

# Transcription

## Hearing Stream Two – Integrated Management

### SUBMISSIONS

#### Proposed Change 1 to Regional Policy Statement For Wellington Region

**Hearing Dates:** Tuesday 18 and Wednesday 19 July 2023

**Location:** Venue: Naumi Hotel, 213 Cuba Street, Te Aro, Wellington 6011

**Hearing Panel:** Commissioner Craig Thompson (Chair)  
Commissioner Glenice Paine  
Commissioner Gillian Wratt  
Commissioner Ina Kumeroa Kara-France  
Commissioner Dhilum Nightingale

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## Greater Wellington Regional Council

### Hearing Stream Two – Integrated Management – Day One

#### SUBMISSIONS

#### Proposed Change 1 to Regional Policy Statement for Wellington Region

Date: Tuesday 18<sup>th</sup> July 2023

Hearing Stream: Two

Location: Venue: Naumi Hotel, 213 Cuba Street, Te Aro, Wellington 6011

Hearing Panel: Commissioner Craig Thompson (Chair)  
Commissioner Glenice Paine  
Commissioner Gillian Wratt  
Commissioner Ina Kumeroa Kara-France  
Commissioner Dhilum Nightingale

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- 1 Chair: For today I am going to be chairing the Panel, nominally at least today's matters  
2 were allocated as a freshwater issue. That as you all well-know still remains  
3 something of an issue, but we have in mind that we will resolve that very shortly.  
4  
5 For today I will chair proceedings and nothing is to be read into that.  
6  
7 Could we ask panel members to introduce themselves please.  
8  
9 Nightingale: Kia ora Commissioner. Tēnā koutou katoa. Ko Dhilum Nightingale toko ingoa.  
10 I am a Barrister and Independent Hearings Commissioner. I live in Taputeranga  
11 in Te Whanganui o Tara, Wellington. Kia ora.  
12  
13 Kara-France: Kia ora. Ko Ina Kumeroa Kara-France toko ingoa. Ko waka to Tainui, ko Ngāti  
14 Kahungunu, ko Ngāti Tūwharetoa, ko Āti Haunui a Pāpārangī, ko Ngārauru i  
15 nga iwi. Tēnā tātou katoa. [Māori 01.17] Māori Mātua, Senior Advisor for WSP  
16 Engineering. I am based in Tamaki Makaurau attached to Transport and  
17 Planning and Māori Business Services. I am an Independent Commissioner. Kia  
18 ora.  
19  
20 Wratt: Kia ora koutou. Ko Gillian Wratt aho. I am from Nelson and I am the Freshwater  
21 Commissioner.  
22  
23 Paine: Tēnā koutou katoa. Ko wai au, ko Piripiri te maunga, ko Waitunu te awa, ko  
24 [Māori 01.50], ko Te Atiawa, ko Ngāitahu tōku iwi [01.57]. My name is Glenice  
25 Paine and I am the Environment Court Commissioner. Kia ora.  
26

27 Chair: Thank you everybody. Would the Greater Wellington representatives like to say  
28 who they are?  
29

30 Anderson: Tēnā koutou katoa. Ko Kerry Anderson tōku ingoa. I am one the lawyers for  
31 Greater Wellington Regional Council along with Ms Rogers to my right.  
32

33 Chair: Thank you.  
34

35 Kia ora koutou. My name is Jerome Wyeth. I am a Planner at Forsyth Consulting  
36 and the author of the Section 42A Report for this topic.  
37

38 Chair: Thank you.  
39

40 As at the earlier hearing, what is said today will be recorded and a transcript will  
41 be available in due course. It is also being live-streamed for those who can't be  
42 here in person. Could I remind people please, when you are about to speak if you  
43 could introduce yourself simply by announcing your name so that can be  
44 recorded and put into the transcript.  
45

46 A reminder please, the usual one: cell phones are to be off please. A reminder  
47 too that we have pre-read the submissions and so on, so they do not need to be  
48 read word for word. They can be rather spoken to.  
49

50 In the course of the hearing as people have their allotted time for speaking, we  
51 will have a bell at five minutes to go, just to remind you that time is running,  
52 then a further bell when the time is expired.  
53

54 We will probably finish today at two o'clock is the likelihood.  
55

56 I think that's everything. Thank you.  
57

58 To begin.  
59 Wyeth: Thank you Chair. As you said, I am assuming my evidence is taken as read so I  
60 have prepared a summary of the key issues and submissions and my  
61 recommended amendments.  
62

63 Hearing Stream Two covers free overarching resource management issues and a  
64 new suite of integrated management provisions, which is an objective two  
65 policies, two methods and a supported anticipated environmental result.  
66

67 There was approximately 150 submission points and a 183 further submissions  
68 received on this topic. These submissions raised a wide range of issues both in  
69 support and opposition and request a range of amendments.  
70

71 [00.05.00]  
72 The key issues in submissions broadly relate the overarching resource  
73 management issues, Objective A, Policy IM1 and Policy IM2. This summary  
74 focuses on those key issues.  
75

76 In terms of the overarching resource management issues, the key issues broadly  
77 relate to the overarching framing of these issues; that the issues are overly  
78 negatively worded; that the issues do not adequately cover the field in terms of

79 relevant resource management issues; and issues are not supported by sufficient  
80 up to date evidence base.

81  
82 In my evidence I emphasise that the overarching issues are not intended to cover  
83 all relevant resource management issues, nor were they intended to assign more  
84 important to some issues over others. Rather, the intent of the overarching issues  
85 is to set the scene for the RPS and highlight the key strategic issues for the region.

86  
87 To make this intent clearer, I recommend an additional statement at the end of  
88 the issues to state they are to be read alongside the topic specific issues in the  
89 RPS as relevant. I also recommend amendments to the issues and ones that are  
90 framed in a less negative way without changing the underlying intent of focus of  
91 the issues.

92  
93 In response to submissions, I recommend an additional overarching issue  
94 relating to the effects of climate change on natural and built environments and  
95 on communities. This is intended to recognise a climate change and significant  
96 and strategically important issue for the region and also to recognise the role of  
97 infrastructure in responding and adapting to climate change.

98  
99 In terms of Objective A, the key issues raised will relate to the overarching nature  
100 of the Objective as notified; that the Objective intentionally or unintentionally  
101 assigns more importance to certain matters over others and the structural  
102 positioning of that integrated management objective and introduction to Chapter  
103 3 of the RPS.

104  
105 In response, I recommend amendments to make it clear that Objective A is the  
106 Integrated Management objective and not the overarching objective for the  
107 region. In my opinion this will help to clarify that the RPS has not intended to  
108 assign a hierarchy between objectives and that these are to be interpreted based  
109 on their own terms and given weight as appropriate in a particular context.

110  
111 I also recommend amendments to and additions to Objective A where I consider  
112 the matters raised in submissions are particularly relevant to achieving integrated  
113 management. This includes more specific recognition of the input of  
114 communities, the role of natural and physical resources including infrastructure  
115 and improving resilience to climate change, and the benefits of protecting and  
116 utilising mineral resources in the region.

117  
118  
119  
120 In terms of the structural positioning of Objective A, in my opinion it is not  
121 necessary to relocate Objective A into a new integrated management chapter,  
122 simply for the sake of consistency of other RPS chapters. That's not to say that  
123 I'm not opposed to the structural change: more to say it's not necessarily to  
124 effectively implement the provisions in my opinion.

125  
126 In terms of Policy IM.1 the key issues raised in submissions were less focused  
127 on the intent or content of the policy, but more on the framing and practical  
128 implementation of the policy as a consideration policy in Chapter 4.2 of the RPS.

130 In my evidence I acknowledge there are some interpretation issues with the  
131 consideration policies, particularly in terms of the standard Shapo text to have  
132 particular regard to listed matters.

133  
134 As the Panel was well aware, the RMA requires that Regional District Plans give  
135 effect to RPS provisions and that consent authorities have regard to relevant RPS  
136 provisions when considering resource consent applications.

137  
138 I therefore recommend amendments to the introduction to Chapter 4.2 to make  
139 this clearer. I also recommend amendments to the Shapo of Policy IM.1 to  
140 remove the words “particular regard to” to make the policy more direct and to  
141 clarify that the policy is directed at local authorities.

142  
143 In terms of Policy IM.2 there were strong concerns from submitters that Policy  
144 both as notified and with my recommended amendments in the Section 42A  
145 Report the key concerns relate to a lack of statutory basis for the policy, that the  
146 policy will lead to unnecessary certainty, implementation issues and costs and  
147 that the policy does not relate to RPS objectives.

148  
149 I acknowledge the issues with the policy in my Section 42A Report and submit  
150 evidence to reinforce my concerns with the policy. In my opinion it is  
151 problematic for Direct Local Authorities to achieve the RPS objectives in an  
152 equitable way without clear direction on how that is to be achieved in practice.

153  
154 This is a complex matter and not one that can be easily addressed for  
155 amendments to Policy IM.2 in my opinion.

156  
157 I therefore agree that policy direction IM.2 only has complexities to planning  
158 and decision-making rather than offering useful policy direction.

159  
160 [00.10.00] I therefore recommend that Policy IM.2 is deleted on the basis that the policy  
161 has the potential to undermine the effectiveness and efficiency of the RPS, and  
162 in my opinion deleting the policy will not be any less effective at achieving the  
163 relevant RPS objectives.

164  
165 Thank you for the opportunity to present this summary. I am available to take  
166 questions.

167  
168 Wratt: Thank you Mr Wyeth. Thank you for that very comprehensive supplementary  
169 evidence that responded to a lot of the issues that were raised in the submissions.  
170 Thank you for that.

171  
172 A question in relation to your overarching RM Issue 1. I notice that in the topic,  
173 the heading for that, the heading is ‘Adverse Impacts on Natural Environments  
174 and Communities.’ In the process of refining that, and adding your additional  
175 Issue 4, there is now no mention of communities in the text of that issue. Do you  
176 have a comment on that? It sort of seems like in bringing in the fourth issue,  
177 which does relate to communities and climate change, it's very much focused on  
178 impacts on climate change. I know you were responding to the submissions in  
179 doing that, but I just wondered if you had any thoughts on the overarching RM  
180 Issue 1 now that you've made that change?

181

182 Wyeth: Thank you Commissioner. I agree that is somewhat of an oversight in making  
183 that amendment. I didn't really look at the title of the issue. I think it could be  
184 probably be more appropriately framed as 'Adverse Impacts of Development on  
185 Natural Environments' would be probably be a more appropriate title given  
186 those amendments.  
187

188 Wratt: Do you think there's a need though to recognise also impacts on communities  
189 which are not just climate change related impacts, which is what the fourth RM  
190 Issue now does?  
191

192 Wyeth: Yeah, I've deleted text in overarching Resource Management 1 that sort of  
193 related to leaving communities increasingly exposed to the impacts of climate  
194 change; so it was less, my reading of it, less framed in terms of the impacts of  
195 development on communities, but more in terms of climate change.  
196  
197 Whether there's a gap there in relation to communities I would probably need to  
198 give that some more thought. I think in my opinion the overarching Issue 1 is  
199 more appropriately framed on impacts on natural environments.  
200

201 Wratt: Thank you for that. Sorry, I should have said Commissioner Wratt at the start of  
202 that, when I was asking that question.  
203  
204 There is also the issue that's raised by some of the submitters about the use of  
205 natural and built environments as a term, rather than natural and physical  
206 resources. Have you got any further comment on that? I know you do comment  
207 on that in your rebuttal evidence.  
208

209 Wyeth: It's not a matter I have a strong view on. I think some of the concerns by  
210 particularly Porirua City Council around the interpretation issues it would cause  
211 are potentially overstated in my opinion. I do acknowledge that natural and  
212 physical environments resources if the terminology used in the Act and  
213 alignment with that makes sense from that perspective. But also the  
214 environments while they're still an unstood concept, natural and physical  
215 environments forms part of that definition.  
216  
217 I guess in summary I don't see major interpretations with the use of those terms,  
218 and I don't really have a strong view around whether that would change to  
219 natural and physical resources. My main thing is it needs to be consistent across  
220 those relevant provisions. I do knowledge that the use of natural and physical  
221 resources is more aligned with the role of the RPS and existing terminology in  
222 the RPS.  
223

224 Wratt: Your preference for natural and built environments, why that preference?  
225 [00.15.00]

226 Wyeth: It was sort of as a broader term. Also, I understood the recognition of built  
227 environment there it was quite intentional when developing Change 1, to give  
228 more recognition of the built environment – more than just physical resources,  
229 which I guess is interpreted in a smaller subset of that. So that's kind of the  
230 rationale.  
231

