeveloped state</u></p> <p>(b) <u>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 as far as practicable towards the mean annual exceedance frequency modelled for the same site and flow event in an undeveloped state.</u></p>	

3.39.2 Submissions, Evidence and Analysis

618. In the s 42A Report, the Officer said that hydrological controls manage stormwater flows and volumes to both control the amount of runoff from a site as well as managing the effects of contamination on freshwater ecosystem health.³⁶⁵ Submitters had concerns that the definition was unclear read as a rule or policy (WCC [S140.0123], PCC [S30.0106], and Wellington Water [S113.051]). The Officer agreed and re-cast the definition as proposed new Policy FW.X.

619. The Officer recommended changing the definition to the singular – “hydrological control” – because it is about managing “the hydrology of the site(s) in order to manage stormwater runoff and volume and subsequent impacts on freshwater ecosystem health”.³⁶⁶ It is not about the specific methods, mechanisms or devices to be applied to achieve this outcome.

³⁶⁵ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 953.

³⁶⁶ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, para 959.

620. Given the Officer’s recommended changes to Policy FW.X (which we recommend are adopted – see the discussion above of Policy FW.X), we asked Ms Allan (Special Advisor) for her views on whether the definition of “hydrological controls” worked with the amended Policy.
621. Ms Allan reviewed the definition in the context of recommended Policy FW.X. Ms Allan said that the recommended Policy FW.X provides the responsibility to the Regional Council to develop regional plan provisions including standards for hydrological control for greenfield, brownfield and infill. Ms Allan said she did not think the current definition worked well with the rewritten policy or explanation, which implies provisions which address both water quality and quantity, and need not be limited to “site” scale. Ms Allan said that while the proposed definition has taken a site-based approach which aligns with WCC’s PDP definition of “hydraulic neutrality” which relates to sites, this is perhaps expected from a territorial authority, but the RPS need not be restricted to a cadastral base if it wanted to achieve the freshwater outcomes in the Objective and as described in Mr Farrant’s evidence. Ms Allan advised that if there had been an unsuitable subdivision pattern, then it would not be appropriate to treat stormwater management on a site-by-site basis but a larger area should be taken into account.
622. Ms Allan also said the reference in the definition to “replicating natural processes” could create a potential conflict as the controls would usually be intended to modify natural processes (eg flooding). In addition to broadening the definition so it applies to flows and volumes from a wider area than the “site”, Ms Allan suggested that the reference to replicating natural processes is removed and instead, the potential for hydrological control to limit bank erosion, slumping or scour is also referenced in the definition.
623. Ms Allan therefore suggested that the definition read:

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, or area into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments ~~in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, or scour,~~ to help protect freshwater ecosystem health and well-being. Hydrological control may also include methods or techniques to limit bank erosion, slumping or scour.

624. Ms Allan said these amendments address water quantity and also water quality to the extent that bank management influences water quality (by limiting sedimentation, etc) and also allows control to be applied for a logical or larger area (not confined by reference to “site or sites”). The removal of reference to replicating natural processes gets rid of a potential conflict, as the controls would usually be intended to modify natural processes. Ms Allan also said that these changes would work better with proposed Policy 42(k) and Method FW.X. We discuss these provisions above. Our recommendations on Policy 42(k) are: “The extent to which *hydrological control minimises* adverse effects of runoff quantity (flows and volumes) and other potential adverse effects on natural stream ~~flows~~ values”. We recommend Method FW.X is adopted as recommended by the Officer.
625. In light of our recommendations on Policies 42, FW.X and Ms Allan’s advice, we recommend that the definition of *hydrological control* is amended to include reference to “area”. We consider there is appropriate scope for this from the discussion during the hearing on undeveloped state and in particular brownfield developments as we discuss further below in relation to *hydraulic neutrality*.

3.39.3 Finding and s 32AA Evaluation

626. We largely agree with the Reporting Officer’s recommendations on the definition of *hydrological control* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence. We recommend that the definition is amended so that it refers to stormwater flows and volumes from a site, sites or area as this will help to achieve the freshwater outcomes in Objective 12 and give effect to the NPS-FM. The reference to replicating natural processes in the Officer’s recommended definition has the potential to cause interpretation issues given that a river in flood could be regarded as a natural process albeit exacerbated by higher intensity rainfall and storm events caused by climate change. We recommend a change to address this which we consider retains the policy intent but removes the potential interpretation issue/tension. We recommend retaining reference to bank erosion, slumping or scour in a new sentence in the definition.
627. The amendments we recommend will enhance the effectiveness and efficiency of the provisions they relate to. We do not consider there to be additional costs associated with the amendments as the Officer had recommend the definition include “site or sites” and we consider the

addition of “area” conveys the same policy intent, that is, that stormwater flows and volumes are assessed from a broader area than just the ‘subject site’ to achieve the freshwater outcomes stated in the Proposed Change 1 and the step change required to improve freshwater quality and quantity management as explained in Mr Farrant’s evidence.

3.39.4 Recommendation

Definition of ‘Hydrological controls’

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, or area into rivers, lakes, wetlands, springs, riparian margins, and other receiving environments in a way that replicates natural processes for the purpose of reducing bank erosion, slumping, or scour, to help protect freshwater ecosystem health and well-being.* Hydrological control may also include methods or techniques to limit bank erosion, slumping or scour.

Hydrological controls

~~For greenfield development:~~

- ~~(a) — 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 (pastoral) state~~
- ~~(b) — 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 (pastoral) state.~~

~~For brownfield and infill development:~~

- ~~(a) — the modelled mean annual runoff volume generated by the fully developed area must, when compared to the mean annual runoff volume modelled for the site prior to the brownfield or infill development, be reduced as far as practicable towards the mean annual runoff volume modelled for the site in an undeveloped state~~
- ~~(b) — 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 as far as practicable towards the mean annual exceedance frequency modelled for the same site and flow event in an undeveloped state.~~

3.40 *Hydraulic neutrality and undeveloped state*

628. We consider these two defined terms together as “undeveloped state” now occurs only in the proposed definition of “hydraulic neutrality” (if the Officer’s recommendations on Policy FW.X, which we agree with, are adopted by Council – see the earlier discussion under Policy FW.X).
629. Originally, UHCC [S34.0101] had sought a definition of “undeveloped state” as the term is referred to in the definition of “hydrological controls”. In the s 42A Report, the Officer proposed in the s 42A Report a definition of “undeveloped state” to assist interpretation of proposed new Policy FW.X relating to hydrological control for urban development. The Policy had proposed modelling for greenfield and brownfield/infill developments based on the baseline of the “undeveloped state” rather than the existing state of the site in order to provide opportunity to improve freshwater outcomes as a result of stormwater management from that site.³⁶⁷ Through the course of the hearings, the Officer recommended simplifying the Policy and removing references to greenfield and brownfield developments and also the reference to “undeveloped state”.
630. We agree with this recommendation (see Policy FW.X analysis above). If our recommendation is adopted, this means that “undeveloped state” is no longer referred to in the Policy. However, the term is used in the definition of “hydraulic neutrality” and in the same context, that is, managing stormwater runoff so that peak flows are released at a rate that does not exceed the modelled peak flow from the site in an “undeveloped state” in specific modelled rainfall events.
631. The Officer confirmed at the hearing that the definition of “undeveloped state” should also apply to “hydraulic neutrality”.³⁶⁸
632. Mr McDonnell for PCC said that the definition of “hydraulic neutrality” should refer to “pre-development peak run-off” because:³⁶⁹

the comparison of post-development runoff to land in “an undeveloped state” is not practical. For example, for brownfield development it is unclear how far back in time you would need to go for “undeveloped state”, this could be especially problematic in urban areas that are heavily

³⁶⁷ Statement of Supplementary Evidence of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 13 November 2023, para 56.

³⁶⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 34, lines 1691 – 1694.

³⁶⁹ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), Hearing Stream 5, 2 November 2023, para 41.

modified, for example large parts of downtown Wellington and Porirua are on reclaimed land. I consider it would be better to refer to the state of the land prior to the development in question.

633. Mr McDonnell said that he preferred the definition in the Porirua PDP:³⁷⁰

Hydraulic neutrality: means managing stormwater runoff from all new lots or development areas through either on-site disposal or storage, so that stormwater is released from the site at a rate that does not exceed the pre-development peak stormwater runoff.

634. Mr Lewandowski on behalf of PPFL had similar concerns and said that “hydraulic neutrality” should refer to modelled peak flows and volumes from the site “prior to development”.³⁷¹

635. We asked Mr Farrant for his views on this during the Hearing. He said:³⁷²

I guess that’s really a question around flood resilience and whether we want to improve the resilience of future communities, or keep it the same as it currently is. But, that comes back to those situations where you might have a site that’s fully sealed. I’ll just use a carpark as an example, where it may be a hundred percent impervious at the moment. When a development starts that will be contributing to flooding, so is there an expectation for a developer to improve on those current conditions or not? Obviously also on the back of that is climate change projections with changing rainfall intensity and things. That’s really a question for flood modelling really.

636. Wellington Water confirmed at the hearing that it had no remaining concerns with the definition of “undeveloped state”.³⁷³

637. In Minute 18 we asked the Officer whether referring to the state of the land prior to the development in question (as suggested by PCC and others) was appropriate or whether that could lock in flows from impervious areas that could prevent effective hydrological control. Mr Farrant presented expert technical evidence on this question in Reply. Although commenting

³⁷⁰ Statement of evidence of Torrey McDonnell on behalf of Porirua City Council (Planning), Hearing Stream 5, 2 November 2023, para 42.

³⁷¹ Statement of Evidence of Maciej Lewandowski on behalf of Peka Peak Farm Limited, HS 5, 3 November 2023, para 4.20.

³⁷² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 34, lines 1680 – 1689.

³⁷³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 38, lines 1880 – 1881, per Mr Slyfield, and see also Wellington Water Hearing Speaking Notes.

on the term as it was proposed to be used in Policy FW.X, Mr Farrant’s comments also apply to the term as used in the definition of “hydraulic neutrality”. He noted that some submitters preferred the “pre-development” state to be either based on a detailed analysis of the vegetated landscape (such as mapping areas of grass, scrub and forest) in greenfield development or based on the pre-development condition of existing urban areas for infill development scenarios. Mr Farrant discussed the two options further and said that it was important to get an appropriate balance between ease of application and the importance of providing meaningful freshwater protections.

638. He concluded that in his view, basing the controls on existing urban landcover would either “add significant complexity or lock in the poor freshwater outcomes we see now for another full development cycle”.
639. We are persuaded by Mr Farrant’s evidence and also Wellington Water’s position on the issue. The proposed definition of “undeveloped state” will help to achieve the freshwater outcomes in Objective 12 and give effect to Te Mana o te Wai.
640. We asked Ms Allan (Special Advisor) to review the definition of *hydraulic neutrality* as proposed by the Officer and particularly in light of her comments and suggestions on the definition of *hydrological control*.
641. Ms Allan said that similar to her comments on *hydrological control*, she did not think a regional council should be tied into provisions that apply only at site scale (on a cadastral base using the definition of “site” in the National Planning Standards), when a larger area may throw up other practicable options for hydraulic neutrality (such as local open spaces, reserves, school playing fields, etc). Ms Allan commented that a pre-existing site pattern may not be the best way to achieve hydraulic neutrality. A TA may decide to assess hydraulic neutrality on a site-by-site basis but a regional council may choose to look at a larger group of sites, or a developer may choose to define the geographic area in agreement with the council.
642. Therefore, for the reasons described above in relation to *hydrological control*, Ms Allan suggested that the definition of *hydraulic neutrality* also refer to “area” and not just “the site”. Ms Allan also suggested that disposal or storage could practically occur either on-site or in the local area, and also suggested an amendment to reflect this. Ms Allan suggested that the definition therefore read along these lines:

Hydraulic neutrality: managing stormwater runoff from subdivision, use and development through either on-site or local area disposal or storage, so that peak stormwater flows and volumes are released from the site or defined area at a rate that does not exceed the modelled peak flows and volumes from the site or defined area in an undeveloped state, in the 10% AEP and 1% AEP modelled design rainfall events including the predicted impacts of climate change.

643. Mr Farrant’s technical evidence is clear that the status quo has not achieved the desired freshwater quality and quantity outcomes expected from the NPS-FM and to give effect to *Te Mana o te Wai*. We consider that the desired policy outcomes can be better achieved through the drafting amendments Ms Allan suggests, and we recommend those amendments are adopted.

3.40.1 Finding and s 32AA Evaluation

644. We largely agree with the Reporting Officer’s recommendations on the definition of *hydraulic neutrality* and *undeveloped states* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence. We recommend that the definition of *hydraulic neutrality* is amended so that it refers to stormwater flows from a site or defined area as this will help to achieve the freshwater outcomes in Objective 12 and give effect to the NPS-FM. The recommended amendment to insert “or local area” reflects the practical situation that disposal or storage of runoff may occur within the area near the site.
645. We consider these recommended amendments are a more efficient and effective way to achieve Objective 12 and the NPS-FM direction. They provide more clarity as to the practical application of the provisions they relate to. We do not understand there to be a cost implication as the amendments proposed convey the policy intent for improved management of stormwater runoff in urban developments.

3.40.2 Recommendation

Hydraulic neutrality: managing stormwater runoff from subdivision, use and development through either on-site or local area disposal or storage, so that peak stormwater flows and volumes are released from the site or area at a rate that does not exceed the modelled peak flows and volumes from the site or area in an ~~undeveloped state~~ *undeveloped state*, in the 10% AEP and 1% AEP modelled design rainfall events including the predicted impacts of climate change.

Undeveloped state: The modelled grassed (pastoral or urban open space) state of the site prior to ~~urban development~~ urban development

3.41 *Maximise and Minimise*

646. Policy 14 uses the terms “maximise” and “minimise” in clause (g) and (k). Wellington Water [S113.033, S113.034, S113.035] sought amendments to align “maximise” and “minimise” with definitions in the NRP.
647. The Reporting Officer agreed and considered that the NRP definition of “maximise” is appropriate in the context of the freshwater provisions of the RPS. The Officer noted that the word is in Objective 9 of the Operative RPS, but that including a definition would not change the intent or interpretation of this Objective.³⁷⁴
648. The Reporting Officer for the Natural Hazards topic (HS3) recommended that the NRP definition of “minimise” be adopted in the RPS. The HS5 Officer considered that definition was also appropriate in the context of the freshwater provisions and recommended it is adopted.³⁷⁵
649. We agree with the Officer’s recommendations for the reasons given for the reasons given in the s 42A Report and Rebuttal Evidence.
650. We note that “maximise” is in Policy 42, and “minimise” is in Policies 15, FW.3, 41, 42 and in the definition of “Effects management hierarchy”. The words are not shown as defined terms in these provisions. We consider it is appropriate for the defined term to be used and recommend this is incorporated as a consequential amendment.