232 Wratt: Thank you for that.  
233

234 In your rephrasing of Objective A, Fish & Game requested in their submission  
235 that sub-objective (a) should read: guided by te ao Māori and input from  
236 stakeholders and the community. You have proposed an additional sub-objective  
237 (e) which says informed by input of communities. Can you just explain a little  
238 why you put that as sub-clause (e) rather than the request from the submitters  
239 which was to put “and input from stakeholders and community” in that sub-  
240 paragraph (a)?  
241

242 Wyeth: I guess I wanted to keep the concepts of te ao Māori and incorporates mātauranga  
243 Māori as distinct from input in the community, knowing that comes from tangata  
244 whenua and that’s a distinct concept that only comes from them. So I think  
245 incorporating the input of communities in that clause would have sort of [16.26]  
246 that direction. That’s kind of the rationale.  
247

248 Wratt: Do you see a difference between the statement of guided by te ao Māori and  
249 informed by input from communities?  
250

251 Wyeth: Yeah, I guess I do. I guess I see that sort of guided by te ao Māori as a boarder  
252 partnership type concept where you’re engaging with mana whenua more  
253 directly. Obviously the input of community is valuable. That’s why I  
254 recommended it was included in the objective. But I do see them as distinct  
255 concepts.  
256

257 Wratt: Do you think there’s a differentiation? They had stakeholders and community.  
258 Does community incorporate stakeholders?  
259

260 Wyeth: Yeah, that’s how I would interpret it. I don’t see them as being distinct. I think  
261 the relevant communities include stakeholders.  
262

263 Wratt: Just one further one from me and then I think I have just about reached the end  
264 of my questions.  
265

266 Policy IM.1, what’s now in your revised drafting, sub-clause (e): making  
267 decisions based on the best available information, improvements in technology  
268 and science and mātauranga Māori. To me, the way I read that, is improvements  
269 in technology and science. Is that improvements in science, or is it science? This  
270 is my science brain I guess when you talk about making decisions based on the  
271 best available information. It implies that it's improvements in science and not  
272 just science.  
273

274 Wyeth: I must admit I haven’t considered any submitters on that particular clause, but I  
275 agree it would make sense to take out the ‘and’ for example and say,  
276 “improvements in technology science is a distinct thing that you make decisions  
277 on – available science basically and mātauranga Māori. I think that would make  
278 sense.  
279

280 Wratt: Thank you. I think that’s my questions. Thank you chair.  
281

282 Paine: Good morning Mr Wyeth. I do have some questions around language used and  
283 Commissioner Wratt has dealt with a couple of those with built environments.  
284

285 Mine is around regional significant infrastructure - particularly for Mr Rowe  
286 who says that the physical resource encompasses all infrastructure; and so  
287 talking about Objective A.  
288  
289 I see you've got that in there anyhow in Objective A (i) for Region 6, but that's  
290 for significant infrastructure – regionally significant infrastructure. So, that  
291 covers their concerns. But, is his thought correct, that 'physical resource', those  
292 two words cover regionally significant infrastructure?  
293  
294 Wyeth: Yes. That was sort of my reasoning in my S42A Report, that physical resources  
295 does include regionally significant infrastructure. I guess my response and my  
296 rebuttal evidence was really just to find more emphasis on the importance of  
297 regionally significant infrastructure in response to submitter evidence.  
298 [00.20.00]  
299 The reason for that is it is particularly important in terms of well-functioning  
300 urban areas and responding to climate change. Does it need to be in there? Not  
301 necessarily. My recommending including it in there was just to give a bit more  
302 prominence around the importance of that and responding to those issues.  
303  
304 Paine: Thanks for that. The other question: some submitters raised concerns about  
305 matters being assessed against the exposure draft for indigenous biodiversity.  
306 Now we have the NPS put out, when do those matters actually get assessed  
307 against the NPS indigenous biodiversity?  
308  
309 Wyeth: Is it the hearing stream? Someone help me out here. There's the indigenous  
310 biodiversity hearing stream which I understand will be considering...  
311  
312 Paine: It was more about the process that I was thinking. When all of the material was  
313 put together there was only the exposure draft, and now there is a NPS. Is there  
314 a backward looking process? Do you take the things that were assessed against,  
315 or taking into account the exposure draft, are they done again? This is not a very  
316 clear question.  
317  
318 Wyeth: Obviously there's been the NPS HPL and the NPS for highly productive land,  
319 and the NPS for biodiversity that have both been gazetted since Change 1 was  
320 notified. I guess my answer for that, particularly for biodiversity stuff, is they  
321 will be considering the now gazetted NPS IB within the scope of submissions  
322 and make any appropriate changes to give effect to that NPS, to the extent that  
323 they can within the scope of Change 1. Sorry if that was a bad answer.  
324  
325 Paine: Yeah. I agree.  
326  
327 Wyeth: The legal obligation is to give effect to the NPS to the extent practicable.  
328 Obviously there's no scope to go out in that significant natural changes within  
329 Change 1 and that's not directed at RPSs anyway. But, when making  
330 recommendations in relation to the indigenous biodiversity topic I believe the  
331 author then will be trying to give effect to the NPS IB to the extent possible  
332 within the scope of submissions.  
333  
334 Paine: Thank you. My last question is around Objective A and your clause (a) is guided  
335 by te ao Māori. What does that look like to you? When I read these things I often

336 think how are you going to do that? When you talk about is guided by te ao  
337 Māori?  
338  
339 Wyeth: Good question. It has come up in submissions. I guess the only way that you can  
340 be really guided by te ao Māori is working in partnership with mana whenua and  
341 tangata whenua to understand what that means as appropriate or relevant for the  
342 particular context. I don't think it's a term that can be precisely defined for an  
343 objective or any supporting definition. That's my opinion anyway. I think it has  
344 best come from mana whenua in terms of what that means in practice. To achieve  
345 that I think it is a partnership approach. That's why one of the supporting  
346 policies, IM.1, has directed that it is around local authorities working in  
347 partnership with mana whenua.  
348  
349 Paine: So, those policies and methods would underpin that clause?  
350  
351 Wyeth: Yes.  
352  
353 Paine: Thank you Mr Wyeth. Thank you sir.  
354  
355 Nightingale: Mōrena Mr Wyeth. Thank you for your report and your evidence.  
356  
357 I have some questions about the relief sought by Kāinga Ora.  
358 [00.25.00]  
359 To Objective A, and I am looking now at your version, or the amendments that  
360 you are proposing to Objective A. They have raised a concern in para (j). They  
361 say that the words "responds effectively" is unclear and could actually mean that  
362 you can respond effectively by basically doing nothing.  
363  
364 Do you have any views on whether that direction is clear enough in terms of  
365 what the RPS is seeing to achieve regarding managing effects of climate change?  
366  
367 Wyeth: The way I see "responds effectively" is you can't be an ineffective response;  
368 you've got to be proactively responding to climate change. That is why I retained  
369 that, or recommended that wording be retained. I think Kāinga Ora by memory  
370 had requested it be "resilience" but I didn't think that was appropriate within  
371 that clause. We talk about resilience elsewhere in the Objective and also in the  
372 climate change Objectives.  
373  
374 I guess in my opinion, "responds effectively" does mean it's a proactive response  
375 to climate change and you're doing that in a proactive way. I think the wording  
376 is appropriate.  
377  
378 Nightingale: Another point that some submitters have raised in that same para (j) –  
379 "development pressures", which you have recommended be changed to  
380 "development pressures and opportunities".  
381  
382 I think the concern is, is it clear what those development pressures are in the  
383 context of this overarching broad provision on achieving integrated  
384 management?  
385  
386 Wyeth: I guess how I interpret population growth and development pressures, it's  
387 pressures on housing supply and affordability. It's pressures on infrastructure

388 capacity. The changes I'm recommended that also presents opportunities in  
389 terms of community wellbeing and revitalising urban areas and those sorts of  
390 things. That's the rationale for my recommendation.

391  
392 I think when you read that in combination with the overarching issues that talk  
393 about the pressures of development on housing supply, affordability,  
394 infrastructure and capacity, that those terms are clear enough.

395  
396 Nightingale: The amendment you have recommended in Objective A to para (f) – protects  
397 and enhances the life supporting capacity of ecosystems – that language is of  
398 course from s.5 of the Act which in the same provision talks about safeguarding  
399 the life supporting capacity of air, water, soil and ecosystems. You've addressed  
400 the relief that Horticulture New Zealand have sought. Actually they had sought  
401 relief on Overarching Issue 1, wanting recognition that activities can result in  
402 the loss of fragmentation or reverse sensitivity effects on highly productive land.

403 [00.30.00]  
404 Is it your view that the relief they are seeking is outside of scope, or that it is  
405 within scope but more appropriately addressed in a change that specifically gives  
406 effect to the NPS HPL?

407  
408 Wyeth: The change they recommended or requested to Overarching Issue 1 it's slightly  
409 unclear whether there is scope to respond to that, to address it through Change  
410 1. Obviously the NPS HPL was notified after Change 1 was notified. My view  
411 is that from a practical perspective, including that reference within the Issue is  
412 not going to be effective without supporting objectives, policies and methods;  
413 and that is best addressed for a comprehensive change to Change 1, which is the  
414 Council will do in the accordance with the NPS HPL.

415  
416 Also from a practical perspective, the NPS HPL has provisions that apply from  
417 commencement that provide protections to highly productive land regardless of  
418 what the RPS says at this point in time.

419  
420 From a practical planning perspective I didn't see that those changes were  
421 necessary or effective.

422  
423 Nightingale: Yes, they have also sought a change to the definition of highly productive  
424 agricultural land. The relief in the primary submission is not to Overarching  
425 Objective A.

426  
427 I notice that you're supporting an amendment to recognise the benefits of  
428 protecting and utilising the region's significant mineral resources. If Objective  
429 A encapsulates the key resource management issues for the region, do you think  
430 that it is sufficiently balanced, achieves a sustainable management purpose of  
431 the Act without having a reference to protecting highly productive land?

432  
433 Wyeth: I guess in terms of scope of Integrated Management Objective, arguably there is  
434 rationale to include anything that is part of that objective. Obviously Orr New  
435 Zealand haven't requested any amendments to that objective. Would I support  
436 an amendment to Objective A to reference highly productive land? Yes. I agree  
437 that it's a nationally and regionally significant issue. It was just my question  
438 whether there is scope to do it.

439

440 Nightingale: I need to have a closer look as well at their further submission. I can't  
441 immediately put my finger on it, but I will do that. Thank you.  
442  
443 My last question relates to your rebuttal evidence and the allocation of  
444 provisions. It's the separate you've filed isn't it, relating to the allocation –  
445 supplementary evidence.  
446  
447 Thank you for addressing the points that we had raised in Minute 5. The way  
448 you have set that out is really clear – the Section 32 report justification and  
449 having considered the issues further. In light of the approach you proposed in  
450 the Minute you have set out your response which is very clear. Thank you.  
451 [00.35.00]  
452 Are you familiar with the legal tests in the Otago High Court Decision? Broadly  
453 enough – I know there's a lot in there.  
454  
455 The Court did say there a reference to Kutikitai [35.32] integrated management  
456 in and of itself may not be enough to mean that a provision can be said to relate  
457 directly to matters that impact on quality or quantity of freshwater. Sorry, I'm  
458 paraphrasing that, but you say in your supplementary evidence that in particular  
459 Objective A, even though it relates to a whole lot of issues other than freshwater  
460 quality and quantity specifically, you say that "because it seeks to recognise and  
461 provide for [36.22] that is consistent with the NPS FM direction, so that can be  
462 appropriately allocated to the freshwater topic."  
463  
464 I guess I'm just wondering, and this might be a question that the counsel may be  
465 able to address as well, but just whether you really think that meets the tests that  
466 the High Court set out in their decision for being a freshwater provision.  
467  
468 Wyeth: I guess both in relation to Objective A and Policy IM.1 I state that both those  
469 provisions relate directly to matters that impact on freshwater quality and  
470 quantity. Then I also make reference to the provisions of the NPS FM around  
471 integrated management. So, I've sort of seen it as almost meaning both tests and  
472 not just relying on that clause in the NPS FM itself. So, I guess I'm still of the  
473 view that both those provisions are appropriate allocated to the Freshwater  
474 Planning Process.  
475  
476 Wratt: Could I just explore that a little bit further?  
477  
478 Have you had a chance to look at the Winstones' legal submission in relation to  
479 the allocation of provisions to the two processes, two panels?  
480  
481 Wyeth: Not in detail sorry Commissioner.  
482  
483 Wratt: A paragraph in their legal evidence they note that, "viewing Objective A and  
484 more broadly the integrated management chapter, solely through a freshwater  
485 lens risks distorting the intent of both Objective A and the Chapter. Freshwater  
486 is only one of the many of the natural and physical resources considered here.  
487 The Panel should heed the High Court in Otago's warning, about the dangers of  
488 considering things primarily from a freshwater perspective, particularly in  
489 instances where it is clear there are many other values at play. Integrated  
490 management is concerned with interaction of varying environmental elements."  
491

492 In reading that there seems to be some substance in that comment from them. It's  
493 almost as though through these provisions if freshwater is mentioned, and in fact  
494 the freshwater mentioned through a lot of them is actually quite minimal. There  
495 is alongside mention of other environmental factors. Does the mention of  
496 freshwater or [39.06] mean that it becomes a freshwater provision? I guess their  
497 point is that it's integrated management and it's a big picture over the whole of  
498 the plan change and not just a freshwater issue.