3.41.1 Recommendation

Maximise: Means to make as large or great as reasonably practicable. Maximised and maximising have the corresponding meaning.

Minimise: Reduce to the smallest amount reasonably practicable. Minimised, minimising and minimisation have the corresponding meaning.

³⁷⁴ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, paras 355 – 357.

³⁷⁵ Section 42A Hearing Report, Hearing Stream 5, Freshwater and Te Mana o te Wai, 20 October 2023, paras 353 – 354.

651. We recommend that other provisions in Proposed Change 1 are amended as appropriate to reflect these defined terms, including in Policies 42, 15, FW.3, 41, 42 and the definition of “effects management hierarchy”. We recommend that this occur as a consequential amendment to the inclusion of the defined terms “maximise” and “minimise”, and consider there is scope from PCC’s general relief on definitions, and also Wellington Water’s relief.

3.42 *Specified infrastructure*

652. The Reporting Officer recommended in her Reply Evidence that a definition of “specified infrastructure” be included to assist interpretation of the consenting pathways in new Policies 18A and 40A, also proposed to be included through her Reply Evidence. The Officer proposed that the definition align with the same definition in clause 3.21 of the NPS-FM.
653. We agree that inclusion of the definition will assist interpretation of Policies 18A and 40A and recommend it is adopted.

3.42.1 Recommendation

specified infrastructure means any of the following:

(a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002)

(b) regionally significant infrastructure

(c) any water storage infrastructure

(d) any public flood control, flood protection, or drainage works carried out:

(i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or

(ii) for the purpose of drainage by drainage districts under the Land Drainage Act 1908

(e) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990

(f) ski area infrastructure

3.43 *Te Mana o te Wai*

654. Proposed Change 1 includes the following definition of Te Mana o te Wai: “Te Mana o te Wai has the meaning set out in clause 1.3 of the NPS-FM”.
655. The HS5 s 42A Report did not address the definition of Te Mana o te Wai. However, in HS7 (Small topics, Wrap up and Variation 1) in the ‘Omitted Submission Points’ subtopic, the Officer said that Forest and Bird [S165.013] supported the definition of Te Mana o te Wai and sought that it be retained. The HS7 Reporting Officer recommended that the definition gives useful meaning to the provisions where the term is used and should be retained. The Officer did recommend however that instead of referring to ‘NPS-FM’ in the definition of Te Mana o te Wai, the full name of the NPS be set out together with the year of gazettal. This supports clarity and certainty for plan users according to the Officer, and is consistent with relief sought by Kāinga Ora that definitions are consistent with the relevant NPS or the National Planning Standards.
656. It is appropriate for the FHP to consider this issue. Our review of Change 1 and the Operative RPS showed that the “NPS-FM” is not defined. We recommend that the HS7 Officer’s recommendation is adopted and that the definition of Te Mana o te Wai refers to the NPS-FM 2020, and also that a definition is included in Change 1 of the National Policy Statement for Freshwater Management 2020. We consider there to be appropriate scope including through PCC’s general relief on definitions, Kāinga Ora’s relief seeking consistency between definitions and NPS’. We also note that the issue of the NPS-FM and *Te Mana o te Wai* was comprehensively discussed in the Hearing.

3.43.1 Recommendation

New definition for National Policy Statement for Freshwater Management

National Policy Statement for Freshwater Management or NPS-FM means the National Policy Statement for Freshwater Management 2020.

Te Mana o te Wai

Te Mana o te Wai has the meaning set out in clause 1.3 of the ~~NPS-FM~~ **National Policy Statement for Freshwater Management 2020.**

3.44 *Vegetation clearance and earthworks*

657. These terms are in Policy 15. In the s 42A Report, the Officer proposed a definition of “vegetation clearance” consistent with the definition in the NRP to aid interpretation of Policy 15. The Officer had recommended that the word “vegetation disturbance” in the Policy 15 amendments as notified be replaced with “vegetation clearance” on the basis that it is intended to have the same meaning and consistency with the NRP is useful.
658. Ms Clarke for Winstone Aggregates drew the Officer’s attention to an error in the wording of the definition. Ms Clarke said the “and” at the end of each clause should read “or”. The Officer agreed that the change was needed but for consistency with other provisions in the RPS, recommended that the word “or” is only included at the end of clause (c) and “and” is deleted in between clauses.
659. The Officer also recommended a definition of “earthworks” be included that is the same definition in the National Planning Standards, again to aid interpretation.
660. We recommend that these definitions are adopted as recommended by the Officer for the reasons in the s 42A Report and Rebuttal Evidence.

Vegetation clearance: The clearance or destruction of woody vegetation (exotic or native) by mechanical or chemical means, including felling vegetation, spraying of vegetation by hand or aerial means, hand clearance, and the burning of vegetation.

Vegetation clearance does not include:

(a) any vegetation clearance, tree removal, or trimming of vegetation associated with the Electricity (Hazards from Trees) Regulations 2003, and

(b) any vegetation clearance or vegetation disturbance covered by the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017, and

(c) any vegetation clearance associated with the repair and maintenance of existing roads and tracks, and or


(d) the removal of an individual shrub or tree or a standalone clump of trees or shrubs no larger than 20m².

Earthworks: means the alteration or disturbance of land, including by moving, removing, placing, blading, cutting, contouring, filling or excavation of earth (or any matter constituting the land including soil, clay, sand and rock); but excludes gardening, cultivation, and disturbance of land for the installation of fence posts.

Nature-Based Solutions provisions

3.45 Objective CC.4 (HS3)

661. The notified Objective stated:

Objective CC.4 

Nature-based solutions are an integral part of climate change mitigation and adaptation, improving the health and resilience of people, biodiversity, and the natural environment.

662. This Objective recognises the connection between climate change and the decline of ecosystem health and biodiversity. It also recognises that nature-based solutions provide an important opportunity to mitigate and adapt to climate change, with co-benefits for the health of people and the natural environment.³⁷⁶

3.45.1 Submissions, Evidence and Analysis

663. Some submitters supported the Objective and wanted it retained (eg Rangitāne [S168.0108] and Te Tumu Paeroa [S102.007]) and others wanted it deleted or amended (eg DairyNZ [S136.012]). WIAL [S148.018] and Wellington Water [S113.004] said that NBS may not be practicable in all urban environments and could even conflict with the operation and safety of an infrastructure asset. In their view, it was appropriate to add the qualifier “where practicable”. PCC [S30.007] thought the Objective was not clear enough as to what was to be achieved. KCDC [S16.009] requested that any regulatory methods associated with the Objective are not the responsibility of city or district councils.

664. We agree with the Officer, Ms Guest, that Objective CC.4 has a resource management purpose in that nature-based solutions can contribute to achieving sustainable management by helping people and communities provide for their social, economic and cultural well-being while also safeguarding the life-supporting capacity of air, water, soil and ecosystems. The ERP, NAP and NPS-IB also contain direction regarding

³⁷⁶ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 105.

the use of NBS to address the climate and biodiversity crises.³⁷⁷ Mr Rachlin for PCC confirmed in his evidence statement that the NAP and ERP seek the prioritisation of nature-based solutions.³⁷⁸

665. We also consider that direction for territorial authorities regarding NBS comes within their s 31 RMA functions to control actual or potential effects of the use, development or protection of land.

666. We also consider the evidential basis for the Objective has been adequately set out in Mr Farrant’s evidence and we do not support DairyNZ and WFF’s relief requesting the Objective is deleted. We agree with Ms Guest that:³⁷⁹

...there is clear evidence that supports the importance of using nature-based solutions to provide climate change mitigation and adaptation and that these measures must be implemented as soon as possible to avoid more costly greenhouse gas emission reductions in the future and to increase the resilience of our communities to the climate changes to come.

667. We do not support the addition of the qualifier “where practicable” as requested by some submitters. An objective is a statement of the outcome sought to be achieved for the Region, and the way it is to be achieved is set out in the cascading policies and methods.

668. Based on the evidence of Ms Woodridge for Kāinga Ora, the Officer recommends including “well-being” in the Objective to align with the language in s 5 of the RMA.³⁸⁰ Mr Rachlin for PCC sought that the Objective be rewritten to describe an outcome instead of a means to an outcome, and he also sought reference to “green infrastructure” for consistency with the direction in the National Planning Standards.³⁸¹ Ms Rushmere for UHCC asked for the word “integral” to be replaced with “important”, otherwise all solutions would require an element of nature-

³⁷⁷ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 106.

³⁷⁸ Statement of evidence of Michael Rachlin on behalf of Porirua City Council (S30) – Planning, Climate Resilience and Nature Based Solutions, 14 August 2023, para 30.

³⁷⁹ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 108.

³⁸⁰ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, para 24.

³⁸¹ Statement of evidence of Michael Rachlin on behalf of Porirua City Council (S30) – Planning, Climate Resilience and Nature Based Solutions, 14 August 2023, paras 19 – 21; 29 – 31.

based solutions.³⁸² Ms Hunter for WIAL sought a new objective and two new policies to recognise the importance of protecting infrastructure and ensuring it is resilient to the effects of climate change.³⁸³

669. In response to this evidence, Ms Guest supports amending the note to the definition of *nature-based solutions* to include a reference to “green infrastructure” which Ms Guest explained is a subset of nature-based solutions.³⁸⁴ Ms Guest did not support Ms Rushmere’s or Mr Rachlin’s amendments as she did not think they described an outcome, and she considered that other provisions in the RPS addressed the relief Ms Hunter sought.³⁸⁵
670. The Objective was discussed as ‘Topic 2’ in caucusing. All planning experts who attended the caucusing session other than Ms Rushmere for UHCC and Mr Rachlin for PCC, supported the wording in Ms Guest’s Rebuttal evidence:³⁸⁶

Objective CC.4: Nature-based solutions are an integral part of climate change mitigation and climate change adaptation, improving the health, well-being and resilience of people, indigenous biodiversity, and the natural and physical resources environment.

671. Ms O’Sullivan, who attended on behalf of WIAL, supported Objective CC.4 as drafted above, but also sought the inclusion of a new objective as set out in Ms Hunter’s evidence for WIAL. Ms Dewar, Counsel for WIAL, explained the concern with Objective CC.4 in these terms in the hearing.³⁸⁷

My concern about CC.4 is that it has the potential for unintentionally and unnecessarily making consenting more challenging by not recognising that it’s just not appropriate in

³⁸² Statement of evidence of Suzanne Rushmere on behalf of Upper Hutt City Council (Planning), 2 August 2023, paras 92 – 93.

³⁸³ Statement of Evidence by Claire Hunter, 14 August 2023, paras 55 – 61.

³⁸⁴ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, para 25.

³⁸⁵ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, paras 26 – 28.

³⁸⁶ We note that the JWS states in para 24 that the planners in agreement supported Ms Guest’s Rebuttal version of Objective CC.4, however the wording in para 24 of the Objective differs from the wording in the Rebuttal Evidence (para 27). We have quoted the version in Ms Guest’s Rebuttal Evidence.

³⁸⁷ Hearing Transcript, HS3 – Climate Change, Day 2, page 23, lines 1153 – 1158.

all circumstances, particularly at the airport where they're on the coast and there are particular management perspectives of an airport which don't allow some nature-based solutions for obvious reasons – aircraft safety; and that that should be recognised in this document.

672. Ms Hunter also explained that plantings and wetlands (which are *nature-based solutions*) could potentially attract bird life which could present potential significant safety hazards for aircraft.³⁸⁸ Ms Raeburn for WIAL also explained the constraints at Wellington Airport given the land footprint:³⁸⁹

There isn't always a lot of space for some of the planting and biodiversity projects that other airports would be able to undertake. That said, we do engage in a lot of projects off-site in our immediate local community to support biodiversity, natural projects, tree planting and those kinds of things where we can.

673. Ms Rushmere for UHCC did not support the use of the word “integral” in Objective CC.4 and preferred that the Objective included a reference to whether NBS was practicable in the circumstances. Mr Rachlin for PCC considered that the words after “adaptation” were superfluous, and he preferred the wording set out in paragraphs 27 – 32 of his evidence statement.
674. In response to a question we asked in Minute 12, Ms Guest supported adding the words “and communities” into Objective CC.4 to reflect that NBS provides for the well-being of people at community and city scales. This amendment is also consistent with the definition of “climate resilience” which also refers to people and communities. We support this change, and we otherwise agree with the version of Objective CC.4 set out above and supported by the majority of the planning experts who attended caucusing.
675. Ms Hunter for WIAL requested the following new Objective which would “balance the prioritisation of nature-based solutions” in Objective CC.4, while also giving weight to ensuring infrastructure assets are resilient and protected:³⁹⁰

³⁸⁸ Hearing Transcript, HS3 – Climate Change, Day 2, page 27 - 28, lines 1396 – 1401.

³⁸⁹ Hearing Transcript, HS3 – Climate Change, Day 2, page 24, lines 1200 – 1204.

³⁹⁰ Statement of Evidence by Claire Hunter, HS3, 14 August 2023, para 55.

Resilient infrastructure protects and enhances the well-being of the communities within the Wellington Region.

676. Dr Dawe in his Rebuttal evidence said that in his view, Objectives 19, 21 and CC.6 (as sought to be amended by the s 42A Report for Natural Hazards in response to submissions from WIAL) all specifically provide for the resilience of infrastructure, acknowledging its important role in communities being resilient to the effects from natural hazards and climate change.³⁹¹
677. We understand WIAL and UHCC’s concerns with Objective CC.4, but we consider the wording appropriate for an outcome statement. The implementing policies (CC.4, 4A, 14 and 14A – discussed below), all state that the prioritisation of *nature-based solutions* is “as appropriate to the scale and context of the activity”. In our view, this wording tempers the concerns about the absolute tone/language of Objective CC.4 being interpreted as nature-based solutions being the primary solution.³⁹²

3.45.2 Finding

678. We agree with the Reporting Officer’s recommendations on Objective CC.4 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence

3.45.3 Recommendation

Objective CC.4:

Nature-based solutions are an integral part of *climate change mitigation* and *climate change adaptation*, improving the health, *well-being* and *resilience* of people and communities, *indigenous biodiversity*, and ~~the~~ natural and physical resources environment.


³⁹¹ Statement of Rebuttal Evidence of Dr Iain Dawe and James Beban on behalf of Wellington Regional Council, HS3 – Natural Hazards, 22 August 2023, para 85.


³⁹² As expressed by Ms Hunter for WIAL, Hearing Transcript, HS3 – Climate Change, Day 2, page 27, lines 1388 – 1394.

3.46 Policy CC.4: Climate resilience urban areas – district and regional plans

Policy CC.14: Climate resilient urban areas - consideration (HS 3)

679. The notified Policies stated:

<u>Policy CC.4: Climate resilient urban areas – district and regional plans</u>	
<p><u>District and regional plans shall include policies, rules and/or methods to provide for climate-resilient urban areas by providing for actions and initiatives described in Policy CC.14 which support delivering the characteristics and qualities of well-functioning urban environments.</u></p> <p><u>Explanation</u></p> <p><u>Policy CC.4 directs regional and district plans include relevant provisions to provide for climate resilient urban areas. For the purposes of this policy, climate-resilient urban areas mean urban environments that have the ability to withstand:</u></p> <ul style="list-style-type: none"> • <u>Increased temperatures and urban heat island</u> • <u>Increased intensity of rainfall and urban flooding</u> • <u>Droughts and urban water scarcity and security</u> • <u>Increased intensity of wind, cold spells, landslides, fire, and air pollution</u> <p><u>The policy is directly associated with Policy CC.14 which provides further direction on actions and initiatives to provide for climate resilient urban areas. It is noted that other policies of this RPS also provide for actions and initiatives to deliver climate resilient urban areas, including Policy FW.3.</u></p>	

<u>Policy CC.14: Climate-resilient urban areas – consideration</u>	
<p><u>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, provide for actions and initiatives, particularly the use of nature-based solutions, that contribute to climate-resilient urban areas, including:</u></p> <p>(a) <u>maintaining, enhancing, restoring, and/or creating urban greening at a range of spatial scales to provide urban cooling, including working towards</u></p>	

	<u>a target of 10 percent tree canopy cover at a suburb-scale by 2030, and 30 percent cover by 2050,</u>
(b)	<u>the application of water sensitive urban design principles to integrate natural water systems into built form and landscapes, to reduce flooding, improve water quality and overall environmental quality,</u>
(c)	<u>capturing, storing, and recycling water at a community-scale (for example, by requiring rain tanks, and setting targets for urban roof area rainwater collection),</u>
(d)	<u>protecting, enhancing, or restoring natural ecosystems to strengthen the resilience of communities to the impacts of natural hazards and the effects of climate change,</u>
(e)	<u>providing for efficient use of water and energy in buildings and infrastructure, and</u>
(f)	<u>buildings and infrastructure that are able to withstand the predicted future temperatures, intensity and duration of rainfall and wind.</u>
	Explanation
	<u>Climate change, combined with population growth and housing intensification, is increasingly challenging the resilience and well-being of urban communities and natural ecosystems, with increasing exposure to natural hazards, and increasing pressure on water supply, wastewater and stormwater infrastructure, and the health of natural ecosystems.</u>
	<u>This policy identifies the key attributes required to develop climate-resilience in urban areas and requires district and regional councils to take all opportunities to provide for actions and initiatives, particularly nature-based solutions, that will prepare our urban communities for the changes to come.</u>

680. Proposed Change 1 introduced new Policies CC.4 and CC.14 to require development and infrastructure to be located, designed and constructed in ways that provide for climate change mitigation, adaptation and resilience. The provisions set out the key considerations for climate-resilient development, prioritising nature based solutions.³⁹³ The clauses in the Policies respond to different climate stressors, such as increased temperature, increased intensity of rainfall and urban flooding, increased discharge of urban contaminants, droughts and urban water scarcity and security.³⁹⁴ The technical evidence of Mr Farrant discusses the significant risks for people and the environment if “business-as-usual” development continues in the face of predicted climate change.

³⁹³ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 174.

³⁹⁴ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 44.

3.46.1 Submissions, Evidence and Analysis

681. There was a range of views on the provisions. Some submitters, such as HCC [S115.063], requested that duplication with the freshwater policies is removed, others requested various amendments to improve drafting clarity, and others requested the Policies are deleted due to lack of legislative mandate. KCDC [S16.027] said that the tree cover targets for suburban areas conflicted with development enabled by the Medium Density Residential Standards.
682. Some submitters were concerned about the level of direction for territorial authorities in Policy CC.4, which requires development and infrastructure to be located, designed and constructed in ways that provide for climate change mitigation, climate change adaptation and climate-resilience, prioritising the use of nature based solutions and informed by mātauranga Māori. Ms Guest and Mr Farrant explained at the hearing that the aim was to state the outcome intended, and leave some flexibility for how the outcome is achieved. Mr Farrant explained the need for clear direction for district plans to impose explicit requirements on permitted activity standards for instance. He said:³⁹⁵
- “if those standards are not clear anywhere, then that’s what currently is being observed at the moment. Many small developments are not required to do anything and therefore just continue to make, certainly from an urban water perspective, continue to make things worse.”
683. We agree with Ms Guest that the Policies have a RMA purpose and there is appropriate legislative mandate for the reasons outlined in Ms Guest’s s 42A Report³⁹⁶ and also set out in the Regulatory Framework section at the beginning of this Report. In particular, we agree that district plans can and should include provisions supporting the built environment to withstand climate change impacts and give effect to Te Mana o te Wai, as directed in clause 3.5(4) and Policy 4 of the NPS-FM, and also supported in the ERP and NAP.³⁹⁷
684. While nature-based solutions is an umbrella concept that covers a range of measures that improve resilience and mitigate climate change, it has a specific and increasingly important role in managing freshwater quality

³⁹⁵ Hearing Transcript, HS3 – Climate Change, Day 1, page 81, lines 4144 – 4148.

³⁹⁶ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, paras 104, 150 – 151.

³⁹⁷ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 152.

and quantity and hence the inclusion of these provisions in the FPI. As Mr Farrant explains in his technical evidence provided on behalf of the Council, nature-based solutions can reduce the impacts of high intensity rainfall events and manage stormwater flows to mitigate flooding risk and retain natural stream flows as much as possible through hydrological control, water sensitive urban design techniques and other measures to protect communities and ecosystems.³⁹⁸

685. As stated in the s 32 Report³⁹⁹ and Mr Farrant's evidence, natural ecosystems provide resilience including through carbon sequestration and storage, rain gardens, water sensitive urban design techniques that can act as sinks and mitigate natural hazard risk, as well as improve stormwater management which has many co-benefits for people and ecosystems.
686. Policy 4 of the NPS-FM directs freshwater to be managed as part of New Zealand's integrated response to climate change. This speaks directly to managing freshwater as part of climate change mitigation and adaptation.
687. We support Ms Guest's recommendation in the s 42A Report to separate Policies CC.4 and CC.14 into four policies to provide separate regulatory and consideration policies for territorial authorities and the regional council. This clarifies roles and responsibilities.
688. No consensus was reached on the drafting of the Policies during caucusing.⁴⁰⁰
689. Mr Rachlin for PCC agreed with the Officer that the NAP and ERP seek the prioritisation of nature-based solutions.⁴⁰¹ However, he had concerns about the workability of the policies, and considered clauses (a) to (f) in Policies CC.4 and CC.14 contained an inappropriate level of prescriptiveness and unnecessary duplication. Mr Rachlin set out in his evidence examples of the nature-based solutions contained in the Porirua Proposed District Plan.⁴⁰²

³⁹⁸ Statement of Evidence of Stuart Farrant on behalf of Wellington Regional Council, Technical Evidence – Climate-Resilience and Nature-based Solutions, 7 August 2023.

³⁹⁹ Section 32 Report, including pages 72 and 173.

⁴⁰⁰ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, para 29.

⁴⁰¹ Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Resilience and Nature-Based Solutions, 14 August 2023, para 30.

⁴⁰² Statement of evidence of Michael Rachlin on behalf of Porirua City Council, Planning, Climate Resilience and Nature-Based Solutions, 14 August 2023, paras 36 – 46.

690. Some other experts were concerned about the lack of clarity as to how territorial authorities can promote clauses (d) and (e) within the context of the consenting process and they also said (for instance Ms Rushmere for UHCC and Ms Woodbridge for Kāinga Ora) that unnecessary duplication should be avoided where possible. Various experts raised other concerns with the wording in the Policies,⁴⁰³ including concern at how the active term ‘promoting’ is to be achieved in the context of the Policies, and how territorial authorities were to set targets for urban roof area rainwater collection (clause (b) in Ms Guest’s Reply version). Ms Rushmere for UHCC was concerned about duplication, the level of specificity and direction to territorial authorities, and said the tree cover targets conflict with the Medium Density Residential Standards, and the lack of space in some urban sites would mean the measures in Policy CC.14 could not be implemented.⁴⁰⁴
691. Ms Guest addressed many of these concerns in her Rebuttal Evidence. She said each of the clauses in the provisions respond to different climate stressors listed in the Explanation to Policy CC.4, and this was supported by Mr Farrant’s technical evidence.⁴⁰⁵ Ms Guest considered that the Policies give flexibility to territorial authorities to draft provisions in a way that is appropriate to their district and the specific activities being addressed,⁴⁰⁶ and that it was appropriate, and justified for plan provisions to be developed to require development and infrastructure to be located, designed and constructed in ways that are responsive to climate change (including through the use of permitted activity standards and design guides setting appropriate conditions within the planning framework).⁴⁰⁷ Ms Guest recommended various amendments to address relief sought by Ms Horrox for Wellington Water and other submitters.⁴⁰⁸ She thought there was a strong evidence base supporting the value of 30% green space in

⁴⁰³ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, paras 31 – 39.

⁴⁰⁴ Statement of Evidence of Suzanne Rushmere on behalf of Upper Hutt City Council (Planning), 2 August 2023.

⁴⁰⁵ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 44.

⁴⁰⁶ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 45.

⁴⁰⁷ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 48.

⁴⁰⁸ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, paras 55 – 56.

urban areas and that this was appropriate as a 2050 target, and a 10% ‘near-term’ target was realistic.⁴⁰⁹

692. We note some experts in caucusing supported Ms Guest’s amendments to the chapeau to refer to “as appropriate to the scale and context of the activity”.
693. We agree with the Officer that both city/district and regional councils have roles to promote and support the use nature-based solutions. The NAP and ERP direct that the use of nature-based solutions be prioritised within the planning and regulatory systems to address the climate and biodiversity crises together. We agree with the amendments the Officer proposes to definitions of *climate change mitigation* and *climate change adaptation* as this will improve clarity and help to achieve the policy intent. We agree with the Officer that “climate responsive” includes adaptation, mitigation and resilience in its natural and ordinary meaning and does not require a definition.

3.46.2 Integrating the HS 5 and HS 3 provisions

694. In Minute 18, we asked Ms Pascall and Ms Guest to review alignment and workability of the nature-based solutions provisions with the HS5 provisions regarding hydrological control, hydraulic neutrality and water sensitive urban design. We asked whether the provisions and definitions collectively worked as a cohesive, easy to understand and implement suite of provisions.
695. Ms Pascall said that nature-based solutions is an umbrella term and concepts and methods such as water sensitive design and hydrological control are subsets of nature-based solutions. Hydrological control is a specific concept that is focussed on managing the effects of stormwater runoff on freshwater ecosystem health and is part of implementing Te Mana o te Wai in the RPS.⁴¹⁰
696. At the Hearing, in response to questions, Mr Farrant said that hydrological controls are a subset of water sensitive urban design. He helpfully explained the relationship in this way:⁴¹¹

⁴⁰⁹ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3, Climate-Resilience and Nature-Based Solutions, 21 August 2023, para 51.

⁴¹⁰ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 35.

⁴¹¹ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 32, lines 1608 – 1620.

Water sensitive urban design is really a philosophy or set of principles around developing in a way that considers all aspects of water – so that’s water quality, water quantity in terms of hydrological controls, but also in terms of flooding and also in terms of community education and connection with waterways and things. It’s quite an all-encompassing sort of philosophy around development. Hydrological controls is then just one small subset of that. I guess nature-based solutions is probably best described as a much bigger subset of that as well. That’s where you’re then either using nature or intentionally mimicking nature to achieve those outcomes. Broadly that aligns with water sensitive urban design, but there [are] probably some examples of water sensitive urban design like education, like reducing demand on water and things that don’t also sit in the nature-based solutions suite

697. Later, Mr Farrant added to this explanation:⁴¹²

obviously the intent to either use or mimic nature is really important; so hydrological controls were trying to come up with run-off from a catchment that more or less replicates what you would have in a natural catchment. You’re using non-nature things. It might be a large concrete tank with a pump, or something, but you’re doing it intentionally to try and mimic what nature would be doing if she was left to her own devices.

698. And then further, he clarified that “... hydrological control is about water quantity in ... small rainfall events”. Ms Lockyer, presenting evidence for Wellington Water, agreed with this in her evidence presented during the hearing.⁴¹³

699. Ms Pascall said that the purpose of hydrological control is:⁴¹⁴

primarily to manage stormwater runoff volume, rather than contaminants, because the increased volume of stormwater runoff into waterbodies can change the natural processes and characteristics of these waterbodies including the habitats the freshwater ecosystems rely on.

⁴¹² Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 36, lines 1804 - 1805.

⁴¹³ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 43, lines 2156 – 2158.

⁴¹⁴ Reporting Officer Right of Reply of Kate Pascall on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater and Te Mana o te Wai, 20 December 2023, paras 55.

700. In discussing the relationship between “nature-based solutions”, “hydrological control” and “water sensitive urban design”, Mr Farrant said:⁴¹⁵

Provisions in Change 1 relating to hydrological control, water sensitive urban design and, to a lesser extent hydraulic neutrality, comprise a smaller subset of the broad suite of nature-based solutions with a specific focus on stormwater management to protect freshwater values and provide community resilience.