499  
500 Wyeth: I guess I would agree with some of the sentiments expressed, that you have just  
501 outlined there. I guess the way we had approached it is we're looking at the  
502 provisions in the round; so if it does include a clause that directly relates to  
503 matters that impact on freshwater it's included – the process was to include it as  
504 a whole in the Freshwater Planning Process. If you looked at overall and you  
505 said, does this primarily relate to freshwater versus a whole range of other things,  
506 you might take a different sort of perspective in how that should be allocated. I  
507 guess that's the process or lens we were applying, looking at the provision –  
508 [00.40.00] around whether there are provisions in it that relate to freshwater. The  
509 assumption would be recommended to include it in the Freshwater Planning  
510 Process.

511  
512 I guess the way I had approached is not does fifty percent of this provision relate  
513 to freshwater, and weighing it like that. It was just, does it relate to matters that  
514 impact on freshwater? If it does it meets that test. Whether that's the appropriate  
515 lens to apply is probably a legal matter.

516  
517 Wratt: I guess the question then is there are several submissions that comment; and  
518 again going back to the Otago Regional Council High Court Decision, there's a  
519 reference under the RMA, I think in paragraph 200(c) of the ORC Decision,  
520 under the RMA and applying s.80A the start point must be that all of the  
521 Proposed Regional Statement will be subject to the normal planning processes  
522 set out in Part 1 of Schedule 1 of the RMA. It almost seems like the approach  
523 taken here has almost been the opposite; which if it's mentioned in freshwater  
524 then it becomes a freshwater provision; rather than the starting point is that it's  
525 a Part 1 Schedule 1 provision.

526  
527 There's no easy answer.

528  
529 Wyeth: I guess my only comment would be, as I said, if you looked at it as a not just  
530 does it include a provision that relates to freshwater, but you looked at in the  
531 round and you see this is primarily relating to freshwater versus other matters, I  
532 would probably be recommending something different in my evidence. That's  
533 the sort of lens and tests we applied.

534  
535 I don't know if I can comment further sorry.

536  
537 Wratt: Thank you. I might come back to that with your legal counsel maybe.

538  
539 Paine: About method IM.2 about data sovereignty. I was just wondering about the  
540 timings. We're to come up with a method by 2025. Is there going to be a space  
541 between these recommendations being picked up or not, or being made operative  
542 and the framework for the data sovereignty being in place by 2025.

543

544 I suppose my question really at a higher level is what happens in between time  
545 if there is a difference?  
546

547 Wyeth: I must admit I am not aware of the rationale for that timeframe, but I would say  
548 that it's probably something that was seen as a practical and achievable  
549 timeframe in which to achieve this. My understanding is the clear intent from  
550 Council was to work with mana whenua to give effect to this method, and that  
551 work can start now.  
552

553 Because I don't envisage there's not much opposition to this policy, it's not  
554 going to be arguably subject to appeals that tells us you can get on and do the  
555 work now essentially.  
556

557 Paine: It was more curiosity to see how the data sovereignty and those things were  
558 handled now, and if there is a space between these things being operationalised  
559 in that timeframe, that's all.  
560

561 Wyeth: My understanding is Council already has processes in place around Māori data  
562 and how they use that, but this is intended to really formalise that and work in  
563 partnership with each iwi to do that. I guess it's not starting from ground-zero  
564 type thing. There is already processes in place and it's about formalising those  
565 with each individual, mana whenua in the region.  
566

567 Paine: Thank you Mr Wyeth. Thank you sir.  
568

569 Chair: I think everything has been covered Mr Wyeth. Thank you.  
570  
571 Ms Anderson.  
572

573 Anderson: Thank you sir. I just have a brief comments really at the beginning to go through  
574 the key points of the legal submissions filed for Hearing Stream Two. There  
575 were legal submissions dated 23 June, the first set filed, which addressed the  
576 meaning of some of the key terms used in the provisions as part of this Hearing  
577 Stream, and it also addressed consideration policies under the RPS.  
578

579 Paragraph 4 of the 23 June submissions really sets out some of the meanings for  
580 the terms used in the set of provisions. I won't labour them, because some of  
581 them are probably quite well known.  
582 [00.45.00]

583 You've got the meaning of "give effect to" being implement; "have regard to"  
584 meaning give the matter genuine attention and thought, but not necessarily  
585 accepting it; "taking into account" meaning considerate it and give it appropriate  
586 weight and recognise and provide for – recognising that some sort of action is  
587 required to recognise a matter and then provide for it in the case law there as set  
588 out.  
589

590 In terms of consideration policies they are addressed at paragraphs 5 to 10 of  
591 those 23 June submissions. They contain a variety of directions to decision-  
592 makers in terms of resource consents, plan changes and notices of requirement.  
593 As part of this topic we have got IM.2 and IM.2 being consideration policies. In  
594 my submission, having those sorts of policies are appropriate. Firstly they have  
595 been in the operative RPS since 2013, so we have got an extensive set of

596 consideration policies already in there; but also, they are effectively consistent  
597 with what the RMA itself requires in terms of having regard to or giving effect  
598 to RPS's through the three types of planning mechanisms listed there – consents,  
599 plan changes and notices of requirement; albeit the wording in the RMA differs  
600 between which process you're in.

601  
602 In the reply submissions that were dated 7 July 2023, those really focused on the  
603 Hort NZ submissions around the NPS HPL and their requests for incorporating  
604 provisions that gave effect to that.

605  
606 As we have already probably discussed this morning, you will be well aware  
607 that Change 1 itself was notified I think about two months before the NPS HPL  
608 came into legal effect. Because of that I have set out at paragraph 8 of those  
609 submissions the obligations on the Regional Council to give effect to the NPS  
610 HPL.

611  
612 The main one within NPS itself is amending the RPS within three years to do  
613 this mapping exercise of highly productive land around the region. And, then  
614 outside of that there are no specific timeframes affecting regional councils in  
615 that NPS; so you have the general requirement in s.55(d) of the RMA, which is  
616 reflected in the NPS itself, requiring the NPS to be given effect to as soon as  
617 practicable.

618  
619 At paragraph 9 of those submissions I have made the submission that this  
620 obligation does not require changes to the RPS immediately to give effect to that  
621 NPS HPL; and also that that obligation to give effect to the NPS doesn't override  
622 the fact that the Panel's jurisdiction is still limited by the scope of the change  
623 itself for both the freshwater provisions and non and scope of submissions for  
624 the non-freshwater provision. So, you will have to apply that lens to your giving  
625 effect to an NPS in my submission. I would say that's consistent with the one  
626 Plan case that I have referred to at paragraph 13 of those reply submissions.

627  
628 I wasn't sure whether you would like a copy of that Manawatu case. I do have it  
629 here if you want me to provide one. I will provide that at morning tea if that's  
630 helpful.

631  
632 While it's accepted that there will need to be further changes to the RPS to fully  
633 give effect to the NPS HPL, at this stage the only amendments that can be made  
634 need to go through a scope assessment; and as Mr Wyeth, I think, has already  
635 pointed out, there is a practical issue that the NPS itself applies an interim  
636 regime, so it's not as if there's a gap where highly productive land isn't protected  
637 to the degree set out in the NPS in between times.

638  
639 That was all I wanted to say about Hearing Stream Two specific topics, but I am  
640 also conscious that in between times there were further submissions filed by us  
641 on the categorisation issue, I think dated 7 July, albeit part of Hearing Stream  
642 One. I wasn't sure if there were any questions that arose from that for today as  
643 well.

644  
645 Happy to answer any questions you might have from that array of topics.

646 [00.50.00]  
647

648 Wratt: By the categorisation, I'm assuming you're referring back... I'm sorry, I can't  
649 remember exactly what was in that prior submission from you, but you were  
650 talking about the allocation of provisions to the two Panels? Do they have two  
651 hearing processes?  
652

653 Anderson: That's right. Panel's Minute 5 had called for submissions from the Council on  
654 that, so that's what the 7 July submissions. I'm sorry, I've been calling it  
655 categorisation because I get confused with water allocation if I use that word.  
656

657 Wratt: Do you have any further comment on the tension, I guess, that Mr Wyeth  
658 mentioned, between looking at the big picture in the round and the specifics of  
659 is there an impact on water quality and how you balance that in terms of whether  
660 it's a freshwater provision or a PIS1 provision?  
661

662 Anderson: Yeah, a couple of things spring to mind when you're having that conversation...  
663 The first really is around the Kutikitai [51.00] concept. You had pointed out the  
664 comments in the Otago Regional Council case about that. I think it's actually  
665 158 and 206 in two different places.  
666

667 I had read that as being a clear direction you cannot justify a whole RPS to be  
668 going through the Freshwater Planning Process based on integrated  
669 management, because integrated management has always existed and there was  
670 meant to be some differentiation created by this Freshwater Planning Process. I  
671 think that's very clear in paragraph 156.  
672

673 When you go to paragraph 206, it's a little less clear, but seems to be saying  
674 simply because there's some connection to the concept of Kutikitai, or integrated  
675 management there still has to be a connection to freshwater as well.  
676

677 So, I'm not sure how you quite align the two paragraphs. It then leads to your  
678 questions and I think you asked me about this in Hearing Stream One, about that  
679 comment in the Regional Council case, about you should start with the first  
680 schedule and work from there. I think my answer at the time might have been,  
681 "Does it make any difference?" But, let's say you apply that scenario. I think it  
682 actually solves a little bit of a problem in s.80A, because as you are probably  
683 aware there are two 'musts' in there. I'm looking at s.80A, subsection (3) where  
684 it talks about the Regional Council must prepare a Freshwater Planning  
685 Instrument. If it is satisfied that only part of that instrument relates to freshwater  
686 it must put it through the Freshwater Planning Process. If it relates to first  
687 schedule it must go through that process. You've kind of got two musts.  
688

689 So, if you start and say all of these provisions are first schedule provisions and  
690 then you decide these ones directly relate to freshwater or give effect to the NPS  
691 as it relates to freshwater they go in the freshwater pot. So, in some respects, if  
692 you start that way, I would say as soon as there's a freshwater provision you  
693 trigger it into the freshwater pot.  
694

695 Then we come back to that discussion we had about when there's multiple  
696 aspects in a provision where does it go? Some are freshwater related and some  
697 maybe are not. The Regional Council had taken the approach of as soon as part  
698 of that provisions related to freshwater it went in to the freshwater pot, and that  
699 came back to that interpretation of what part of an instrument means in s.80A.

700  
701 So, I guess you have two choices. If you want to take an integrated approach and  
702 draft provisions that are integrated, you have to have some system, I would say,  
703 for allowing that; because otherwise you just write a whole lot of provisions  
704 where you have a freshwater chapter effectively that only deal with what people  
705 would classify as straight freshwater provisions, and I'm not sure that's a great  
706 outcome either.  
707  
708 The reason we got there was because of that part, and what that part of  
709 instrument means. We say that's a provision within a change. If it relates to  
710 freshwater it goes in the freshwater box.  
711  
712 There's no black and white answers probably on any of this you would have to  
713 say. It's about finding a process that works and is practical for being able to draft  
714 these freshwater provisions.  
715  
716 Wratt: Thanks.  
717 [00.55.00]  
718 Nightingale: Thank you Ms Anderson. Wairarapa Federated Farmers have said in their  
719 submissions on the categorisation issue that the Freshwater Panel is unable to  
720 basically reclassify a provision if it has been notified as being in the Freshwater  
721 process; it does not have the power to then say this can go into the P1S1 process.  
722  
723 Your submissions of 7 July were filed before those legal submissions. Does that  
724 point raise any issues for you, or do you think that the process that we've  
725 suggested can adequately deal with that concern?  
726  
727 Anderson: It didn't raise any issues for me. I read those, the Wairarapa Federated Farmer's  
728 submissions as saying, for example, the Freshwater Panel can't delegate across  
729 to the First Schedule Panel the power to make recommendations on provisions  
730 that it decides are not freshwater provisions; whereas in my head, the Freshwater  
731 Panel is making a recommendation to the Council about a Freshwater provision,  
732 because as notified it was a Freshwater provision.  
733  
734 The decision that makes it not a Freshwater decision is made by the Council.  
735  
736 I don't see it as the Panels delegating to each other anything. They are simply  
737 making recommendations to the Council and each of the documents, First  
738 Schedule and Freshwater, remain as they are until there is a Council decision  
739 determining otherwise, and then at that point people have their appeal rights, if  
740 they don't like that outcome.  
741  
742 Nightingale: Just on the appeal rights, and things do start to get quite complex at this point,  
743 are you able to explain your understanding of what would happen if there is a  
744 recommendation from the Freshwater Panel that a provision is not a Freshwater  
745 provision; and the Council agrees or disagrees or disagrees with that  
746 recommendation. What are the appeal avenues at that point?  
747  
748 Anderson: I have set that out paragraph 12.5 of the 7 July submissions. In this scenario you  
749 talk about if the Freshwater Panel says, "We don't think this is a Freshwater  
750 provision, it should move to First Schedule," in its recommendations, if the  
751 Council accepts that then at the point of their decision it becomes a First

752 Schedule provision; and so there's the normal Environment Court appeal rights  
753 under the First Schedule.  
754  
755 In the scenario where the Panels recommend that it's not a Freshwater provision  
756 and the Council rejects that, then you end up in the same scenario because it's a  
757 rejection and you have an appeal to the Environment Court, under clause 55; and  
758 the Council would have to put up an alternative solution.  
759  
760 Nightingale: So, the High Court point of law avenue is, if Council agrees with the Freshwater  
761 Panel's recommendation...  
762  
763 Anderson: On a Freshwater provision, but not where the recommendation is to move it to a  
764 First Schedule provision.  
765  
766 Effectively the Environment Court Appeal rights get preserved in the process  
767 that the Panel has proposed, and that seemed to be one of the overriding concerns  
768 of submitters across their submissions.  
769  
770 In my submission we also end up in a position of what is the alternative, in terms  
771 of there have been various, or two that I'm aware of, suggestions made about  
772 the alternatives. In my submission they have more probably disadvantages than  
773 advantages to them in terms of a process. I think the one the Panel has proposed  
774 ends up being the fairest.  
775 [01.00.00]  
776  
777 Nightingale: Though there have been some submitters I think, including Forest & Bird, that  
778 say it's more than just a matter of what's convenient and practical. They have  
779 raised these jurisdiction barriers. I have read your 7 July submissions and I think  
780 provides some comfort but we still have a bit of thinking to do on that.  
781  
782 Anderson: We still have to look at the intention of those provisions which I think came  
783 through loud and clear in the Otago Regional Council place, that this was meant  
784 to be a quicker process to get the Freshwater provisions through. I don't think  
785 the intention was for there to be significant delays and a lot of hearing time spent  
786 on this whole re-categorisation issue, because at the end of the day the focus  
787 really is on what's the substance of the provisions and what do they achieve.  
788  
789 I appreciate obviously the jurisdiction issue has to be addressed, but I think there  
790 has been one selected that's within the limits of the RMA. I would be happy to  
791 argue it.  
792  
793 Nightingale: Why we suggested this categorisation, we can make our recommendations only  
794 at the very end of the process, because I'm interested in seeing that there's a  
795 logical and clear cascade. Because for instance, if there is a Freshwater provision  
796 further down the track, if that needs a corresponding policy in order to provide  
797 for that appropriately then I think that may influence the categorisation issue.  
798 We are proposing that we make those recommendations only at the very end of  
799 the process and not have interim recommendations along the way.  
800  
801 Anderson: I think that's right isn't it, because also you're getting evidence as you go  
802 through the hearing streams on the Council's rationale for those provisions and  
803 then what submitter's views are. It's like any issues the Panels are making

804 recommendations on. You obtain the evidence from all the parties about what  
805 they think and ultimately a recommendation spits out.  
806  
807 I think it was addressed in those submissions. Trying to re-categorise now and  
808 then restart the hearing process would be quite challenging. You would still have  
809 to run some sort of hearing process to get the rationale behind that.  
810  
811 One of the things that I'm not clear on in this process is whether there are other  
812 submitters who we haven't heard from yet who have issues with categorisation  
813 that weren't involved in Hearing Stream One, and that may well come out over  
814 the Hearing Streams.  
815  
816 Nightingale: Just turning to the provisions that are within this Hearing Stream, some  
817 submitters have raised this issue about whether these provisions are creating a  
818 hierarchy of objectives. Mr Wyeth has recommended some changes to delete the  
819 words "overarching resource objective for the region is" so that may go some  
820 way to addressing that concern. The Integrated Management Objective is still  
821 called Objective A.  
822  
823 Do you think that this does create a hierarchy of objectives? If there was a  
824 provision elsewhere in the RPS that perhaps was a bit inconsistent or potentially  
825 even conflicted with a provision in Objective A, that Objective would be seen  
826 to be given prevail over that?  
827 [01.05.00]  
828 Anderson: My understanding of the Case Law around that issue, which I think actually  
829 comes out of Auckland Council and I can provide that if that's helpful, is that  
830 for there to find that sort of priority there has to be some direction in the policy  
831 statement that says that; otherwise, aside from things like the difference in  
832 directive wording versus non-directive wording, each objective sort of stands  
833 and falls as is relevant to whatever you're assessing.  
834  
835 As I understood it, the explanatory text is reasonably clear that all relevant  
836 objectives and policies will apply. There is nothing that suggests there is as  
837 hierarchy between them. I think the deletion of overarching is helpful in terms  
838 of dispelling that.  
839  
840 Nightingale: That text that you mentioned, the explanatory text, is that at the beginning of  
841 Chapter 4.2?  
842  
843 Anderson: Just give me a moment I will find out where that is. It was in the original S.42A  
844 Report I think.  
845  
846 Wratt: It's in the rebuttal evidence of Mr Wyeth, as mentioned. It's against Chapter 3.  
847 In the S.42 rebuttal evidence from Mr Wyeth, 7<sup>th</sup> July. I think under a heading  
848 of Chapter 3 Overarching Issues.  
849  
850 Wyeth: I made a recommendation in relation to the overarching issues, that they are to  
851 be read alongside the other topic specific issues in the RPS. I haven't  
852 recommended a statement to that effect in relation to Objective A, because I  
853 didn't consider it was necessary. Obviously that's open to the Panel if that  
854 provides added clarity that all objectives are to be interpreted based on their own  
855 terms.

856  
857 Wratt: So, you recommended an added statement at the end of the overarching issues  
858 to state these overarching resource management issues should be read with topic  
859 resource management issues in the following chapters where relevant.  
860

861 Wyeth: A similar statement could be made for added clarity. I guess my view was it's  
862 not necessary. But, if that's to resolve any concerns that's certainly an option.  
863

864 Nightingale: Porirua City Council say that they oppose all consideration policies because they  
865 say they often duplicate or conflict with regulatory policies. That is something I  
866 would ask them. I think they are appearing tomorrow.  
867

868 Do you think what they're saying is that because the RMA says you need to give  
869 effect to the RPS and then have regard to requirements in consenting and  
870 particular regard for NORs, are they saying that the consideration policies might  
871 come up against those requirements in the RMA? Have you thought about what  
872 their concern is there?  
873

874 Anderson: In terms of this particular hearing stream, I think Mr Wyeth had resolved that  
875 issue by the removal of the particular regard or regard to phrase. If there as an  
876 issue it no longer is an issue for these hearing streams.  
877 [01.10.00]

878 I actually hadn't taken that so much from the Porirua submissions. It was more  
879 about the date requirement within consideration policies, which isn't applicable  
880 to this particular hearing stream. But, I could be wrong on that, and they will no  
881 doubt tell you when they come along.  
882

883 There is a difference in wording between those three different planning  
884 mechanisms in the RMA – as you say, give effect to, have regard to and have  
885 particular regard to. So, ideally you would try and line them up.  
886

887 I am not sure outside of this hearing stream what other consideration policies  
888 use those phrases or not.  
889

890 Wyeth: I might just add a comment. I think they have got a concern, and it's not as  
891 relevant to this topic, but say for example biodiversity where you've direction  
892 that you must change your district plans that give effect to these provisions.  
893 You've also got a consideration policy around protecting indigenous  
894 biodiversity – that there's some duplication there. I guess I can't really comment  
895 on that issue, but I know that's their concern.  
896

897 The consideration policies serve an important function in terms of providing that  
898 in term consideration. We all know there's a time delay before when District  
899 Plan changes might be made to give effect to RPS policies. I think the intent is  
900 to make sure that those provisions prevail in that interim period – whether or not  
901 there's a sub-judication for a period of time.  
902

903 Nightingale: In the suggested wording you've got at the beginning of Chapter 4.2, you say,  
904 "These are the policies that need to be given effect to," and in that regard we  
905 have two for consenting, "and this applies regardless of whether this is stated at  
906 the start of each policy in this section."  
907

908 Is the intent there to say that you need to read the consideration policies in  
909 accordance with the particular ‘give effect to, have regard to, have particular  
910 regard to’ requirement?  
911

912 Wyeth: That was the intent, was just to clarify the legal relationship that exists in relation  
913 to whether it's a plan change or resource consent application; and that that  
914 applies regardless of whether the Shapo refers to resource consent applications.  
915 I think it was trying to make that clearer.  
916

917 Nightingale: Those words, regardless of whether this is stated at the start of each policy, is  
918 that the reference to... so for example, it's says, Kutikitai [01.13.24], for I am  
919 one – consideration. Is that the...  
920

921 Wyeth: Yes and also the Shapo policy that says, “When considering an application for  
922 a resource consent notice of requirement, change or variation,” it just sort of  
923 saying you don’t necessarily need to refer to all those words; it could just be the  
924 policy direction that you must consider these matters.  
925  
926 I guess in my opinion it could be simplified, but we’re also looking at  
927 consistency with the existing RPS infrastructure and language.  
928

929 Nightingale: Just one question on the Horticulture New Zealand submission.  
930 [01.15.00]  
931 In paragraph 9 of your legal submissions in reply for this hearing stream, you  
932 say that there is no requirement on the Council to give effect to the NPS HPL  
933 immediately. It's an as soon as practicable requirement. Are you aware of  
934 whether the Council has stated what it's intention is for proposing a change to  
935 give effect to the NPS HPL?  
936

937 Anderson: I am not aware of that, but I can find out from the officers what the intention is.  
938 Obviously there is a maximum time limit of doing the mapping. You would  
939 expect if you were doing the mapping you would do the associated provisions at  
940 the same time, and that’s now probably got two and half years to run on that  
941 three year time frame.  
942

943 Nightingale: If the new bill goes through as it is, I think there’s a provision in there that says  
944 full RPS reviews are not to be notified in the transition period. I don’t know  
945 when that comes in, or when that sort of bar would come in, if it would come in  
946 from the time of commencement of the new legislation.  
947

948 Anderson: Yes. You’re probably well ahead of me on reading that part. I have read  
949 commentary that has said that, but I am not sure on the exact timeframe that  
950 applies to. We are hanging a lot of hope on the national planning framework,  
951 that that might help direct some of these things as well.  
952

953 Nightingale: I guess I’m just wondering. I don’t know how relevant it is, but I guess what I’m  
954 thinking about is, is there an opportunity here to provide some high level  
955 direction for territorial authorities, in particular around ensuring that urban  
956 development, which is very much a key focus of this change, does not occur in  
957 a way that doesn’t irretrievably lose productive soils for example. So, putting  
958 that direction in, is this actually subject, of course, to there being scope to do so?  
959 Does this as soon as practicable obligation actually put some sort of positive