701. Mr Farrant also commented that the provisions of Change 1 have intentionally focussed on the outcome sought, rather than the methods to achieve this, and there will be opportunities to adopt nature-based solutions through specific implementation of water sensitive design strategies to meet proposed hydrological controls.⁴¹⁶

702. The evidence presented by Ms Penfold for Wellington Water at the Hearing was informative. She confirmed, in response to a question we posed, that there are provisions currently in district plans that require urban development to be designed, constructed and maintained to achieve hydraulic neutrality designed to a particular storm event as set out in the district plan.⁴¹⁷ Ms Penfold provided additional context regarding Wellington Water’s infrastructure:⁴¹⁸

The stormwater network is primarily at the moment there to manage flooding, which has caused problems with contamination, but that’s a separate topic. It’s there to manage flooding. We can’t keep upgrading our network and making the pipes bigger and bigger to absorb all the water flowing off as a result of increased impermeable surfaces, so we’ve been working with the councils so that we have source control in place to manage the amount of stormwater coming off the sites in the design events, so that we can continue to manage flooding through our piped network as best as we can.

703. In her Reply Evidence, and in conjunction with Ms Guest, the Reporting Officer for HS3 – Climate Resilience and Nature-Based Solutions, Ms Pascall recommended amendments to Policies CC.4, CC.4A, CC.14 and

⁴¹⁵ Right of Reply of Stuart Farrant on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater, 20 December 2023, para 10.

⁴¹⁶ Right of Reply of Stuart Farrant on behalf of Wellington Regional Council, Hearing Stream 5 – Freshwater, 20 December 2023, para 12.

⁴¹⁷ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 52 lines 2611 – 2621.

⁴¹⁸ Hearing Transcript, HS5 – Freshwater and Te Mana o te Wai, Day 1, page 52, lines 2626 – 2635.

CC.14A (coded to HS3), to remove unnecessary duplication with the HS5 provisions. These changes included:

- a. Deleting Policies CC.4(b), CC4A(a) and (b), CC.14(b), and CC.14A(a) and (b), and
- b. adding text to the policy explanations of each of the above policies to provide appropriate linkages to Policy 14, Policy FW.3, and Policy FW.XX where there are more specific requirements that also contribute to achieving climate-resilience.

704. We support the replacement of “seek” with “require” in Policy CC.14A and consider that this is appropriate to achieve the outcomes in both Objective CC.4 and Objective 12, as well as with national management plans and strategies such as the NAP. As was clarified at the Hearing, the intention is to provide for all opportunities to provide for actions and initiatives to prepare communities for climate change⁴¹⁹ and we therefore consider that the strong verb “require” is therefore appropriate. We also note the support provided by Clause 3.5(2) of the NPS-FM refers to “[RPS provisions] to the extent needed” to provide for integrated management of the effects of the use and development of land on freshwater and on receiving environments.

705. We also support Ms Guest’s recommendation to delete “urban” from the explanation, as the policy applies to other areas such as rural residential areas. We agree with the inclusion of “informed by mātauranga Māori” in the Policies and note this is supported by Ms Gibb for Ātiawa.⁴²⁰ Dr Aroha Spinks from Ngā Hapū o Ōtaki also said during the hearing that Ngā Hapū want to see consistency throughout the climate change policies with its Treaty partners, the Regional Council and Kapiti Coast District Council “that is informed by our mātauranga and expertise”.⁴²¹ Dr Spinks said:⁴²²

... we advocate that we are the best to provide the mātauranga and knowledge of our ancestral landscape and that we have expertise in climate action and adaptation strategies within our rohe. Working alongside western based knowledge systems, such as climate science and predictions, socio ecological infrastructure and economic assessments; however, we would like to highlight that kaupapa Māori and te ao Māori

⁴¹⁹ Hearing Transcript, HS3 – Climate Change, Day 1, page 83, lines 4212 - 4223.

⁴²⁰ Hearing Transcript, HS3 – Climate Change, Day 3, pages 75 – 76, lines 3843 – 3849.

⁴²¹ Hearing Transcript, HS3 – Climate Change, Day 4, page 23, lines 1152 – 1154.

⁴²² Hearing Transcript, HS3 – Climate Change, Day 4, page 24, lines 1182 - 1190.

frameworks, as well as our own science and cultural practices, are not only valid but have been successful over centuries within this country. So, therefore it would be very appropriate to be used in the future in the next phase of planning as well as climate resilience.”

706. Ms Craig for Rangitāne said:⁴²³

Mātauranga Māori is a way in which we see the world within te ao Māori. It is completely different to how you see the world in a te ao Pākehā lens and with western science. For us it is the intergenerational view of our whenua, our awa, our āngi, our taiao and our whakapapa. It is how we pay homage to our atua, all of which have a purpose. We work throughout our lives to uphold their mana.

707. We discussed the HS3 and HS5 provisions with Ms Allan and she considered they were appropriately integrated and did not contain any unnecessary duplication, and were clear as to the allocation of roles and responsibilities between local authorities.

3.46.3 Finding

708. We agree with the Reporting Officers’ recommendations on Policies CC.4 and CC.14, and the inclusion of new Policies CC.4A and CC.14A for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.46.4 Recommendation

Policy CC.4: Climate-responsive resilient development urban areas – district and regional plans

District and regional plans shall include objectives, policies, rules and non-regulatory methods to provide for climate-resilient urban areas by providing for actions and initiatives described in Policy CC.14 which support delivering the characteristics and qualities of well-functioning urban environments: require development and infrastructure to be located, designed, and constructed in ways that provide for climate change mitigation, climate change adaptation and climate-resilience, prioritising the use of nature-based solutions and informed by mātauranga Māori. This includes, as appropriate to the scale and context of the activity:

(a) requiring provision of urban green space, particularly canopy trees, to reduce urban heat and reduce stormwater flowrates:

i. prioritising the use of appropriate indigenous species, and

⁴²³ Hearing Transcript, HS3 – Climate Change, Day 4, page 33, lines 1630 – 1634.

ii. ~~working contributing towards achieving a wider target of 10 percent tree canopy cover at a suburb-scale by 2030, and 30 percent cover by 2050,~~

~~(b) requiring application of water-sensitive urban design principles, hydrological controls, and other methods to improve water quality, overall environmental quality, minimise flooding and maintain, to the extent practicable, natural stream flows.~~

~~(be) requiring methods to increase water resilience, including harvesting of water at a domestic and/or community-scale for non-potable uses (for example by requiring rain tanks, rainwater reuse tanks, and setting targets for urban roof area rainwater collection),~~

~~(cd) requiring that significant adverse effects on the climate change mitigation, climate change adaptation and climate-resilience functions and values of an ecosystem shall be avoided, and other adverse effects on these functions and values shall be avoided, minimised, or remedied,~~

~~(de) promoting efficient use of water and energy in buildings and infrastructure, and~~

~~(ef) promoting appropriate design of buildings and infrastructure so they are able to withstand the predicted future higher temperatures, intensity and duration of rainfall and wind over their anticipated life span.~~

Explanation

Policy CC.4 directs ~~regional and district plans to include relevant provisions to provide for climate-resilient development and infrastructure to respond to the predicted effects of climate change. The policy seeks that priority be given to the use of nature-based solutions, recognising the multiple-benefits they can provide for people and nature. It also seeks to manage any adverse effects of activities on the climate change functions and values of ecosystems.~~

For the purposes of this policy, climate-resilient urban areas mean urban environments that have the ability to withstand:

- ~~Increased temperatures and urban heat island~~
- ~~Increased intensity of rainfall and urban flooding and increased discharge of urban contaminants~~
- ~~Droughts and urban water scarcity and security~~
- ~~Increased intensity of wind, cold spells, landslides, fire, and air pollution~~

The policy is directly associated with Policy CC.14 which provides further direction on actions and initiatives to provide for climate resilient urban areas.

It is noted that other policies of this RPS also provide for actions and initiatives to deliver ~~climate-resilient infrastructure and development urban areas, including Policy FW.3. This includes requirements to apply water sensitive urban design principles and hydrological control in urban development in Policy 14, Policy FW.3, and Policy FW.XX (Hydrological control in urban development).~~

Policy CC.4A: Climate-responsive resilient development – regional plans

Regional plans shall include objectives, policies, rules and non-regulatory methods to require development and *infrastructure* to be located, designed, and constructed in ways that provide for *climate change mitigation, climate change adaptation and climate-resilience*, prioritising the use of *nature-based solutions* and informed by *mātauranga Māori*. This includes ~~ing by~~, as appropriate to the scale and context of the activity:

~~(a) requiring the application of water-sensitive urban design principles and methods to improve water quality and overall environmental quality, including by requiring stormwater contaminants to be avoided or minimised in discharges to the stormwater network or to water;~~

~~(b) requiring stormwater flowrates and volumes to be managed to minimise flooding and to maintain, to the extent practicable, natural stream flow rates and volumes, and~~

~~(ae) requiring significant adverse effects on the *climate change mitigation, climate change adaptation and climate-resilience* functions and values of an ecosystem be avoided, and other adverse effects on these functions and values be avoided, minimised, or remedied.~~

Explanation

Policy CC.4A directs *regional plans* to include provisions to provide for *climate-resilient development and infrastructure*. The policy seeks that priority be given to the use of *nature-based solutions*, recognising the multiple benefits they can provide for people and nature. It also seeks to manage any adverse effects of activities on the climate change functions and values of ecosystems.

It is noted that other policies of this RPS also provide for actions and initiatives to deliver *climate-resilient infrastructure* and development, including Policy FW.14 requirements to apply *water sensitive urban design principles and hydrological control* in Policy 14, Policy FW.3 and Policy FW.X~~X~~ (*Hydrological control in urban development*).

Policy CC.14: Climate-responsive resilient development urban areas – district and city council consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a *district or regional plan*, ~~require seek~~ that development and *infrastructure* is located, designed and constructed in ways that provide for *climate change mitigation, climate change adaptation and climate-resilience*, ~~provide for actions and initiatives~~, particularly prioritising the use of *nature-based solutions* and informed by *mātauranga Māori*. This includes ~~ing by~~, as appropriate to the scale and context of the activity:

~~(a) maintaining, enhancing, restoring, and/or creating urban green space at a range of spatial scales to provide urban cooling, including, providing urban green space, particularly canopy trees, to reduce urban heat and reduce *stormwater* flowrates:~~

i. ~~prioritising the use of appropriate indigenous species, and~~

ii. ~~contributing working towards~~ achieving a wider target of 10 percent *tree canopy* cover at a suburb-scale by 2030, and 30 percent cover by 2050,

~~(b) the application of water-sensitive urban design principles, hydrological controls, and other methods to integrate natural water systems into built form and landscapes, to reduce flooding, improve water quality and overall environmental quality, minimise flooding and maintain, to the extent practicable, natural stream flows;~~

~~(be) methods to increase water resilience, including by requiring harvesting of water at a domestic and/or capturing, storing, and recycling water at a~~ community-scale for non-potable uses (for example by requiring rain tanks, ~~rainwater re-use tanks~~, and setting targets for urban roof area rainwater collection),

~~(cd) protecting, enhancing, or restoring natural ecosystems to strengthen the resilience of communities to the impacts of natural hazards and the effects of climate change; avoiding significant adverse effects on the climate change mitigation, climate change adaptation and climate-resilience functions and values of an ecosystem, and avoiding, minimising, or remedying other adverse effects on these functions and values,~~

~~(de) providing for promoting~~ efficient use of water and energy in buildings and ~~infrastructure, and~~

~~(ef) promoting appropriate design of~~ buildings and ~~infrastructure that so they~~ are able to withstand the predicted future higher temperatures, intensity and duration of rainfall and wind ~~over their~~ anticipated life span.

Explanation

Climate change, combined with population growth and housing intensification, is increasingly challenging the *resilience* and well-being of ~~urban~~ communities and natural ecosystems, with increasing exposure to natural hazards, and increasing pressure on water supply, wastewater and stormwater infrastructure, and the health of natural ecosystems.

This policy identifies the key attributes required to ~~ensure that development and infrastructure provide for develop~~ *climate-resilience in urban areas* and requires district ~~and regional~~ councils to take all opportunities to provide for actions and initiatives, particularly *nature-based solutions*, that will prepare our ~~urban~~ communities for the changes to come. ~~Managing stormwater runoff following intense rainfall events and contaminants from urban development also contributes to the achievement of Policy CC.14 and these matters are addressed through the requirements of Policies 40 and 42.~~

Policy CC.14A: Climate-responsive development – regional council consideration

~~When considering an application for a resource consent, or a change, variation, or review of a regional plan, require seek~~ that development and ~~infrastructure~~ is located, designed,

and constructed in ways that provide for *climate change mitigation, climate change adaptation and climate-resilience*, prioritising the use of *nature-based solutions* and informed by *mātauranga Māori*. This includes, as appropriate to the scale and context of the activity:

~~(a) the application of water-sensitive urban design principles and methods to improve water quality and overall environmental quality, including by avoiding or minimising stormwater contaminants in discharges to the stormwater network or to water.~~

~~(b) managing stormwater flowrates and volumes to minimise flooding and to maintain, to the extent practicable, natural stream flows, and~~

~~(c) avoiding significant adverse effects on the *climate change mitigation, climate change adaptation and climate-resilience* functions and values of an ecosystem and avoiding, minimising, or remedying other adverse effects on these functions and values.~~

Explanation


Climate change, combined with population growth and housing intensification, is increasingly challenging the resilience and well-being of *urban* communities and natural ecosystems, with increasing exposure to natural hazards, and increasing pressure on water supply, wastewater and *stormwater infrastructure*, and the health of natural ecosystems.

This policy identifies the key attributes required to ensure that development and *infrastructure* provides for *climate-resilience* and requires the regional council to take all opportunities to provide for actions and initiatives, particularly *nature-based solutions*, that will prepare our communities for the changes to come.

It is noted that other policies of this RPS also provide regulatory requirements ~~to deliver climate-resilient infrastructure and development to apply water sensitive urban design principles and hydrological control including Policies 14, Policy FW.3, Policy FW.XX~~ (*Hydrological control in urban development*) and Policy 42.

3.47 Policy CC.12: Protect, enhance and restore ecosystems that provide nature-based solutions to climate change – consideration (HS3)

709. The notified Policy stated:

Policy CC.12: Protect, enhance and restore ecosystems that provide nature-based solutions to climate change – consideration	
<p><u>When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may adversely affect a <i>nature-based solution</i> to climate change and particular regard shall be given to avoiding adverse effects on the <i>climate change mitigation or adaptation functions</i>.</u></p> <p>Explanation <u><i>Nature-based solutions</i> are critical components of the region’s climate change response. This policy seeks to <i>protect</i> the functions that they provide to support <i>climate change mitigation</i> and/or mitigation.</u></p>	

710. The Policy aims to ensure that the impact of development on the climate change mitigation or adaptation functions of natural ecosystems are appropriately addressed.⁴²⁴

3.47.1 Submissions, Evidence and Analysis

711. There were approximately 22 submissions and 16 further submissions on this Policy.

712. Some submitters sought the Policy be strengthened and others recommended it be deleted as its application was not clear and it was not supported by the RMA or other higher-order documents.

713. The s 42A Report explains the RMA purpose and drivers for nature-based solutions and we summarise the key aspects above in relation to the CC.4-CC.14A suite and the Regulatory Framework section above. The Officer recommends in the s 42A Report that Policy CC.12 is deleted as its intent is captured in the amendments recommended to clause (d) of Policies CC.4 and CC.14, and clause (c) of new Policies CC.4A and CC.14A. These provisions are a more appropriate way, the Officer states, to ensure that development does not adversely impact nature-based functions or values of ecosystems or habitats.

⁴²⁴ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 215.

714. The planning experts who attended caucusing agreed that Policy CC.12 was not in contention.⁴²⁵

3.47.2 Finding

715. We agree with the Reporting Officer’s recommendation to delete Policy CC.12 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.47.3 Recommendation

~~Policy CC.12: Protect, enhance and restore ecosystems that provide nature-based solutions to climate change – consideration~~


~~When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may adversely affect a nature-based solution to climate change and particular regard shall be given to avoiding adverse effects on the climate change mitigation or adaptation functions.~~

~~Explanation: Nature-based solutions are critical components of the region’s climate change response. This policy seeks to protect the functions that they provide to support climate change mitigation and/or mitigation.~~

⁴²⁵ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, para 15(d).

3.48 Policy FW.8: Land use adaptation (HS3)

716. The notified Policy stated:

<u>Policy FW.8: Land use adaptation – non regulatory</u>	
	
<u>Promote and support water resilience and <i>climate change adaptation</i> in land use practices and land use change including:</u>	
(a)	<u>Preparing and disseminating information about climate resilient practices</u>
(b)	<u>promoting water resilience in Farm Plans; and</u>
(c)	<u>supporting primary sector groups and landowners in researching and promoting climate resilient land uses and pathways to move to new land uses.</u>
<u>Explanation</u>	
<u>Policy FW.8 promotes and supports climate change adaption in land use practices and change.</u>	

3.48.1 Submissions, Evidence and Analysis

717. There were approximately 13 submissions and 12 further submissions on this Policy.

718. Some submitters requested that the Policy not apply to city and district councils (eg HCC [S115.087]) and UHCC [S34.016] said it was not clear at what scale properties are expected to require farm plans. WFF [S163.084] sought that the Policy be deleted. HortNZ [S128.053] sought an amendment to clause (c) to include research of lower emissions land uses. Sustainable Wairarapa [S148.048] sought an amendment to include prototyping, researching, and promoting nature-based solutions, such as swales, bunds, and leaky dams.

719. The role and responsibilities of territorial authorities in freshwater management is clear in clause 3.5(4) of the NPS-FM as discussed previously in this Report. Clause 3.5(3) also requires local authorities that share jurisdiction over a catchment to co-operate in the integrated management of the effects of land use and development on freshwater.

720. The Officer recommends amending Policy FW.8 to clarify that it refers to freshwater farm plans, including “lower emission” land use in clause (c), and adding a new clause (d) to support the development of practical, on-farm nature-based solutions for water resilience.

721. We agree with the Officer’s recommendations and consider that they will assist to achieve Objective CC.4 and, in turn, higher order national direction.

3.48.2 Finding

722. We agree with the Reporting Officer's recommendations on Policy FW.8 for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence.

3.48.3 Recommendation

Policy FW.8: Land use adaptation – non regulatory

Promote and support water resilience and *climate change adaptation* in land use practices and land use change including:


- a. ~~P~~reparing and disseminating information about *climate-resilient* practices,
- b. promoting water resilience in **Freshwater** Farm Plans,
- c. supporting primary sector groups and landowners in researching and promoting *climate-resilient and lower emission* land uses and pathways to move to new land uses, and
- d. ~~prototyping, researching, and promoting~~ *nature-based solutions that support water resilience, such as swales and bunds.*

Explanation

Policy FW.8 promotes and supports **water resilience and climate change adaptation** in land use practices and change.

3.49 Method CC.6: Identifying nature-based solutions for climate change

723. The notified Method stated:

<u>Method CC.6: Identifying nature-based solutions for climate change</u>	
<p><u>By 30 June 2024, the Wellington Regional Council will, in partnership with mana whenua / tangata whenua, identify ecosystems in the Wellington Region that should be prioritised for protection, enhancement, and restoration for their contribution as a nature-based solution to climate change, including those that:</u></p> <ul style="list-style-type: none"><u>(a) sequester and/or store carbon (e.g., forest, peatland),</u><u>(b) provide resilience to people and the built environment from the impacts of climate change (e.g., coastal dunelands, street trees, and wetlands),</u><u>(c) provide resilience for indigenous biodiversity from the impacts of climate change, enabling ecosystems and species to persist or adapt (e.g., improving the health of a forest to allow it to better tolerate climate extremes).</u> <p><i>Implementation: Wellington Regional Council</i></p>	

724. The Method aims to support the implementation of the nature-based solutions provisions in Proposed Change 1 through the identification, led by the Regional Council, of priority nature-based solutions at an ecosystem scale. Clause (b) provides for the identification of nature-based solutions that will provide resilience to people and the built environment from the effects of climate change.

3.49.1 Submissions, Evidence and Analysis

725. There were approximately 11 submissions and 12 further submissions on this Method. Some submitters sought more clarity around the role of territorial authorities and others requested its deletion. Rangitāne [S168.0152] sought inclusion of ecosystems that provide nature-based solutions to natural hazard mitigation. Fish and Game [S147.098] sought reference to “valued introduced biodiversity” in addition to “indigenous biodiversity”.

726. The Officer agreed with the relief proposed by Rangitāne and recommended an amendment to clause (b) to refer to natural-hazards. The Officer did not agree with including valued introduced biodiversity, as the core principles of nature-based solutions are that they provide benefits for climate change and indigenous biodiversity.

727. In response to a question we posed in Minute 12 regarding the involvement of other stakeholders in the identification of ecosystems, the Officer said that the intent was for consultation or partnership with a range of stakeholders. The Officer recommended including “other stakeholders as appropriate” in the chapeau to the Method.
728. Method CC.6, as proposed to be amended by the Reporting Officer, will help achieve Objective CC.4 and provide resilience from the impacts of climate change and natural hazards consistent with the direction in the NPS-FM, NAP and ERP.

3.49.2 Finding

729. We agree with the Reporting Officer’s recommendations on Method CC.6 for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.49.3 Recommendation

Method CC.6: Identifying nature-based solutions for climate change


By 30 June 2024, the Wellington Regional Council will, in partnership with mana whenua/tangata whenua and other stakeholders as appropriate, identify ecosystems in the Wellington Region that should be prioritised for protection, enhancement, and restoration for their contribution as a nature-based solution to climate change, including those that:

- (a) sequester and/or store carbon (e.g., forest, peatland),
- (b) provide resilience to people from the impacts of climate change, including from natural hazards (e.g., coastal dunelands, street trees, and wetlands), and
- (c) provide resilience for indigenous biodiversity from the impacts of climate change, enabling ecosystems and species to persist or adapt (e.g., improving the health of a forest to allow it to better tolerate climate extremes).

Implementation: Wellington Regional Council

Definitions (HS3)

3.50 Nature-based solutions

Nature-based solutions	
<p><u>Actions to protect, enhance, or restore natural ecosystems, and the incorporation of natural elements into built environments, to reduce greenhouse gas emissions and/or strengthen the resilience of humans, indigenous biodiversity and the natural environment to the effects of climate change.</u></p>	
<p><u>Examples include:</u></p>	
<p><u>Reducing greenhouse gas emissions (climate change mitigation):</u></p>	
<ul style="list-style-type: none">• <u>planting forests to sequester carbon</u>• <u>protecting peatland to retain carbon stores</u>	
<p><u>Increasing resilience (climate change adaptation):</u></p>	
<p><u>(a) providing resilience for people</u></p>	
<ul style="list-style-type: none">• <u>planting street trees to provide relief from high temperatures</u>• <u>restoring coastal dunelands to provide increased resilience to the damaging effects of storms linked to sea level rise</u>	
<ul style="list-style-type: none">• <u>leaving space for rivers to undertake their natural movement and accommodate increased floodwaters,</u>	
<ul style="list-style-type: none">• <u>the use of water sensitive urban design, such as rain gardens to reduce stormwater runoff in urban areas</u>	
<p><u>(b) providing resilience for ecosystems and species</u></p>	
<ul style="list-style-type: none">• <u>restoring indigenous forest to a healthy state to increase its resilience to increased climate extremes</u>	
<ul style="list-style-type: none">• <u>leaving space for estuarine ecosystems, such as salt marshes, to retreat inland in response to sea level rise.</u>	

730. *Nature-based solutions* is an umbrella term for interventions designed with nature to restore ecosystems, reverse biodiversity loss, manage water and respond to climate change.⁴²⁶ It covers a broad range of measures that support climate resilience and mitigate the effects of climate change, including ‘green infrastructure’, ‘blue-green infrastructure’ and water-sensitive urban design. As Mr Farrant explains in his technical evidence provided on behalf of the Council, nature-based solutions can reduce the impacts of high intensity rainfall events and manage stormwater flows to mitigate flooding risk and retain natural stream flows as much as possible

⁴²⁶ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 76.

through hydrological control, water sensitive urban design techniques and other measures to protect communities and the environment.

3.50.1 Submissions, Evidence and Analysis

731. There were 62 original and 15 further submissions on the proposed definition.
732. Rangitāne [S168.090] supported the definition and Forest and Bird [S165.0136] also supported it and requested further examples for ecosystems and species beyond forests and estuaries. Sustainable Wairarapa [S144.036] and Ian Gunn [S139.010] supported the definition in part and requested an additional example “to include nature-based solutions for water resilience, such as farm-scale structures for slowing water down (swales, bunds, leaky dams), managing flooding to increase ground water recharge and improving the water holding capacity of soils (e.g., reducing compaction)”. Genesis Energy [S99.005] considered that the development of electricity from renewable sources is an example of a nature-based solution that reduces GHGe.
733. PCC [S30.0108] opposed the definition as they thought it lacked sufficient specificity, and HCC [S115.0124] requested amendments to improve clarity. UHCC [S34.0105] requested deletion of the example of protecting peatland and sought greater clarity including on how the term relates to “green infrastructure”. MDC [S166.0006] supported the definition in part, but requested additional guidance as to what nature-based solutions are or additional examples, and why they would be chosen over other types of solutions to assist implementation by territorial authorities. Wellington Water [S163.0109] requested the addition of a reference to recognise *Te Mana o te Wai* as a benefit, and WFF [S163.0109] requested the definition is deleted or amended to provide additional clarity.
734. Most submissions were from landowners associated with the Mangaroa peatland, some of whom submitted under the Mangaroa Peatland Focus Group. They were concerned about the Council’s intent in referring to peatland and requested that “protecting peatland to retain carbon stores” be deleted as an example of a nature-based solution [including S20.004, S21.004, S23.004, S26.004, S40.004], at least until the peatlands in question are mapped and understood, and there is community consultation on the issue. Individual submitters with the same concern included Robert Anker [S31.028], Philip Clegg [S62.026] and Dr Sarah Kerkin [S96.022]. Forest and Bird [FS7.004] opposed deleting the

reference to peatland on the basis that it is an example within a definition (Forest and Bird [FS7.004]).

735. Broadly, the submitters opposed to including peatland as an example in the definition considered that the reference was an “attempt to regulate by stealth” and could interfere with the residents’ right to quiet enjoyment of their land and it could be used by Council to justify limitations on the use of the peatland (Dr Sarah Kerkin [S96.022], Mangaroa Peatland Focus Group – Gavin Kirton [S91.004], Robert Anker [S31.029] and others). Some residents said there had been a lack of consultation and including a “specific peatland example in this otherwise very broad definition” was “unnecessarily contentious” (Brendan Herder [FS5.7]).
736. As discussed in the Regulatory Framework section, the ERP, NAP and also the Biodiversity Strategy promote the use of nature-based solutions to address climate change, with the ERP and NAP calling for prioritisation of nature-based solutions in planning and regulatory systems to address the climate and biodiversity crises.
737. In the s 42A Report, the Officer reviewed the definitions of the term nature-based solutions in the NAP, ERP and Biodiversity Strategy and found they contained elements that were not appropriate for a definition in an RMA planning document. The Officer said that none of the definitions “are clear that the concept encompasses both the ‘use of’ existing natural systems and the creation of new features that mimic natural processes”.⁴²⁷ The Officer said she supported including a list of examples relevant to the Wellington Region to illustrate different types and scales of nature-based solutions, recognising this is a relatively new concept for the resource management sector in New Zealand.⁴²⁸ The Officer recommended various amendments in the s 42A Report to simplify and clarify the definition, including reference to “engineered systems that mimic natural processes” and “retaining wetlands and planting swales on farmland to slow runoff, reduce peak floods, retain base flows, and protect water quality” in response to the request by some submitters for additional farm-scale examples.
738. The Officer said the relief sought by Genesis Energy is promoted and supported in the Change 1 provisions but did not meet the definition of a

⁴²⁷ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 79.