960 obligation on the Council given that this change will be directing councils  
961 regarding urban development and locations for future growth. Section 32, I  
962 think, does talk about the amount of productive soil that is in the region. I think  
963 there is some reference to loss of that productive soil as well.  
964  
965 I get what you're saying about there perhaps not being strict legal obligations,  
966 given that the NPS came into effect after Change 1 was notified, but just in the  
967 context that it is dealing with urban development, if having that high level  
968 direction to territorial authorities is something that would be appropriate to  
969 include.  
970  
971 Anderson: I think Mr Wyeth might have just mentioned that in terms of Objective A that  
972 could be helpful. In my view it simply boils down to a matter of scope and what  
973 is practicable. Assuming you could find that there is scope to add that into  
974 Objective A, then if it's practicable to do so, then sure. What I mean by that is, I  
975 think if you were to decide that, for example, regional mapping had to occur as  
976 part of this change process, obviously that's not practicable because the work  
977 hasn't been done and what-have-you.  
978 [01.20.00]  
979 It would make good resource management sense to try and align the provisions  
980 to the extent that you can with the NPS's that are there. The issue I probably  
981 have mostly with the Hort NZ request, because I took their submissions that  
982 they've made, marrying it to a change to the resource management issue and a  
983 change to the definitions.  
984  
985 The definition, I think, is more problematic for scope because you're bringing  
986 in a whole new Category 3 effectively of land that the RPS would apply to, and  
987 I think there is a real question whether submitters would know that that sort of  
988 change could be made through this process. Adding something into the resource  
989 management issue; when integrated management, urban development and what-  
990 have-you is on the table, probably not such a scope issue.  
991  
992 Wyeth: If I can just make a comment because I was quite involved in the NPS. Clause  
993 3.6 of the NPS for highly productive land sets out quite a specific series of steps  
994 that must be met for any urban rezoning proposal to be located on highly  
995 productive land. They must be required to meet sufficient development capacity  
996 under the NPS UD; that there's no practical alternative locations and that the  
997 benefits outweigh the costs. There's quite a specific set of tests that must be met  
998 under the NPS that apply regardless of what the RPS say.  
999  
1000 I think just in terms of the concern of not addressing this now through the RPS  
1001 will lead to loss of high productive land is probably not an issue from a practical  
1002 perspective.  
1003  
1004 Nightingale: I understand with consenting, in terms of directions for plan making, for  
1005 territorial authorities.  
1006  
1007 Wyeth: That relates to changes.  
1008  
1009 Nightingale: At 3.6?  
1010  
1011 Wyeth: Yeah.

1012  
1013 Nightingale: So, you're saying it would apply regardless.  
1014  
1015 Wyeth: Any urban plan change the NPS HPL test would apply. They're quite specific.  
1016  
1017 Anderson: But, we also have to remember for resource consents one of the s.104  
1018 considerations is the NPS; so the policies of the NPS will be applied to any  
1019 resource consent as well.  
1020  
1021 Nightingale: Thank you. I think that was all I had.  
1022  
1023 Chair: I have one brief matter Ms Anderson that I would appreciate your comment on.  
1024  
1025 Looking at this issue of dividing matters between the Freshwater Panel and the  
1026 P1S1 Panel, there was a submission received from one of the other parties that  
1027 as I understood it was putting the proposition that if the Freshwater Panel  
1028 decided that it should not hear a particular matter, that it should be put to the  
1029 P1S1 Panel, that that would be a delegation of decision-making rights which was  
1030 unlawful. That is not my understanding of the law. My understanding would be  
1031 that if Freshwater Panel looked at an issue and said, "That is not a freshwater  
1032 issue," then it has no decision-making power to delegate for one thing; and in  
1033 any event, it's not a delegation, it's simply the two panels dealing with their own  
1034 matters.  
1035  
1036 Have I missed something do you think?  
1037  
1038 Anderson: No, it's not a delegation between the panels. It is simply the panels making  
1039 recommendations to the councils who will make a decision of which they have  
1040 the ability to do. I don't see it as a delegation between you.  
1041  
1042 Chair: The Panels should only make recommendations on the matters over which is a  
1043 matter of law. They have that power.  
1044  
1045 Anderson: Correct. At the moment, the Freshwater Panel has the power to make  
1046 recommendations on everything that was notified as part of the Freshwater  
1047 Planning Instrument, and that includes in my view re-categorisation, to  
1048 recommend it's not a Freshwater provision, and to come out of the instrument.  
1049  
1050 Chair: I think that deals with it. Thank you.  
1051  
1052 Nightingale: Sorry Ms Anderson, can I just ask a follow-up on that. You said the Freshwater  
1053 Panel has the delegation to make recommendations on provisions that were  
1054 notified as part of the freshwater process. If they consider that provision is a non-  
1055 freshwater provision their recommendation is that it is a non-freshwater  
1056 provision basically isn't it. They don't have any other powers beyond that.  
1057 [01.25.00]  
1058 Anderson: Correct. It doesn't become a non-freshwater provision until the Council makes  
1059 a decision that is so, or a court changes that at a later date. So, you're not  
1060 delegating that power anywhere; you're simply making a recommendation  
1061 within your lane.  
1062

1063 Wratt: Can I just ask a follow-up question? What's then the power of the P1S1 Panel  
1064 to make recommendations on that provision? If the Freshwater Panel just says  
1065 it's not a freshwater provision, the P1S1 then is able to make a recommendation  
1066 on that?  
1067

1068 Anderson: I think somewhere in my 7 July submissions I said there was possibly a couple  
1069 of ways of doing that, and it probably comes down to how you want to manage  
1070 your own processes. One for example is, if the Freshwater Panel simply says,  
1071 "This isn't a freshwater provision. That's our recommendation. We're doing  
1072 nothing further," then it probably requires your reports to align somewhat  
1073 between the two panels, and that probably comes back to the timing you've got  
1074 for doing your two reports, and whether you are going to choose to do them  
1075 separately or at the same time. In my head it probably makes more sense that  
1076 they're all together, because there then has to be some recommendation on the  
1077 substance of what that provision looks like one way or another. So, if the  
1078 Regional Council accepts it's not a Freshwater provision, there is some  
1079 recommendation as to what the substance of it looks like.  
1080

1081 That becomes a question really probably between yourselves, as to how that's  
1082 framed in your ultimate reports.  
1083

1084 Wratt: You're not seeing there's a particular legal issue as to whether that comes  
1085 through? The Freshwater Panel Report of the P1S1 Panel Report?  
1086

1087 Anderson: You could probably do it either way couldn't you, in that the Freshwater Panel  
1088 is saying "This is not a freshwater provision." In the event that's not accepted,  
1089 we say it should be worded this way. So, then the Council can accept the  
1090 categorisation decision or not, and then it's got some view on what the wording  
1091 should be. Then it becomes an issue for Council as to whether that's an accept  
1092 or reject with an alternative solution. Either way, there has to be a  
1093 recommendation on categorisation and on substance.  
1094

1095 Wratt: My apologies but I'm having trouble finding your 7 July.  
1096

1097 Anderson: It was a second set of reply submissions effectively, because your Minute came  
1098 out after the Hearing Stream 1 reply had been filed. That was a response to the  
1099 Minute. It is on the Hearing Stream page under Hearing Stream 1.  
1100

1101 Chair: Thank you. We will take a break.  
1102

1103 Anderson: Thank you.  
1104

1105 [Break taken 01.28.15]  
1106

1107 [Hearing Resumes]  
1108

1109 Chair: Perhaps I could ask you to introduce yourself.  
1110

1111 Rowe: Tēnā koutou katoa. Ko Miles Rowe taka ingoa. I am a Principal Planner with  
1112 Forsyth Consulting.  
1113

1114 I think you have got my statement of evidence, and I have just prepared a very  
1115 brief summary, which I will just read to you now.

1116  
1117 I have prepared a joint statement of evidence for the fuel companies and  
1118 Powerco. The fuel companies comprise of BP Oil, Mobil Oil and Z Energy.  
1119 Their assets and interests in the Wellington region include bulk fuel storage  
1120 terminals and retail fuel services. Powerco's assets and interests in the region  
1121 are electricity and gas distribution networks.

1122  
1123 My evidence relates to Objective A and Police IM.2. In preparing this brief  
1124 summary of my evidence I confirm that I have also read the rebuttal evidence of  
1125 Mr Wyeth for Wellington Regional Council.

1126  
1127 Objective A: In my evidence I accept that the term "physical resource"  
1128 encompasses all infrastructure and therefore it is not necessary for the Objective  
1129 to specifically reference regionally significant infrastructure. However, I support  
1130 the submissions of Meridian and Wellington Water that the resilience  
1131 opportunities is a critical resource management issues that is intertwined with  
1132 other elements of Objective A.

1133 [01.30.00]

1134 The rebuttal evidence of Mr Wyeth recommends further changes to Objective A  
1135 including to clause (h) regarding the specific recognition of regionally  
1136 significant infrastructure and its role in improving the resilience of communities  
1137 to climate change. This recommended change to Objective A addresses the  
1138 matters raised in my evidence.

1139 Police IM.2: The submission of the fuel companies and Powerco is that Policy  
1140 IM.2 contains ambiguous language and is unable to be applied on a consistent  
1141 basis. It is unclear how it would be applied to resource consent applications.

1142  
1143 In my evidence I noted that the s.42A recommended changes to the policy are  
1144 an improvement over the notified version, but I am not convinced that it is the  
1145 most appropriate way to achieve the RPS objective. My primary position stated  
1146 in the evidence is that Policy IM.2 should be deleted. But, if it is to be retained  
1147 then it should not apply to consenting to processes and clause (a) should be  
1148 amended to remove the reference to addressing barriers, on the basis that it is  
1149 not clearly defined.

1150  
1151 Further, if Policy IM.2 is retained then I support the s.42A recommendation to  
1152 reframe clause (c) to "a low emissions and climate resilient region."

1153  
1154 I agree that the deletion of clause (d) in the notified version as being ambiguous  
1155 and unnecessary.

1156  
1157 The rebuttal evidence of Mr Wyeth is that Policy IM.2 will not be effective or  
1158 efficient to achieve the RPS objectives and recommends that it be deleted. The  
1159 deletion of Policy IM.2 addresses the matters raised in my evidence.

1160  
1161 Ngā mihi nui. Thank you.

1162  
1163 Chair: Thank you Mr Rowe. Questions?

1164

1165 Paine: Mōrena Mr Rowe. Thank you for your evidence. Have you seen Mr Wyeth's  
1166 latest evidence that he has put in has actually addressed some of your points?  
1167 You haven't seen his latest evidence?  
1168

1169 Rowe: I have seen his rebuttal evidence which I think was 7 July.  
1170

1171 Paine: In his latest he's got recommending the deletion of Policy IM.2 and has actually  
1172 made those inclusions in Objective A that you're suggesting. Maybe not the  
1173 exact words but words to that effect.  
1174

1175 Rowe: Correct, yes. I support those changes.  
1176

1177 Paine: Thank you. Thank you sir.  
1178

1179 Chair: Commissioners, any other questions for Mr Rowe?  
1180

1181 Wratt: Nothing from me. It seems like your concerns have been met with changes in  
1182 the rebuttal evidence. Thank you very much.  
1183

1184 Nightingale: Just one question. In the changes Mr Wyeth recommends, in some provisions he  
1185 retains the wording "natural and physical resources" and in other provisions he  
1186 recommends "natural and built environments".  
1187 For the relief that your clients are seeking, do you think that difference in  
1188 wording matters, and should it be consistent?  
1189

1190 Rowe: In dealing with the second point, I think it's more helpful when it's consistent. In  
1191 terms of my clients, I don't think they would be particularly concerned either  
1192 way. They are part of the built environment. They do have physical resources.  
1193

1194 Nightingale: You don't think the words "built environment" exclude the resources that you're  
1195 clients are concerned about?  
1196 [01.35.00]  
1197 Rowe: No I don't, no.  
1198

1199 Nightingale: Are you aware if there's a definition anywhere of built environments?  
1200

1201 Rowe: Not that I'm aware of. I think some plans probably do have a definition. I am  
1202 not sure if there's a more universal definition.  
1203

1204 Nightingale: I just wonder if Mr Wyeth might be able to comment on that.  
1205

1206 Wyeth: There is no RMA definition of 'built environment'. No universal definition that  
1207 I am aware of. Obviously it's the terminology used in the new legislation.  
1208 Environment is obviously defined in the RMA and natural and physical  
1209 resources forms part of that definition.  
1210