⁴²⁸ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 79.

nature-based solution. The Officer did not think *Te Mana o te Wai* needed to be referenced. In response to the Mangaroa residents' submissions, the Officer said no evidence had been presented that refuted the value of peat for carbon sequestration and storage. Citing research, the Officer said that:

Peatlands are widely recognised to be a nature-based solution for climate change as their carbon-rich soils provide significant stores of CO₂. When an area of peat is drained or otherwise modified it changes from being a carbon sink to a carbon source, releasing CO₂ into the atmosphere and leading to the loss of carbon that has accumulated over centuries or millennia. The example of protecting peatland was included in the definition of nature-based solutions as it is an example of a local nature-based solution currently being implemented by the Council, using its Low Carbon Acceleration Fund to support the restoration of the 100ha peat bog in Queen Elizabeth Park to prevent continuing peat decomposition and achieve wider environmental, social, and cultural benefits. This project is estimated to avoid carbon emissions of more than 1,251 tCO₂e/yr.

739. The Officer acknowledged that “protect” could be interpreted as having regulatory meaning or inferring an active requirement, and therefore recommended that “protect” be replaced with “maintain”. The Officer also referred to the amendments she recommended to Policy CC.7 (as a non-regulatory policy) promoting collaboration between Council, landowners and other stakeholders regarding nature-based solutions.
740. Reviewing submitters' evidence, the Officer recommended further amendments in her Rebuttal Evidence to add a 'Note' clarifying that nature-based solutions are broader than “green infrastructure” (in response to Mr Rachlin's suggestion (on behalf of PCC) to include a definition of “green infrastructure”. The Officer also recommends amendments to clarify the differences between the terms “climate change adaptation” and “climate-resilience”.
741. The definition of *nature-based solutions* was discussed by planning experts at caucusing. No consensus was agreed but the majority of planners who attended agreed that the definition should refer to “use and management of natural ecosystems and processes”, whilst also retaining reference to engineered solutions mimicking natural processes, resilience and well-being of indigenous biodiversity. Mr Rachlin preferred the definition in his evidence:

Nature-based solution means the use or management of natural resources in a way that contribute to a reduction in greenhouse gas emissions and/or an increase in resilience to the effects of climate change.

742. In response to Mangaroa community residents/landowners' presentations at the hearing, the Officer said in her Reply Evidence that:⁴²⁹

- a. The examples in the definition are intended to assist understanding of the relatively new concept of nature-based solutions
- b. The word “maintaining” is intended to avoid any inference of an active requirement, but “managing” could be used instead (noting the use of the word “maintain” in the NPS-IB)
- c. The policy approach for the use of nature-based solutions at an ecosystem scale is a non-regulatory one through Policy CC.7. This Policy, as proposed to be amended by the Council, supports Council working together with mana whenua/tangata whenua to protect, restore or enhance ecosystems that provide nature-based solutions to climate change, and this requires “working with the willing” with the support of science
- d. The Council has “no intention, nor legislative ability, to require the rewetting or restoration of modified peatlands”.

743. We acknowledge the concerns raised by the Mangaroa residents/landowners but we do not consider that including an example in a definition can be interpreted as having regulatory effect, particularly in light of our recommendations on Policy CC.7 – a non-regulatory policy. We have reviewed the Court decision referred to by Dr Sarah Jenkin and others and do not consider this affects the definition or the Change 1 provisions.

We recommend a drafting amendment to remove the subheadings “Climate change mitigation” and “Strengthening resilience and providing for climate adaptation” because we do not think the subheadings greatly aid interpretation and understanding of the definition or related provisions, and could potentially cause confusion as the matters listed under the subheadings ‘strengthen resilience’ and separating them out from that

⁴²⁹ Reporting Officer Right of Reply of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change: Climate-Resilience and Nature-Based Solutions, 13 November 2023, paras 28 – 29.

subheading could lead to interpretation issues. We do not think that removing “climate mitigation” as a subheading will impact the effectiveness of the definition. The definition still refers to reducing GHGs and other provisions relating to nature-based solutions incorporate the definition of “climate change mitigation” such as Objective CC.4.

3.50.2 Finding and s 32AA Evaluation

744. We largely agree with the Reporting Officer’s recommendations on the definition of *nature-based solutions* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence. We consider the Officer’s recommended amendments to the definition of *nature-based solutions* improve the interpretation, effectiveness and efficiency of the provisions they relate to. The amended definition will help to achieve Objective CC.4.
745. We recommend a relatively minor drafting recommendation to remove the subheadings “climate change mitigation” and “strengthening resilience and providing for climate change adaptation” as we consider these could lead to some interpretation issues and are not required in the list of examples. The outcomes sought by the definition and the provisions it relates to are clear without the inclusion of these subheadings. We consider this drafting amendment will improve the effectiveness and application of the definition and related provisions.

3.50.3 Recommendation

Nature-based solutions

~~Actions to protect, enhance, or restore~~ Use and management of natural ecosystems and processes, ~~or and the incorporation of natural elements into built environments~~ use of engineered systems that mimic natural processes, to reduce greenhouse gas emissions, support climate change adaptation and/or strengthen the resilience and well-being of humans people, indigenous biodiversity, and the natural and physical resources environment to the effects of climate change.

Note: “nature-based solutions” is an umbrella term that encompasses concepts such as green infrastructure (including as defined in the National Planning Standards), green-blue infrastructure, and water-sensitive urban design.

Note: Examples could include:

Reducing greenhouse gas emissions (Climate change mitigation):

- planting forests to sequester carbon
- protecting maintaining managing peatland in a way that ~~to~~ retains its carbon stores, avoids soil loss and associated land subsidence

Increasing ~~Strengthening resilience and providing for (climate change adaptation)~~

a. — ~~providing resilience for people~~

- planting street trees to ~~provide relief from high temperatures reduce urban heat~~
- restoring coastal dunelands to provide increased *resilience* to the damaging effects of storms ~~surges~~ linked to sea level rise
- leaving space for *rivers* to undertake their natural movement and accommodate increased floodwaters (also known as ‘room for the river’),
- the use of *water-sensitive urban design principles and methods*, such as rain gardens to ~~manage contaminants and reduce stormwater runoff in urban areas~~
- retaining *wetlands* and planting *swales* on farmland to slow runoff, reduce flood peaks, retain base flows, and protect water quality

b. — ~~providing resilience for ecosystems and species~~

- restoring *indigenous* forest to a healthy state to increase its *resilience* to increased climate extremes
- leaving space for estuarine ecosystems, such as salt marshes, to retreat inland in response to sea level rise.

3.51 *Water-sensitive urban design*

746. This definition was proposed in the s 42A Report.

Water-sensitive urban design -

The integration of planning, engineering design and water management to mimic or restore natural hydrological processes in order to address the quantitative and qualitative impacts of land use and development on land, water and biodiversity, and the community's aesthetic and recreational enjoyment of waterways and the coast. Water-sensitive urban design manages stormwater at its source as one of the tools to control runoff and water quality. The terms low impact design, low impact urban design and water-sensitive design are often used synonymously with water-sensitive urban design.

3.51.1 Submissions, Evidence and Analysis

747. The term is used in various provisions including Policy FW.6 and in the definition of *nature-based solutions*.

748. In the s 42A Report, the Officer recommends including the same definition as in the NRP.

749. The clauses in the Policy CC.4 – CC.14A suite that referred to the definition, are now recommended to be deleted as they are captured in other provisions such as Policy FW.6. These other provisions are part of the FPI and therefore it is appropriate that the definition is also considered in the FPI. The term *water-sensitive urban design* is used in the definition of *nature-based solutions* which is also part of the FPI.

750. Ms Horrox on behalf of Wellington Water supported the definition.⁴³⁰

751. The planning experts who attended caucusing agreed that the definition of *water-sensitive urban design* was not in contention.⁴³¹

3.51.2 Finding and s 32AA Evaluation

752. We agree with the Reporting Officer's recommendations on the definition of *water-sensitive urban design* for the reasons above, and otherwise as set out in the Officer's s 42A Report, Rebuttal or Reply Evidence.

⁴³⁰ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), Hearing Stream 3, 11 August 2023, para 27.

⁴³¹ Joint Witness Statement of Planning Experts, Climate Resilience, Nature-Based Solution & Natural Hazards, 16 October 2023, para 15(c).

3.51.3 Recommendation

Water-sensitive urban design

The integration of planning, engineering design and water management to mimic or restore natural hydrological processes in order to address the quantitative and qualitative impacts of land use and development on *land*, water and biodiversity, and the community's aesthetic and recreational enjoyment of waterways and the coast. Water-sensitive urban design manages *stormwater* at its source as one of the tools to control runoff and water quality. The terms low impact design, low impact urban design and water-sensitive design are often used synonymously with water-sensitive urban design.

3.52 *Climate resilience / climate resilient / resilience and resilient*

753. This definition was proposed in the s 42A Report as follows:

Climate-resilience/Climate-resilient/ Resilience and Resilient (in relation to climate change or natural hazards) –

The capacity and ability of natural and physical resources, including people, communities, businesses, infrastructure, and ecosystems, to withstand the impacts and recover from the effects of climate change, including natural hazard events.

754. The definition is used in a number of climate change provisions and is described by the Officer as the critical outcome sought by the climate change provisions in Proposed Change 1.⁴³² The term is used in the Policy CC.4 – CC.14A suite and it is therefore appropriate to consider it as part of the FPI even though it is also used in other non-freshwater provisions.

3.52.1 Submissions, Evidence and Analysis

755. The Officer notes that “climate resilience” is defined in the ERP and NAP but she does not consider these definitions are appropriate in an RMA planning document to describe development that is resilient to the impacts of climate change.

756. The Officer proposed a definition in the s 42A Report drawn in part from the dictionary definition of ‘resilience’ and also a term used in the Proposed Otago RPS.⁴³³

757. Ms Horrox on behalf of Wellington Water supported the definition.⁴³⁴ Mr Rachlin on behalf of PCC sought the following replacement definition:

Climate-resilient/climate-resilience/resilience/resilient: (in relation to climate change or natural hazards) means the region is able to respond, at any one time, to predicted changes to climate and associated effects on the severity/frequency of natural hazards in a way that maintains the function and structure of the region.

⁴³² Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 160.

⁴³³ Section 42A Report – Hearing Stream 3 – Climate Change: Climate Resilience and Nature-based Solutions, 31 July 2023, para 164.

⁴³⁴ Statement of evidence of Caroline Horrox on behalf of Wellington Water (Planning), Hearing Stream 3, 11 August 2023, para 26.

For the purposes of this definition, responds includes the ability to prepare for, recover from and adapt to climate change impacts.

758. In her Rebuttal Evidence, the Officer said she preferred the definition in the s 42A Report as it:⁴³⁵

specifies the attributes that the Change 1 provisions seek to be resilient (natural and physical resources, including people, communities, businesses, infrastructure, and ecosystems), rather than generally referring to “the region”, and the two key aspects of resilience; being able to withstand impacts and recover from effects. Mr Rachlin’s definition refers to “prepare for, recover from, and adapt to”. As noted in paragraph 11, adaptation is not the same as resilience and should not therefore form part of a resilience definition.

759. The Officer described resilience as “the state of being able to withstand impacts and recover from effects” and this is different from adaptation which is “the process of adjusting to actual or expected effects”.⁴³⁶ The Officer said that she did not consider it necessary to amend all references to resilience to refer to *climate-resilience*, as the definition also applies to resilience/resilient when used in relation to climate change and natural hazards.⁴³⁷

3.52.2 Finding and s 32AA Evaluation

760. We agree with the Reporting Officer’s recommendations on the definition of *climate resilience / climate resilient / resilience and resilient* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.52.3 Recommendation

Climate-resilience/Climate-resilient/Resilience and Resilient (in relation to climate change or natural hazards)

⁴³⁵ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, para 59.


⁴³⁶ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, para 11.


⁴³⁷ Statement of Supplementary Evidence of Pamela Guest on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Resilience and Nature-based Solution, 21 August 2023, para 12.

The capacity and ability of natural and physical resources, including people, communities, businesses, *infrastructure*, and ecosystems, to withstand the impacts and recover from the effects of climate change, including *natural hazard events*.

3.53 *Climate change adaptation and Climate change mitigation*

761. The notified definitions read:

Climate change adaptation	
<p><u>In human systems, the process of adjusting to actual or expected climate and its effects, in order to moderate harm or take advantage of beneficial opportunities. In natural systems, the process of adjusting to actual climate and its effects. Human intervention may help these systems to adjust to expected climate and its effects.</u></p>	

Climate change mitigation	
<p><u>Human actions to reduce <i>emissions</i> by sources or enhance removals by sinks of <i>greenhouse gases</i>. Examples of reducing <i>emissions</i> by sources include walking instead of driving, or replacing a coal boiler with a renewable electric-powered one. Examples of enhancing removals by sinks include growing new trees to absorb carbon, promoting and providing for active transport, and increasing public transport services and affordability.</u></p>	

762. The definitions are used in various Change 1 provisions including Objective CC.1, Objective CC.4, Policy CC.12, Policy CC.16, Policy CC.17 and Policies CC.4 – CC.14A.

3.53.1 Submissions, Evidence and Analysis

763. These definitions were allocated to the HS3 (General) subtopic and notified as part of the FPI. WCC [S140.0119] and Forest and Bird [S165.0128] supported the definition of *climate change adaptation* in part. Forest and Bird requested that “moderate” is replaced with “reduced”. PCC [S30.0101] opposed the definition on the basis that it lacked specificity to be effectively implemented and some of the references in it were not clear, such as “moderate harm”.

764. Some submitters supported the notified definition of *climate change mitigation* but thought the examples were confusing and requested they be amended or deleted. PCC [S30.0102] opposed the definition on the basis it described actions which are more appropriately included in a policy rather than a definition. Other submitters requested further clarity in the drafting.

765. The Officer shared submitters’ concerns that the examples in the definition of *climate change mitigation* are potentially confusing, do not assist interpretation and should be deleted.⁴³⁸

⁴³⁸ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, General subtopic, para 332.

766. Mr Rachlin on behalf of PCC said the definition was unclear and should be replaced with wording along these lines which was more suitable for a resource management regulatory framework: “Means an action or series of actions that reduce emissions or provide opportunity to reduce emissions.”
767. Ms Foster on behalf of Meridian considered that the definition should refer to renewable energy generation which was critical to support reductions in GHGe. The Officer did not agree with this relief as he said that renewable energy generation is critical to support climate change mitigation (reducing emissions and increasing sinks) but is not in itself a form of climate change mitigation.⁴³⁹
768. In response to Mr Rachlin, the Officer said he preferred to retain the definition in Proposed Change 1 of *climate change mitigation* as it refers to both reducing sources of GHGe and enhancing removal by sinks of GHG.⁴⁴⁰
769. The Officer said that he discussed this with the Officers for the Nature-Based Solutions and Natural Hazard topics and it was his preference to retain the definition of *climate change adaptation* proposed in Change 1 as it refers to both human and natural systems. He recommended a change however to refer to “actions and processes” and to delete the last sentence as it was not necessary.
770. The Officer did not agree with the suggestion of Ms Foster for Meridian Energy to include renewable energy generation in the definition because even though this was critical to support GHGe reductions, it is not in itself a form of climate change mitigation.
771. The definition of *climate change adaptation* is in a number of climate change provisions in Proposed Change 1 including some non-freshwater provisions such as Policies CC.16 and CC.17, as well as freshwater provisions such as Policy CC.14. The definition is considered in Part C and as part of the FPI.
772. Forest and Bird [S165.0128] requested that “moderate” in the definition is replaced with “reduced”. PCC [S30.0101] opposed the definition on the

⁴³⁹ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 117.

⁴⁴⁰ Statement of Rebuttal Evidence of Jerome Wyeth on behalf of Wellington Regional Council, Hearing Stream 3 – Climate Change General, 22 August 2023, para 116.

basis it lacked specificity to be effectively implemented and it was not clear what was meant by “human systems” and “moderate harm”.

773. The Officer agreed with Forest and Bird’s relief and also agreed that the definition be amended to refer to “actions and processes”. In addition, the Officer recommended deleting the last sentence but otherwise recommended retaining the drafting proposed in the s 42A Report as it was important for the definition to refer to both human and natural systems. The Officer did not think further amendments were needed as the definition was clear and would assist in interpreting the Proposed Change 1 provisions.⁴⁴¹

3.53.2 Finding and s 32AA Evaluation

774. We agree with the Reporting Officer’s recommendations on the definitions of *climate change adaptation* and *climate change mitigation* for the reasons above, and otherwise as set out in the Officer’s s 42A Report, Rebuttal or Reply Evidence.

3.53.3 Recommendation

Climate change adaptation

In human systems, ~~actions and processes to the process of~~ adjusting to actual or expected climate and its effects, in order to ~~moderate reduce~~ harm or take advantage of beneficial opportunities. In natural systems, the process of adjusting to actual climate and its effects. ~~Human intervention may help these systems to adjust to expected climate and its effects.~~

Climate change mitigation

Human actions to reduce *greenhouse gas emissions* by sources or enhance removals by sinks of *greenhouse gases*. ~~Examples of reducing emissions by sources include walking instead of driving, or replacing a coal boiler with a renewable electric-powered one. Examples of enhancing removals by sinks include growing new trees to absorb carbon, promoting and providing for active transport, and increasing public transport services and affordability.~~

⁴⁴¹ Section 42A Hearing Report, Hearing Stream 3 – Climate Change, General subtopic, para 329.

Appendix to Part A: Panels' Recommendations on the categorisation of provisions between the FPP and P1S1 processes

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Hearing Stream 2 - Integrated Management					
Overarching RM Issue 1	FPP	FPP	P1S1	P1S1	The HS2 provisions address a wide range of resource management issues that are broader than NPS-FM implementation or freshwater quality or quantity. The suite of provisions includes those that do not relate directly or wholly to matters that impact on freshwater quality or quantity.
Overarching RM Issue 2	FPP	FPP	P1S1	P1S1	
Overarching RM Issue 3	FPP	FPP	P1S1	P1S1	
Overarching RM Issue 4	⁻¹		P1S1	P1S1	
Objective A	FPP	FPP	P1S1	P1S1	
Policy IM.1	FPP	FPP	P1S1	P1S1	
Policy IM.2	FPP	FPP	P1S1	P1S1	
Method IM.1	FPP	FPP	P1S1	P1S1	
Method IM.2	FPP	FPP	P1S1	P1S1	
Objective A - AER	FPP	FPP	P1S1	P1S1	
Hearing Stream 3 – Climate Change					
General					
Climate change - Introduction	P1S1	P1S1	P1S1	P1S1	

¹ Not in notified Proposed Change 1.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Climate Change – Regionally significant issue 1	P1S1	P1S1	P1S1	P1S1	
Climate Change – Regionally significant issue 2	FPP	P1S1	P1S1	P1S1	
Climate Change – Regionally significant issue 3	FPP	P1S1	P1S1	P1S1	Issue 3 does relate to NPS-FM implementation and freshwater quality and quantity. However, the Issue also deals with broader issues relating to natural hazards. On balance, we prefer all the CC Issues progress in the same planning process to support an integrated management approach to the Issues
Climate Change – Regionally significant issue 4	P1S1	P1S1	P1S1	P1S1	
Climate Change – Regionally significant issue 5	FPP	P1S1	P1S1	P1S1	This Climate Change Issue addresses a broader range of resource management issues than those relating to NPS-FM implementation or freshwater quality or quantity. They do not have a direct enough association to matters that impact on freshwater quality or quantity to be included as part of the FPP.
Climate Change – Regionally significant issue 6	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Objective CC.1	FPP	P1S1	P1S1	P1S1	The Objective seeks to achieve a low-emission and climate-resilient region and ensure that climate change mitigation and adaptation are central considerations in resource management issues/decisions. The objective is therefore broader in scope than freshwater quality/quantity.
Objective CC.2	P1S1	P1S1	P1S1	P1S1	
Objective CC.3	P1S1	P1S1	P1S1	P1S1	
Objective CC.7	P1S1	P1S1	P1S1	P1S1	
Objective CC.8	P1S1	P1S1	P1S1	P1S1	
Policy CC.8	P1S1	P1S1	P1S1	P1S1	
Method CC.1	P1S1	P1S1	P1S1	P1S1	
Method CC.2	P1S1	P1S1	P1S1	P1S1	
Climate Change - AER	P1S1	P1S1	P1S1	P1S1	
<i>Carbon emissions assessment</i>	P1S1	FPP	FPP	P1S1	
<i>Climate change adaptation</i>	FPP	FPP	FPP	P1S1	It was not clear from the Officers' s 42A Report, whether the categorisation of these definitions had been considered. However, in Reply Evidence, the Officer says that he recommends that all provisions in the General topic be considered under the P1S1 process. We agree with that recommendation.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
<i>Climate change mitigation</i>	FPP	FPP	FPP	P1S1	
<i>Greenhouse gases</i>	FPP	FPP	FPP	P1S1	
Energy, Waste and Industry					
Chapter 3.3 - Introduction text	P1S1	P1S1	P1S1	P1S1	
Policy 2	P1S1	P1S1	P1S1	P1S1	
Policy 7	P1S1	P1S1	P1S1	P1S1	
Policy 11	P1S1	P1S1	P1S1	P1S1	
Policy 39	P1S1	P1S1	P1S1	P1S1	
Policy 65	FPP	P1S1	P1S1	P1S1	The policy mainly concerns reducing waste and GHGe, and using resources more efficiently. It does not have a direct enough association to matters that impact on freshwater quality or quantity to be included as part of the FPP.
Method 17	P1S1	P1S1	P1S1	P1S1	
Method 33	P1S1	P1S1	P1S1	P1S1	
Method 56	P1S1	P1S1	P1S1	P1S1	
<i>Large-scale generator</i>	P1S1	P1S1	P1S1	P1S1	
<i>Organic waste</i>	FPP	P1S1	P1S1	P1S1	The definition occurs in Policy 65 which we recommend be moved to P1S1. The definition should also be allocated to P1S1.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Agricultural emissions					
Policy CC.5	P1S1	P1S1	P1S1	P1S1	
Policy CC.13	P1S1	P1S1	P1S1	P1S1	
Policy CC.15	FPP	P1S1	P1S1	P1S1	The provision is mainly focused on climate change adaptation and mitigation efforts to improve rural resilience to climate change. It does not have a direct enough association to matters that impact on freshwater quality or quantity to be included as part of the FPP.
Method CC.5	P1S1	P1S1	P1S1	P1S1	
Method CC.8	FPP	P1S1	P1S1	P1S1	The provision is mainly focused on action and information to improve rural resilience to climate change and to reduce agricultural GHGe. It does not have a direct enough association to matters that impact on freshwater quality or quantity to be included as part of the FPP.
Climate-Resilience and Nature based solutions					
Objective CC.4	FPP	FPP	FPP	FPP	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Objective CC.5	FPP	FPP	FPP	P1S1	We acknowledge afforestation can reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. However, we consider the provision is more appropriately categorised as a P1S1 provision because while it has co-benefits for freshwater management, it also aims to achieve a broader range of benefits eg carbon sequestration, indigenous biodiversity benefits, land stability and social and economic well-being.
Policy CC.4	FPP	FPP	FPP	FPP	
Policy CC.4A	-	FPP	FPP	FPP	
Policy CC.14	FPP	FPP	FPP	FPP	
Policy CC.14A	-	FPP	FPP	FPP	
Policy CC.6	FPP	FPP	FPP	P1S1	We acknowledge afforestation can reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. However, we consider the provision is more appropriately categorised as a P1S1 provision because while it has co-benefits for freshwater

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
					management, it also aims to achieve a broader range of benefits eg carbon sequestration, indigenous biodiversity benefits, land stability and social and economic well-being.
Policy CC.7	FPP	P1S1 (if amendments proposed are supported)	P1S1	P1S1	
Policy CC.12	FPP	FPP	FPP	FPP	
Policy CC.18	FPP	FPP	FPP	P1S1	We acknowledge afforestation can reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. However, we consider the provision is more appropriately categorised as a P1S1 provision because while it has co-benefits for freshwater management, it also aim to achieve a broader range of benefits eg carbon sequestration, indigenous biodiversity benefits, land stability and social and economic well-being.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy FW.8	FPP	FPP	FPP	FPP	
Method CC.4	FPP	FPP	FPP	P1S1	We acknowledge afforestation can reduce sediment runoff and therefore maintain or improve the water quality of local waterbodies in line with clause 3.5(2) of the NPS-FM. However, we consider the provision is more appropriately categorised as a P1S1 provision because while it has co-benefits for freshwater management, it also aim to achieve a broader range of benefits eg carbon sequestration, indigenous biodiversity benefits, land stability and social and economic well-being.
Method CC.6	FPP	FPP	FPP	FPP	
Method CC.9	FPP	FPP	FPP	P1S1	The provision is more appropriately categorised as a P1S1 provision because while it may have co-benefits for freshwater management, ecosystem protection and restoration also has a broader range of benefits.
<i>Highly erodible land</i>	FPP	FPP	FPP	P1S1	As above re forest cover provisions
<i>Nature-based solutions</i>	FPP	FPP	FPP	FPP	
<i>Permanent Forest</i>	FPP	FPP	FPP	P1S1	As above re forest cover provisions
<i>Plantation Forest</i>	FPP	FPP	FPP	P1S1	As above re forest cover provisions