1211 I guess I would also interpret built environment to include the assets and  
1212 infrastructure that we are talking about here.  
1213

1214 Nightingale: While Mr Wyeth has recommended amending Objective A to include reference  
1215 to regionally significant infrastructure and you support that change, that  
1216 amendment is not in the Policy IM.1 which is intended to implement the

1217 Objective. Assuming there is scope, do you think that that would be a change  
1218 that is needed in IM.1?  
1219

1220 Rowe: My understanding was Policy IM.1 is not the only policy that implements the  
1221 objective, and that there are a number of other policies already in the RPS that  
1222 would also apply. My understanding is, there is some existing policies already  
1223 relating to regionally significant infrastructure.  
1224

1225 Nightingale: So, you don't think it's necessary that the IM policies include reference to  
1226 regionally significant infrastructure, because it's captured in the objective and in  
1227 other policies in the RPS.  
1228

1229 Rowe: Correct. Yes.  
1230

1231 Chair: Nothing else Commissioners? I don't have anything more Mr Rowe. Thank you  
1232 very much.  
1233

1234 Rowe: Thank you very much.  
1235

1236 Chair: The process will pause until the next presenter is available – Wellington Fish &  
1237 Game.  
1238 [Recording paused 01.39.18]  
1239  
1240

1241 I am Commissioner Craig Thompson. I am chairing the Panel today. Perhaps if  
1242 we could ask you to introduce yourself.  
1243

1244 Malone: Good morning sir. My name is Craig Malone and I am appearing for the Fish &  
1245 Game Council.  
1246

1247 The legal submissions were circulated already. I assume that they've been read  
1248 and you don't need me to read them word for word sir.  
1249 [01.40.00]  
1250

1251 Chair: Yes, quite.  
1252

1253 Malone: I am in your hands sir as to whether you just want to go straight to questions if  
1254 you have any, or do you want to me briefly step through the submissions.  
1255

1256 Chair: I think it might be helpful if you did that Mr Malone, just so that we all know  
1257 we're on the same wave-length. That would be helpful.  
1258

1259 Malone: Will do sir. I'm starting at paragraph 2.1 of the submissions on page-2. In that  
1260 paragraph, just noting there the Fish & Gaming submission in relation to the  
1261 wording of Objective A, with concern that it doesn't refer to the role of the  
1262 community and other stakeholders.  
1263

1264 If you then move onto 2.3 you will see in greywash text there, in Objective A,  
1265 under A, as to the amendment that Fish & Game is seeking, and that's to add the  
1266 words, "input from stakeholders and the community."  
1267

1268 In 2.4 there sir I have just set out, as you will be well familiar with, the purpose  
1269 of the Resource Management Act and nothing there the importance of people  
1270 and communities, obviously including tangata whenua.

1271  
1272 Moving onto 2.6, Fish & Game support integrated management being guided by  
1273 te ao Māori, as well as also guided by the views of people and communities,  
1274 including stakeholders such as Fish & Game.

1275  
1276 Then in para 2.7 sir, I just set out part of the Fish & Game submission regarding  
1277 its significant role as a stakeholder. Sir, we've just have Mr Phil Teal and Ms  
1278 Amy Coughlan from Fish & Game join us. Phil and Amy we started early  
1279 because the hearing panel was running ahead of schedule and I didn't want to  
1280 hold them up.

1281  
1282 Then in 2.8 there sir, I am just noting the wording sought in terms of the change  
1283 to Objective A is also consistent with other wording that appears and reappears  
1284 in the RPS, in that context and methods.

1285 Then just moving onto the NPS freshwater in 2.10, noting there the s.42A Report  
1286 and then setting out the objective of the NPS freshwater, again noting their  
1287 references to people and communities.

1288  
1289 Moving onto the concept of Te Mana o te Wai, I recognise that that will be part  
1290 of a later hearing stream. Nevertheless, want to highlight here that the wording  
1291 that's sought by Fish & Game in relation to the amendment of Objective A is  
1292 consistent with those references to communities and tangata whenua.

1293  
1294 Moving onto 2.14, it is submitted that it is clear from the above provisions that  
1295 was is required in relation to freshwater management to give effect to Te Mana  
1296 o te Wai requires input from the community including tangata whenua.

1297  
1298 We move onto 2.17 then Your Honour. You will see that is just again wanting  
1299 to add in those words there in greywash text, and input from stakeholders in the  
1300 community. That is consistent with what Objective A says.

1301  
1302 The only other amendment Fish & Game are seeking is to Policy IM.1 and that  
1303 is just in 3.1 there to include those greywash words including why. The concern  
1304 there was that if you didn't put those words in then that would read as an  
1305 exclusive list of things.

1306  
1307 That is a very short brief overview of Fish & Game submissions and the reasons  
1308 for them sir. I am happy to answer questions if you have any.

1309 [01.45.00]

1310  
1311 Chair: We've had a discussion earlier this morning, very briefly, from representatives  
1312 of power companies and oil company. Policy IM.1 was raised, and I am just  
1313 asking Mr Wyeth who is here for the Council if he could confirm what he said  
1314 about Policy IM.1 a little earlier on. It's still to be proceeded with Mr Wyeth?

1315  
1316 Wyeth: I guess in relation to the Fish & Game submission the recommended  
1317 amendments from members to include the words "including by" at the Shapo of  
1318 the policy to make it clear that it's not an exclusive list of matters that are relevant  
1319 for integrated management of natural and physical resources. I recommended in

1320 my rebuttal evidence that that be accepted, and have included those in  
1321 recommended amendments.  
1322  
1323 Chair: Were you able to pick that up Mr Malone? Were you able to hear what Mr Wyeth  
1324 had said about what he had recommended?  
1325  
1326 Malone: He faded in and out sir, so I couldn't really hear what he said.  
1327  
1328 Wyeth: Would you like me to repeat, can you hear me now?  
1329  
1330 Malone: Yes, I can hear you now.  
1331  
1332 Wyeth: In relation to Policy IM.1, the relief sought by Fish & Game obviously was to  
1333 include the words "including in the Shapo of the policy to make it clear that it's  
1334 not an exclusive list of matters that are relevant to achieving integrated  
1335 management. In my rebuttal evidence I recommended those changes are  
1336 accepted and have included that in my recommended amendments.  
1337  
1338 Malone: Thank you for confirming that.  
1339  
1340 Chair: Are you comfortable with that position Mr Malone?  
1341  
1342 Malone: In terms of them accepting that amendment sir, yes.  
1343  
1344 Chair: I will ask whether any members of the panels have questions for you. Yes they  
1345 do.  
1346  
1347 Wratt: Thank you Mr Malone. I just question have you seen the s.42A rebuttal evidence  
1348 from Mr Wyeth, because he does also address your other issue about including  
1349 communities in Objective A.  
1350  
1351 Malone: No Commissioner I haven't.  
1352  
1353 Wratt: On the website you will find there is s.42A rebuttal evidence – added yesterday.  
1354 Are you in a position where you can pull that up or not?  
1355  
1356 Malone: I'm not sure.  
1357  
1358 Wratt: You recommended in terms of Objective A, you asked that Objective A(a) be  
1359 reworded to, "is guided by te ao Māori and input from stakeholders and the  
1360 community." The rebuttal report doesn't amend sub-clause (a) but it does add  
1361 another clause which becomes clause (e), which is, is informed by the input of  
1362 communities.  
1363  
1364 My question was whether that meets your concerns?  
1365  
1366 Your other concern in term of the anticipated environmental results, there is also  
1367 included now "to recognise and provide for the importance of te ao Māori and  
1368 mātauranga Māori, and consider the views of communities in resource  
1369 management and decision-making." So, he had taken into account your points,  
1370 but a slightly different wording.  
1371

1372 Just maybe I could mention when I questioned him earlier about the separation  
1373 of input from communities from sub-clause (a) his comment was that he felt it  
1374 was more appropriate to keep the two separate, and that there are partnership  
1375 requirements in terms of Māori and te ao Māori, but he acknowledges that there  
1376 is also requirement to be informed by and consult with communities.  
1377  
1378 Is that a correct interpretation Mr Wyeth?  
1379  
1380 Wyeth: Yes that is correct.  
1381 [01.50.00]  
1382 Wratt: My question really is, do those amendments meet your requirements, or do you  
1383 still have any concerns?  
1384  
1385 Malone: If I'm understanding you correctly Commissioner, the reporting of that has  
1386 recommended that (a) remains the same guided by [01.50.30], but then would  
1387 insert a new (e) and says, "informed by input from communities".  
1388  
1389 Nightingale: "Input of communities."  
1390  
1391 Malone: That wording is very similar to the wording that I propose today that they go to  
1392 (a) [01.51.04] subsequent to your comments listed here or Ms Coughlan had  
1393 about that. Not significant differences except that there is no reference to  
1394 stakeholders in there. It's just communities and Fish & Game has a very  
1395 important role as a stakeholder, which was addressed in it submission.  
1396  
1397 Wratt: His response when I asked that question was that he considered that stakeholders  
1398 were encompassed by the wording of communities.  
1399  
1400 Malone: They are, but then in other parts of the Regional Policy Statement in particular  
1401 that piece is 32 [01.51.46]. Fish & Games [01.52.00] need to have stakeholders  
1402 in there as well as communities.  
1403  
1404 Wratt: If I can just repeat that. You're not coming through all that clearly. Maybe you  
1405 can just make sure that you are speaking reasonably close to your microphone.  
1406 I think there is a delay as well.  
1407  
1408 So, your comment was that within the s.32A Report was it, or 32 Report, sorry,  
1409 there are...  
1410  
1411 Malone: No, in other parts of the Regional Policy [01.52.27].  
1412  
1413 Wratt: So, in other parts of the operative Regional Policy Statement, or in the Change  
1414 1 document there is reference to stakeholders and communities.  
1415  
1416 Malone: In the operative Regional Policy Statement there's a 32 Commissioner.  
1417  
1418 Wratt: So, your position is that you would like to see stakeholders included in that  
1419 wording. You would consider for example Fish & Game is a stakeholder rather  
1420 than just part of the community?  
1421  
1422 Malone: Yes Commissioner.  
1423

1424 Kara-France: Kia Mr Malone. Ina Kara-France, Independent Commissioner.  
1425  
1426 The question is in relation to section 2.6 and it's in regards to Fish & Game is  
1427 primarily concerned with potential water quality, effects on the receiving water  
1428 body and the species inhabiting those water bodies.  
1429  
1430 My question is in regards to the difference to your opinion of water quality, to  
1431 that difference to the opinion of te ao Māori considerations to water quality.  
1432  
1433 You've mentioned here in regards to the Māori world view in relation to  
1434 discharges regarding human waste from waste water treatment plants directly  
1435 into the water. In that respect, many Māori consider such discharges, even if  
1436 highly treated, to be culturally unacceptable because they do not pass [01.54.15]  
1437 first.  
1438  
1439 My question is in regards to your background research concerning te ao Māori  
1440 and concerning the further issues in relation to not only the human discharge but  
1441 all discharge which is paru to that water quality. Has that been conducted by  
1442 Fish & Game?  
1443  
1444 Malone: I have actually referred to a couple of cases where that was addressed by the  
1445 Environment Court Commissioner – so the Āparu [01.54.55] case, and the  
1446 Wainui Hapu case.  
1447 [01.55.00]  
1448 In the footnotes there I have provided the references to those cases. For example,  
1449 by looking at the Pāhukahu [01.55.12] Trust case, and I am looking in particular  
1450 at paragraph 24, it's given for local mana whenua in relation to [01.55.20] at the  
1451 time. I am just reading from paragraph 24 where that person's evidence is quoted  
1452 in the decision. This is talking about Pāhukahu, it was a particularly bad case,  
1453 where there was a direct discharge out to the sea. Basically Gisborne District  
1454 Council had been doing it for a long time and wanted to keep doing it. It was  
1455 basically virtually nil treatment whatsoever, it was quite poorly. Local whenua  
1456 were quite upset about it and understandably so. That's just a little bit of context  
1457 to that case.  
1458  
1459 The part I really see is the pipi and fish almost disappeared. Even if they were  
1460 there, you can't take them because of the paru in the sea. You wouldn't want to.  
1461 It doesn't matter how much they treat the sewerage, it is wrong to put body  
1462 wastes in the sea.  
1463  
1464 Then later on in the same case, quoting from the Māori witness at paragraph 26,  
1465 that witness says, "Our people and our tikanga has always been for these  
1466 products to remain isolated [01.56.46]. The refill for this is quite fickle, the  
1467 whenua ban is for the purification of these by-products - not the sea.  
1468  
1469 There's all the things in the Tainui Hapu case that I referred to Commissioner.  
1470  
1471 The point I'm making there is that in those cases it was always seen that there  
1472 should be land-based treatment and not direct discharges of waste, no matter  
1473 how well it's treated.  
1474

1475 In my experience, having Māori consenting many waste water treatments over  
1476 a number of years, with Māori submitters, there's always that element of we do  
1477 not like direct discharges to water, no matter how well it's treated. It's not tika.  
1478 It's not correct according to our tikanga.  
1479  
1480 I hope that answers your question Commissioner.  
1481  
1482 Kara-France: Fish & Game are primarily concerned with the potential of water quality, right?  
1483  
1484 Malone: Yes.  
1485  
1486 Kara-France: And, the effects on the receiving body. Surely would you agree, or do you not  
1487 agree, that te ao Māori and Fish & Game are basically saying the same things?  
1488  
1489 Malone: I would say by and large that they are. I know that Fish & Game does a lot of  
1490 work with mana whenua throughout the country in relation to water quality  
1491 projects.  
1492  
1493 Kara-France: In regards to your statement here, that Fish & Game will primarily be concerned  
1494 with potential water quality effects on the receiving body and the species  
1495 inhabiting those water bodies, is that type of statement you're referring to, to be  
1496 applied within the Te Mana o te Wai policies? Was this your principal value or  
1497 was this a statement within policy changes representing Fish & Game?  
1498  
1499 Malone: It's more of a general statement rather than solely representing Fish & Game. If  
1500 I look at it in terms of water quality, the discharge you have from a waste water  
1501 treatment plant, let's assume it's very, very well-treated. You're going to have  
1502 nutrients, so nitrogen, phosphorous, you're going to have suspended sediment,  
1503 [01.59.22] etc. Those are all things that naturally occur in the waterways as a  
1504 result of discharges from land in any event. All of them can have an adverse  
1505 effect on water quality. But, if they are very, very highly treated then your water  
1506 quality can be really, really good.  
1507  
1508 But, there's an extra Māori dimension to that I guess, in that my understanding  
1509 of their view, from experience and from the cases I've read, even so there should  
1510 be land based treatment; and that is something that is slightly different to other  
1511 people.  
1512 [02.00.00]  
1513 Kara-France: Thank you.  
1514  
1515 Nightingale: Kia ora Mr Malone. My question just relates to the categorisation of provisions.  
1516 Wellington Fish & Game counsels made a general submission on Chapter 3,  
1517 supporting the chapter because it is necessary they say to give effect to the NPS  
1518 FM.  
1519  
1520 Are you comfortable with these provisions being notified as freshwater  
1521 provisions that can go through the Freshwater Planning Process? I'm not sure if  
1522 you have seen Mr Wyeth's latest evidence where he recommends that some of  
1523 these provisions in this topic move to the P1S1 process. Do you have any  
1524 comment on that categorisation issue?  
1525

1526 Malone: I haven't seen a report of officers I'm sorry Commissioner. Which provisions is  
1527 he referring to as being moved? Are they provisions that aren't subject to the  
1528 hearing today?  
1529

1530 Nightingale: No, they are the provisions that are within the scope of this hearing stream. They  
1531 are provisions in the supplementary evidence of Mr Wyeth dated 10 July. He  
1532 recommends that provisions Overarching Resource Management Issue 2 and 3,  
1533 Policy IM.2 and Method IM.2 move into the PIS1 Process. He gives his reasons  
1534 for that in his evidence.  
1535

1536 I guess I am just wondering if you're comfortable that this entire topic remain  
1537 allocated to the freshwater stream?  
1538

1539 Malone: I wouldn't have an issue with that Commissioner. It does in part relate to  
1540 freshwater.  
1541

1542 Nightingale: You're satisfied that the legal tests set out by the High Court are met with that  
1543 classification?  
1544

1545 Malone: I'm not sure I'm following that Commissioner.  
1546

1547 Nightingale: That's okay, it was just a question about whether the tests that Justice Nation set  
1548 out in the Otago High Court decision, whether you're satisfied that the allocation  
1549 of this entire topic into the freshwater stream satisfies the tests set out in that  
1550 decision.  
1551

1552 Malone: I am not aware of that decision Commissioner.  
1553

1554 Nightingale: Okay, no problem. Thank you.  
1555

1556 Chair: You mentioned and it was discussed in one question that there may be  
1557 differences between the view of Māori and other parts of the community about  
1558 water issues and the human waste water was certainly one. Are there any others  
1559 that you would point to as being situations where Fish & Game would have a  
1560 different view from what might be regarded as the Māori perspective on water?  
1561

1562 Malone: No, there's no [02.04.40] that I'm aware of sir.  
1563

1564 Chair: That's an example, but we don't know of any others.  
1565

1566 Malone: No sir and I wouldn't say necessarily that Fish & Game has a different view to  
1567 Māori.  
1568 [02.05.00]

1569 If you didn't put your highly treated waste water into a waterway, and did some  
1570 land-based treatment to it first, and that actually resulted in an improvement of  
1571 discharge [02.05.12], I am sure that Fish & Game would not have any problem  
1572 with that.  
1573

1574 Chair: Thank you. That's all I have. I don't think there are any other matters. Thank  
1575 you Mr Malone. We are grateful for your time. Thank you. We will stop there  
1576 and resume at 1.30pm. Thank you.  
1577

1578 [Hearing adjourned 02.05.55]  
1579 [Hearing resumed]  
1580  
1581 Chair: Tēnā koe. I am Commissioner Craig Thompson. I am chairing today's sitting.  
1582 We have you on a rather small picture on the screen at the moment, but we can  
1583 see you. I just want to check that you can see and hear us.  
1584  
1585 Would you please introduce yourself and go from there.  
1586  
1587 Gibb: Tēnā mō koutou, nau rā te mihi ki a koutou, ko wai au nō [Māori 02.06.54]. Ko  
1588 Claire Gibb taku ingoa. Good afternoon, my name is Claire Gibb. I am a Planner  
1589 and today I am here representing Te Ātiawa ki Whakarongotai.  
1590  
1591 I was with you in person during Hearing Stream One with Dr Mahinarangi Baker  
1592 who introduced Te Ātiawa to you. Today I will just focus on a couple of points  
1593 related to this hearing stream.  
1594  
1595 Chair: Thank you, that's fine. Please take us to where you want to begin.  
1596  
1597 Gibb: Firstly I will take you to our submission point 131.11 which relates to issue 2.  
1598  
1599 Within Issue 2 Ātiawa is seeking the inclusion of reference to the exacerbation  
1600 of existing pressures on the environment. The s.42A Report has recommended  
1601 removing reference to future impacts on the environment from that issued  
1602 statement and Ātiawa supports this. However, the issue statement is still unclear  
1603 as to the issues that it's seeking to address.  
1604  
1605 The majority of the issue statement defines what is needed. We can see more  
1606 appropriate drafting in Issue 1 and 3 which focus on issues.  
1607  
1608 Ātiawa submits that if we are looking at the increasing pressures on housing and  
1609 infrastructure capacity is the issue to Shapo states, then we are necessarily  
1610 looking at matters such as overflows of sewerage into the awa, extraction of  
1611 water from aquifers. These matters are exacerbating issues on the te ao and this  
1612 is distinctly separate from Issue 1 which is seeking to address poor management.  
1613  
1614 The Te Ātiawa submission point is also in line with the proposed Objective A(e)  
1615 which recognises the role of both the natural and physical resources in providing  
1616 for characteristics and qualities of well-functioning urban environments, which  
1617 is directly from the NPS UD and is what Issue 2 is seeking to address.  
1618  
1619 I would also respectfully note the inappropriate dismissal of our submission  
1620 point in paragraph 79 of the s.42A Report by relegating our concerns to Issue 3.  
1621 I note that the concerns of Te Ātiawa are broad and encompassing of the entire  
1622 plan change.  
1623  
1624 I move on now to our submission point 13 in relation to the Overarching  
1625 Objective A. Ātiawa is seeking the inclusion of subsection (aa) to support the  
1626 connection between mana whenua and te taiao.  
1627  
1628 Our submission point seems to have been lost in the analysis of the s.42A Report,  
1629 which focuses on the request for partnership and decision-making.

1630 [02.10.00]

1631 I just want to respectfully bring this request to your attention as Ātiawa continue  
1632 to seek its inclusion.

1633  
1634 Lastly, I turn to our submission point, 150, which addresses Issue 9, integrated  
1635 management and anticipated environmental results. Ātiawa is seeking specific  
1636 reference to the monitoring aspect of the policy cycle in this issue. It is widely  
1637 known that monitoring is a poor cousin the policy cycle, yet one of the most  
1638 fundamental in assuring we are achieving the intent of the objectives we have  
1639 developed.

1640  
1641 We are also seeking recognition that mana whenua need to be involved in the  
1642 development of monitoring frameworks, monitoring itself, and the management  
1643 of information collected from monitoring.

1644  
1645 While the issue recognises the importance of te ao Māori and mātauranga Māori  
1646 in natural resources management and decision-making, it doesn't actually  
1647 provide for mana whenua in decision-making.

1648  
1649 I note this is a similar concern to the submission point of Ngāti Toa in relation  
1650 to Issue 3 which also references the waiting of values in mātauranga in decision-  
1651 making, but doesn't specifically provide for mana whenua in that decision-  
1652 making.

1653  
1654 [02.11.22] whakaaro. Those are my submission points for today. I am also here  
1655 to provide you the opportunity to ask any questions you might have.

1656  
1657 Chair: Thank you.

1658  
1659 Hill: Kia ora Claire. Pauline Hill here. Te mea tuatahi ngā mihi nui ki a koe. Te Te  
1660 Māngai o Te Ātiawa o Whakarongotai. Tino pai ki te rongo, koutou whakaaro e  
1661 pāna tēnei mahi katoa. [Māori 02.12.45]

1662  
1663 Claire, I should have said hello in the beginning, but rather than let this go, I  
1664 wanted to acknowledge you as representing one of our six mana whenua  
1665 partners. We anticipate that all of our mana whenua partners will be welcomed  
1666 into this space whenever they're present.

1667  
1668 Over to you Claire and over the Panel. Kia. Welcome. Nau mai haere mai.

1669  
1670 Chair: Thank you.

1671  
1672 Questions?

1673  
1674 Paine: Thank you sir. Kia ora Ms Gibb. If we could start by just asking, have you read  
1675 the rebuttal submissions by Mr Wyeth? It was posted on the website on the 16<sup>th</sup>  
1676 of 17<sup>th</sup>.

1677  
1678 Gibb: No I haven't sorry.