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
<i>Maximise</i>	-	FPP	FPP	FPP	
<i>Minimise</i>	-	FPP	FPP	FPP	
Transport					
Policy EIW.1	P1S1	P1S1	P1S1	P1S1	
Method CC.10	P1S1	P1S1	P1S1	P1S1	
Policy CC.1	P1S1	P1S1	P1S1	P1S1	
Method CC.7	P1S1	P1S1	P1S1	P1S1	
Policy CC.2	P1S1	P1S1	P1S1	P1S1	
Method CC.3	P1S1	P1S1	P1S1	P1S1	
Method CC.3A	-	P1S1	P1S1	P1S1	
Policy CC.3	P1S1	P1S1	P1S1	P1S1	
Policy 9	P1S1	P1S1	P1S1	P1S1	
Policy CC.9	P1S1	P1S1	P1S1	P1S1	
Policy CC.10	P1S1	P1S1	P1S1	P1S1	
Policy CC.11	P1S1	P1S1	P1S1	P1S1	
Policy 10	P1S1	P1S1	P1S1	P1S1	
Method 25	P1S1	P1S1	P1S1	P1S1	
	P1S1	P1S1	P1S1	P1S1	
Natural Hazards					
Issue 1	P1S1	P1S1	P1S1	P1S1	
Issue 2	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Issue 3	FPP	FPP	FPP	P1S1	Issue 3 does relate to NPS-FM implementation and freshwater quality and quantity. However, the Issue also deals with broader issues relating to natural hazards. On balance, we prefer all the CC Issues progress in the same planning process to support an integrated management approach to the Issues
Objective 19	P1S1	P1S1	P1S1	P1S1	
Objective 20	FPP	FPP	FPP	P1S1	The Objective addresses natura hazard management which includes impacts on Te Mana o te Wai and freshwater quantity/quality and NPS-FM implementation. However, Objective also deals with broader issues relating to natural hazards. It is appropriate for the Objective to progress in the same planning process as Policies 29 (agreed by the Officer to be a P1S1 provision), and also Policy 52 which we consider is more appropriately categorised as a P1S1 provision
Objective 21	P1S1	P1S1	P1S1	P1S1	
Objective CC.6	P1S1	P1S1	P1S1	P1S1	
Policy 29	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy 51	P1S1	P1S1	P1S1	P1S1	
Policy 52	FPP		FPP	P1S1	Policy 52 does relate to NPS-FM implementation (climate resilience). However, the Issue also deals with broader issues relating to natural hazards. It is appropriate for the Policy to progress in the same planning process as Policy 29 given their integration
Policy CC.16	P1S1	P1S1	P1S1	P1S1	
Policy CC.17	P1S1	P1S1	P1S1	P1S1	
Method 14	P1S1	P1S1	P1S1	P1S1	
Method 22	P1S1	P1S1	P1S1	P1S1	
Method 23	P1S1	P1S1	P1S1	P1S1	
AER 19	P1S1	P1S1	P1S1	P1S1	
AER 20	P1S1	P1S1	P1S1	P1S1	
AER 21	P1S1	P1S1	P1S1	P1S1	
Hearing Stream 4 – Urban Development					
Regional form, design and function Chapter introduction	FPP			P1S1	The Introduction and Issues are about much broader issues than freshwater quality / quantity and implementing the NPS-FM. While well-functioning urban areas are resilient to climate change and give effect to Te Mana o te Wai, these
Issue A	P1S1			P1S1	
Issue B	FPP		FPP	P1S1	
Issue 1	FPP	FPP	FPP	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Issue 2	FPP	FPP	FPP	P1S1	references do not provide enough of a connection to freshwater management.
Issue 4	-	-	P1S1	P1S1	
Objective 22	FPP	FPP	FPP	P1S1	The Objective refers to Te Mana o te Wai but it is about a much broader range of matters than freshwater quality/quantity. The reference to Te Mana o te Wai in the Objective is not enough of a connection to freshwater management. Viewing the provision objectively, we do not regard it as a freshwater provision
Objective 22B	FPP	P1S1	P1S1	P1S1	-
Table 9	FPP	FPP	FPP	P1S1	Table 9 addresses a range of issues that are much broader than freshwater quality/quantity. As we recommend the relevant Objectives are P1S1 provisions, we also recommend this Table is P1S1
Policy 30	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy 31	FPP	FPP	FPP	P1S1	The focus of the Policy is about enabling intensification through building heights and densities of urban form. Even though the policy refers to climate resilience, and s 30 of the RMS requires regional councils to control the use of land for the maintenance and enhancement of freshwater quality and quantity, the Policy addresses a broad range of resource management matters.
Policy 32	FPP	P1S1	P1S1	P1S1	
Policy 33	FPP	P1S1	P1S1	P1S1	
Policy 55	FPP	FPP	FPP	P1S1	We agree that well -functioning urban areas and climate resilient regional form have a connection to freshwater and the NPS-FM provides direction on the integrated management of land use and freshwater. However, we consider the relationship in the Policy to freshwater is too indirect. Viewing the provision objectively, we do not regard it as a freshwater provision
Policy 56	P1S1	P1S1	P1S1	P1S1	
Policy 57	P1S1	P1S1	P1S1	P1S1	
Policy 58	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy 67	FPP	FPP	FPP	P1S1	We agree that well-functioning urban areas and climate resilient regional form have a connection to freshwater and the NPS-FM provides direction on the integrated management of land use and freshwater. However, we consider the relationship in the Policy to freshwater is too indirect. Viewing the provision objectively, we do not regard it as a freshwater provision
Policy UD.1	P1S1	P1S1	P1S1	P1S1	
Policy UD.2	FPP	FPP	FPP	P1S1	The provision refers to well-functioning urban areas and while this does provide some connection between land use and freshwater, we do not consider the relationship is direct enough to categorise the provision as a freshwater provision. Viewing the provision objectively, we do not regard it as freshwater provision as its substantive focus is on broader resource management matters than freshwater quality or quantity or NPS-FM implementation.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy UD.3	FPP	FPP	P1S1	P1S1	
Policy UD.4	-	P1S1	P1S1	P1S1	
Policy UD.5	-	FPP	P1S1	P	
Method 40	P1S1	P1S1	P1S1	P1S1	
Method 41	P1S1	P1S1	P1S1	P1S1	
Method 42	P1S1	P1S1	P1S1	P1S1	
Method 43	P1S1	P1S1	P1S1	P1S1	
Method 44	P1S1	P1S1	P1S1	P1S1	
Method 45	P1S1	P1S1	P1S1	P1S1	
Method 46	FPP	P1S1	P1S1	P1S1	
Method 47	P1S1	P1S1	P1S1	P1S1	
Method UD.1	FPP	FPP	FPP	P1S1	The Method implements Policies which we recommend are categorised as P1S1 provisions. Therefore, the Method should also progress in the P1S1 process
Method UD.2	P1S1	P1S1	P1S1	P1S1	
Method UD.3	-	P1S1	P1S1	P1S1	
Method UD.4	-	P1S1	P1S1	P1S1	
<i>City Centre zone</i>	FPP	FPP	FPP	P1S1	
<i>Key centres</i>	P1S1	P1S1	P1S1	P1S1	
<i>Future Development Strategy</i>	FPP	FPP	FPP	P1S1	
<i>High density development</i>	FPP	FPP	FPP	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
<i>Medium density development</i>	FPP	FPP	FPP	P1S1	We recommend that the provisions that refer to these defined terms are P1S1 provisions and the definitions should also progress in the P1S1 process as they relate to a broad range of resource management matters.
<i>Metropolitan centre zone</i>	FPP	FPP	FPP	P1S1	
<i>Relevant residential zone</i>	FPP	FPP	FPP	P1S1	
<i>Rural areas</i>	FPP	FPP	FPP	P1S1	
<i>Tier 1 territorial authority definition</i>	FPP	FPP	FPP	P1S1	
<i>Tree canopy cover</i>	FPP	FPP	FPP	P1S1	
<i>Urban areas</i>	FPP	FPP	FPP	P1S1	
<i>Urban environment</i>	FPP	FPP	FPP	P1S1	
<i>Well-functioning urban environments</i>	-	FPP	FPP	P1S1	
<i>Primary production</i>	-	P1S1	P1S1	P1S1	
<i>Complex development opportunities</i>	FPP	P1S1	P1S1	P1S1	
<i>Marae</i>	P1S1	P1S1	P1S1	P1S1	
<i>Papakāinga</i>	P1S1	P1S1	P1S1	P1S1	
<i>Regionally significant centres</i>	P1S1	P1S1	P1S1	P1S1	
<i>Regional form</i>	P1S1	P1S1	P1S1	P1S1	
Regional form, design and function AER	P1S1	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Hearing Stream 5 - Freshwater					
Chapter introduction	FPP	FPP	FPP	FPP	
Objective 12	FPP	FPP	FPP	FPP	
Statement of Rangitāne o Wairarapa Te Mana o te Wai expression	FPP	FPP	FPP	FPP	
Statement of Kahungunu ki Wairarapa Te Mana o te Wai expression	FPP	FPP	FPP	FPP	
Policy 12	FPP	FPP	FPP	FPP	
Policy 13	FPP	FPP	FPP	FPP	
Policy 14	FPP	FPP (unless Panel disagrees with Officer's recommendations in which case provision is P1S1)	FPP	FPP	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy 15	FPP	P1S1	P1S1	FPP	The Policy refers to controlling earthworks and vegetation clearing to achieve target attribute states for water bodies and FW ecosystems, which links directly to the NPS-FM. Even through the provision also refers to minimising erosion, the extent and volume of earthworks and managing subdivision layout and design which may not impact freshwater, the relationship to water quality is direct enough so that the provision can be appropriately categorised as part of the FPI.
Policy 17	FPP	FPP	FPP	FPP	
Policy 18	FPP	FPP	FPP	FPP	
Policy 18A	-	FPP	FPP	FPP	
Policy 18B	-	FPP	FPP	FPP	
Policy 40	FPP	FPP	FPP	FPP	
Policy 40A	-	FPP	FPP	FPP	
Policy 40B	-	FPP	FPP	FPP	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy 41	FPP	P1S1	P1S1	FPP	The Policy is a set of considerations directly related to management of water quality and quantity. It refers to minimising silt/sediment run off into water in the absence of regional plan controls that implement the NOF. There is a close relationship to achieving what the NPS-FM seeks to achieve. Even through the provision also refers to minimising erosion which may not impact freshwater, the relationship to water quality is still direct enough so that the provision can be appropriately categorised as part of the FPI
Policy 42	FPP	FPP (unless Panel disagrees with Officer's recommendations in which case provision is P1S1)	FPP	FPP	
Policy 43	FPP	FPP	FPP	FPP	
Policy 44	FPP	FPP	FPP	FPP	
Policy FW.1	FPP	FPP	FPP	FPP	
Policy FW.2	FPP	FPP	FPP	FPP	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Policy FW.3	FPP	FPP (unless Panel disagrees with Officer's recommendations in which case provision is P1S1)	FPP	FPP	
Policy FW.4	FPP	FPP	FPP	FPP	
Policy FW.5	FPP	FPP	FPP	FPP	
Policy FW.6	FPP	FPP	FPP	FPP	
Policy FW.7	FPP	FPP	FPP	FPP	
Policy FWX	-		FPP	FPP	
Policy FWXXA	-	FPP	FPP	FPP	
Policy FWXXB	-	FPP	FPP	FPP	
Method 30	FPP	FPP	FPP	FPP	
Method 31	P1S1	P1S1	P1S1	P1S1	
Method 35	FPP	FPP	FPP	FPP	
Method 48	FPP	FPP	FPP	FPP	
Method FW.1	FPP	FPP	FPP	FPP	
Method FW.2	FPP	FPP	P1S1	FPP	The Method applies to consents relating to freshwater, therefore it is appropriate that it be included in the FPI even though it relates to operational processes. Implementing the Method will relate directly to matters that impact on the quality of freshwater.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Method FW.X (i) (stormwater management)	-	FPP	FPP	FPP	
Method FW.X (ii) (engagement with regulator)	-	FPP	FPP	FPP	
Method FW.XX	-	FPP	FPP	FPP	
Freshwater Objective 12 Anticipated Environmental Results 1-5, 7-11	FPP	FPP	FPP	FPP	
Freshwater Objective 12 Anticipated Environmental Result 6	FPP	P1S1	P1S1	P1S1	
Freshwater Objective 13 Anticipated Environmental Results 1-8	FPP	FPP	FPP	FPP	
Freshwater Objective 14 Anticipated Environmental Results 1-4	FPP	FPP	FPP	FPP	
<i>Hydrological controls</i>	FPP	FPP	FPP	FPP	
<i>Te Mana o te Wai</i>	FPP	FPP	FPP	FPP	
<i>Hydraulic neutrality</i>		FPP	FPP	FPP	
<i>Aquatic compensation</i>	-	FPP	FPP	FPP	
<i>Aquatic offsetting</i>	-	FPP	FPP	FPP	
<i>Earthworks</i>	-	FPP	FPP	FPP	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
<i>Community drinking water supply</i>	-	FPP	FPP	FPP	
<i>Group drinking water supply</i>	-	FPP	FPP	FPP	
<i>Effects management hierarchy</i>	-	FPP	FPP	FPP	
<i>Health needs of people</i>	-	FPP	FPP	FPP	
<i>Specified infrastructure</i>	-	-	-	FPP	
<i>Vegetation clearance</i>	-	FPP	FPP	FPP	
Hearing Stream 6 – Indigenous Ecosystems					
Indigenous Eco System Chapter Introduction	FPP	P1S1	P1S1	P1S1	
Indigenous Eco System Issue 1	FPP	P1S1	P1S1	P1S1	
Indigenous Eco System Issue 2	FPP	P1S1	P1S1	P1S1	
Indigenous Eco System Issue 3	FPP	P1S1	P1S1	P1S1	
Objective 16	FPP	P1S1	P1S1	P1S1	
Objective 16A	FPP	P1S1	P1S1	P1S1	
Objective 16B	FPP	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Objective 16C	FPP	P1S1	P1S1	P1S1	
Policy 23	FPP	P1S1	P1S1	P1S1	
Policy 24	FPP	P1S1	P1S1	P1S1	
Policy 47	FPP	P1S1	P1S1	P1S1	
Policy 61	FPP	P1S1	P1S1	P1S1	
Policy IE.1	FPP	P1S1	P1S1	P1S1	
Policy IE.2	FPP	P1S1	P1S1	P1S1	
Policy IE.3	FPP	P1S1	P1S1	P1S1	
Policy IE.4	FPP	P1S1	P1S1	P1S1	
Method IE.1	FPP	P1S1	P1S1	P1S1	
Method IE.2	FPP	P1S1	P1S1	P1S1	
Method IE.3	FPP	P1S1	P1S1	P1S1	
Method IE.4	FPP	P1S1	P1S1	P1S1	
Method 21	FPP	P1S1	P1S1	P1S1	
Method 32	FPP	P1S1	P1S1	P1S1	
Method 53	FPP	P1S1	P1S1	P1S1	
Method 54	FPP	P1S1	P1S1	P1S1	
Table 9	FPP	P1S1	P1S1	P1S1	
Appendix IA	FPP	P1S1	P1S1	P1S1	
<i>Ecosystem health</i>	FPP	P1S1	P1S1	P1S1	
<i>Enhancement (in relation to indigenous biodiversity)</i>	FPP	P1S1	P1S1	P1S1	

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
<i>Maintain/maintained/main tenance (in relation to indigenous biodiversity)</i>	FPP	P1S1	P1S1	P1S1	
<i>Natural uncommon ecosystems</i>	FPP	P1S1	P1S1	P1S1	
<i>Protect (in relation to indigenous biodiversity)</i>	FPP	P1S1	P1S1	P1S1	
<i>Resilience (in relation to a natural ecosystem)</i>	FPP	P1S1	P1S1	P1S1	
<i>Restoration</i>	FPP	P1S1	P1S1	P1S1	
<i>Te Rito o te Harakeke</i>	FPP	P1S1	P1S1	P1S1	
<i>Threatened ecosystems or species</i>	FPP	P1S1	P1S1	P1S1	
AER	FPP	P1S1	P1S1	P1S1	
Hearing Stream 7 – Variation 1, Wrap up, Integration and Small Topics					
Variation 1	FPP	FPP	FPP	FPP	
Method 1	FPP	FPP	FPP	P1S1	The majority of provisions referred to in this Method address broader matters than those impacting on the quality or quantity of freshwater.

Provision	Categorisation on notification	Categorisation recommended in s 42A report	Final recommendation of Council Officer on categorisation	Panels' recommendation on categorisation. Changes from Officer recommendation shaded orange	Panels comments / summary of reasons (including where categorisation recommendations are different from Officers' recommendations)
Method 2	FPP	FPP	FPP	P1S1	The majority of provisions referred to in this Method address broader matters than those impacting on the quality or quantity of freshwater.
Method 3	P1S1	P1S1	P1S1	P1S1	
Method 4	FPP	FPP	FPP	P1S1	The majority of provisions referred to in this Method address broader matters than those impacting on the quality or quantity of freshwater.
Method 5	FPP	FPP	FPP	P1S1	The majority of provisions referred to in this Method address broader matters than those impacting on the quality or quantity of freshwater.
Policy 3	P1S1	P1S1	P1S1	P1S1	
<i>National Grid</i>	FPP	P1S1	P1S1	P1S1	
<i>Regionally Significant Infrastructure</i>	FPP	P1S1	P1S1	P1S1	
<i>Strategic Transport Network</i>	FPP	P1S1	P1S1	P1S1	