1679  
1680 Paine: Some of the issues that you have raised have been addressed in that rebuttal by  
1681 Mr Wyeth. If we could just go through them and that overarching Issue 2. In it

1682 you are asking to include the words: “and exacerbates existing pressures on Te  
1683 Taiao.  
1684  
1685 I noticed on RM.2, it doesn’t actually use the words that you say. The  
1686 amendment that he’s made is on the second line. It says, “To meet the needs of  
1687 current and future populations there is a need to increase housing supply and  
1688 choice across the region in a manner which contributes to as well functioning  
1689 urban and rural areas while managing adverse effects on natural and built  
1690 environments.  
1691 [02.15.00]  
1692 In your opinion does that cover some of Ātiawa’s concerns for that issue?  
1693  
1694 Gibb: To me, that is focused on a future direction and outcome that is being sought.  
1695 What Ātiawa is seeking is that the issue statement is drafted to identify the  
1696 issues. The issues are matters such as, if you have an increased population you’re  
1697 going to be exacerbating the impact on the taiao.  
1698  
1699 My examples about stormwater overflows: if you have an increased population  
1700 or increased development then the pressure on the environment is increased. I  
1701 understand that this is specifically about NPS UD and the need for housing  
1702 supply, and that’s one element of addressing the shortage of housing; but we are  
1703 also seeking recognition that as part of that there is increased pressure on the  
1704 environment as well.  
1705  
1706 Paine: If we went to Objective A, I note there’s a new sub-section there, sub-section  
1707 (d). That reads that they’ve added... have you got the ability to pull that rebuttal  
1708 evidence up have you Ms Gibb.  
1709  
1710 Gibb: I’ve got the drafting that’s Appendix 1 – Amendments to Integrated  
1711 Management Provisions. It’s not the same as that document is it? I think it did  
1712 sound like it was the same wording as what you were reading out.  
1713  
1714 Wyeth: If you scroll down there’s the heading rebuttal evidence and it’s got 7 July next  
1715 to it. The third document below there is GWRC Rebuttal Evidence –  
1716 Amendments to Integrated Management Provisions. That shows marked up  
1717 amendments read from the S.42A Report and [02.18.20] from the Rebuttal  
1718 Evidence Recommendations.  
1719  
1720 [Loss of internet connection]  
1721  
1722 Chair: Shall we take a brief break and see if we can re-establish contact?  
1723  
1724 [02.20.00]  
1725  
1726 Paine: Welcome back Ms Gibb. I will start again at Issue 2. We were talking about the  
1727 exacerbating existing pressures on te taiao. I recall your answer. I was wanting  
1728 to ask, do you think that properly lives in Resource Management Issue 1,  
1729 because as Mr Wyeth refers to that there.  
1730  
1731 Gibb: My reading of Issue 1 is that it’s related to inappropriate and poorly managed  
1732 use and development. I think that an increasing population or population growth  
1733 that’s referenced in Issue 2 is a separate matter. One is about management and

1734 for management and then the second one is about increasing pressure. As we get  
1735 more people into the region and Kāpiti specifically, if you've got population  
1736 growth it's quite a distinct thing in increased pressure from population growth;  
1737 it's quite distinct to poor management.  
1738  
1739 You can manage something very well, but if you've got increasing population  
1740 growth and pressures from that, things such as existing infrastructure and  
1741 capacity there's a limited capacity there. So, it doesn't matter how well you  
1742 manage it, it may still not be enough.  
1743  
1744 Sorry, I'm not explaining myself perhaps very well.  
1745  
1746 Wratt: What I'm hearing you say is that increasing pressure on housing and  
1747 infrastructure capacity is also putting pressure on te taiao.  
1748  
1749 Gibb: Correct.  
1750  
1751 Wratt: Which is separate from adverse inappropriate and poorly managed use putting  
1752 pressure on te taiao which is Issue 1.  
1753  
1754 Gibb: Correct. Thank you.  
1755  
1756 Wratt: Does Mr Wyeth have any comment on that?  
1757  
1758 Wyeth: I guess it could be expanded RM.2 to recognise that. I hadn't seen that as a  
1759 significant issue, but I do accept that development no matter how, while it's  
1760 managed can have adverse effects on the environment. I can give some  
1761 consideration to that.  
1762  
1763 Paine: If Mr Wyeth was to give that consideration would that meet your concerns and  
1764 address your concerns on Issue 2 Ms Gibb?  
1765  
1766 Gibb: Sorry?  
1767 [02.25.00]  
1768 Paine: That phrase that you wanted about increasing pressures on te taiao, My Wyeth  
1769 is going to give that consideration and see how that fits in that Overarching Issue  
1770 2.  
1771  
1772 Gibb: Thank you. I appreciate that.  
1773  
1774 Paine: If we could go to Issue 3.  
1775  
1776 Gibb: Sorry, perhaps an example is also helpful. One of the matters that we are dealing  
1777 with up in the rohe is about water extraction from aquifers. With population  
1778 growth there is actually only a limited capacity in those aquifers. As we draw  
1779 more and more from those aquifers to support population growth, we really need  
1780 to be cognisant of the pressure that that's putting on that resource.  
1781  
1782 Paine: Thank you for that.  
1783  
1784 Just to finish off with Issue 3. You're talking about wanting the phrase,  
1785 "including our relationship with our ancestral lands, water sites, wai tapu and

1786 other taonga. I notice that actually is referred to. Actually in RM.3 they have  
1787 got, “and the relationship with te taiao.” What are your thoughts on that  
1788 addition?  
1789

1790 Gibb: I’m just having a read of it. I think it’s a helpful addition. My acknowledgement  
1791 of the Ngāti Toa submission was in regards to the difference between decision-  
1792 making and that matters that we raised from s.6. The heading of that Issue  
1793 Statement does talk about decision-making. Then the actual content focuses on  
1794 inclusion of mātauranga and values, but doesn’t actually have an enabling  
1795 reference to mana whenua representing those values and mātauranga in  
1796 governance. It does say that it needs to be included in governance, but it doesn’t  
1797 talk about who that governance is.  
1798

1799 That was my point around our submission point 150 in Issue 9 – Integrated  
1800 Management Anticipated through Environmental Results.  
1801

1802 Paine: I haven’t got that right in front of me. I have noted that thank you Ms Gibbs.  
1803

1804 If we went back to Resource Management Issue 3 with the addition of those  
1805 words, does that address your concerns? Or, do you feel, having just said what  
1806 you have about AER, do you want those specific words relating to 6(c)?  
1807

1808 Gibb: I think it’s helpful to use the language from the RMA, which is what we have  
1809 submitted.  
1810

1811 Paine: Thank you. The last one in Objective A, you wanted to support the connection  
1812 between mana whenua and te taiao. I seen in that, if you go to (d) in Objective  
1813 A.  
1814 [02.30.00]  
1815 It’s got “recognises and provides for the relationship mana whenua, tangata  
1816 whenua with te taiao, etc.”  
1817

1818 Gibb: Thank you. I apologise that I hadn’t read that document before coming to the  
1819 hearing. I appreciate that inclusion.  
1820

1821 Paine: No problem. Thank you Ms Gibb. Thank you sir.  
1822

1823 Chair: Any other matters?  
1824

1825 Nightingale: Tēnā koe Ms Gibb. I’m just wondering if you had any views on the  
1826 categorisation of provisions between the two hearing streams? Mr Wyeth has  
1827 recommended that some provisions in this topic be re-categorised into the P1S1  
1828 Stream. I’m just wondering if you had given that any thought. Kia ora.  
1829

1830 Gibb: I apologise. I haven’t seen that suggestion either. Is that really about when you  
1831 hear particular matters?  
1832

1833 Nightingale: We’re sitting together as two hearing panels and we have proposed that we  
1834 would hear all the submissions and then at the end of the process that we would  
1835 make recommendations on any re-categorisation that we thought was necessary.  
1836 If we thought a provision with the Council had notified as being part of the

1837 Freshwater Planning Instrument should actually be more appropriately within  
1838 the P1S1 Stream that we could put that in our recommendations to Council.  
1839

1840 There are a few provisions that Mr Wyeth has recommended move into P1S1,  
1841 which would mean that the P1S1 Panel would be the Panel making the  
1842 recommendations on them; and that of course means there's a merits appeal  
1843 available to the Environment Court.  
1844

1845 That's fine if you have no comment at the moment on this. Parties and Ātiawa  
1846 may wish to address this in future hearing streams if you would like to.  
1847

1848 Gibb: I will take that point and give it some consideration. Thank you.  
1849

1850 Chair: I have one matter that you might be able to help me with. I am looking at the  
1851 submissions dated the 14<sup>th</sup> of October 2022. Under the hearing Freshwater the  
1852 last sentence speaks of "However, target attributes states for the Kāpiti rohe will  
1853 not be set until the Freshwater Plan Change process and Te Whaitua o Kāpiti are  
1854 completed. Te Whaitua o Kāpiti will formally commence in  
1855 November/December 2022."  
1856

1857 Are you able to help us as to what happened with that, and whether there were  
1858 matters of relevance that arose for us?  
1859

1860 Gibb: The Whaitua process for Kāpiti is well underway. Greater Wellington has been  
1861 facilitating the Whaitua processes within the different parts of the region. We  
1862 are now at the time that the Kāpiti Whaitua is progressing.  
1863

1864 The Whaitua has been tasked with addressing the NPS FM and so coming up  
1865 with targets, attributes, and will be making recommendations to Council.  
1866 [02.35.00]

1867 The plan at the moment is that a plan change will be put forward next year with  
1868 the recommendations of Te Kāpiti Whaitua.  
1869

1870 Chair: Is there anything that we could usefully take from that process, or at least as far  
1871 as it has gone until now?  
1872

1873 Gibb: I don't think there's anything that Te Whaitua has decided that will be available  
1874 to support your decision-making. Our deadline is November. It's quite a short  
1875 timeframe this Whaitua. Many others have taken many years, but this one the  
1876 desire is to make decisions this year. So, perhaps there will be some points that  
1877 come out of that that I can provide to you in future hearing stream conversations.  
1878

1879 Chair: Thank you. That just clarifies for me what that was about and where it's up to.  
1880 Thank you very much.  
1881

1882 Any other matters Commissioners? No? Thank you Ms Gibb, thank you very  
1883 much.  
1884

1885 Gibb: Tēnā koutou.  
1886

1887 Chair: I think that brings us to the close of proceedings for the day. Thank you. Whaea  
1888 thank you.

1889

1890 [Closing karakia] Safe travel home everybody.

1891

1892 Chair: Kia ora. Thank you.

1893

1894

1895

[End of recording 02.37.20]

## Greater Wellington Regional Council

### Hearing Stream Two – Integrated Management – Day Two

#### SUBMISSIONS

#### Proposed Change 1 to Regional Policy Statement for Wellington Region

Date: Wednesday 19<sup>th</sup> July 2023

Hearing Stream: Two

Location: Venue: Naumi Hotel, 213 Cuba Street, Te Aro, Wellington 6011

Hearing Panel: Commissioner Craig Thompson (Chair)  
Commissioner Glenice Paine  
Commissioner Gillian Wratt  
Commissioner Ina Kumeroa Kara-France  
Commissioner Dhilum Nightingale

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- 1 Chair: I will ask the Commissioners to introduce themselves.  
2
- 3 Paine: Tēnā koutou katoa. Ko wai au, ko Piritihi te maunga, ko Waikato te awa, ko  
4 Waikato te marae. Ko Te Ātiawa, ko Ngāi Tahu ōku iwi. Ko Glenice Paine  
5 ingoa. My name is Glenice Paine and I am an Environment Commissioner. I am  
6 on both the P1S1 Panel and the Freshwater Panel. Kia ora.  
7
- 8 Wratt: Kia ora koutou. Ko Gillian Wratt tōku ingoa. I am Gillian Wratt. I'm from  
9 Nelson and I am the Freshwater Commissioner.  
10
- 11 Chair: Thank you. I'm Craig Thompson, now retired Environment Judge. I am the Chair  
12 of the Freshwater Panel, and as a matter of internal arrangement, which means  
13 nothing as a matter of law, I will be chairing today's proceedings.  
14
- 15 Nightingale: Tēnā koutou katoa. Nō Heraka aku tīpuna, nō Poneke ahau, kei Taputeranga au  
16 e noho ana. Tokotoru aku tamariki. Ko Dhilum Nightingale tōku ingoa. Nō reira,  
17 tēnā koutou, tēnā koutou, tēnā koutou katoa. Mōrena, good morning. My name  
18 is Dhilum Nightingale. I am a Barrister and Independent Hearings  
19 Commissioner. I live in Taputeranga in Te Whanganui o Tara, Wellington. Nau  
20 mai haere mai, ki te kaupapa o te rā. Kia ora.  
21
- 22 Kara-France: Tēnā koutou katoa. Ko Ina Kumeroa Kara-France taku ingoa. Ko Waikato-  
23 Tainui, ko Ngāti Kahungunu, ko Ngāti Tūwharetoa, ko Te Atihaunui-a-  
24 Pāpārangī, ko Ngā Rauru ōku iwi. Nō reira tēnā tātou katoa. Kaitotohu Māori  
25 Matua, Senior Advisor Māori for WSP Engineering from Tāmaki Makaurau. I

26 am attached to Transport & Planning, and Māori Business Services. I am an  
27 Independent Commissioner on both panels. Kia ora.

28  
29 Chair: If I may, I will also introduce people who you may have already some interaction  
30 with our two wonderful hearing advisors, Ms Jo Nixon and Ms Whitney  
31 Middendorf. They are here to help everybody and they do so.

32  
33 A very brief health and safety briefing: if the fire alarm goes, please of course  
34 make your way to the nearest available exit which will be down one floor and  
35 either out the back or out the front depending on how things are going. Please  
36 assemble on the lawn in front the university building next door on Vivien Street.  
37 If there is an earthquake, please drop, cover and hold. Pause evacuation until we  
38 are told it is safe to do so. For a tsunami, we move to higher ground where that  
39 might be, but hopefully we won't need to do that.

40  
41 In any other situations, please don't hesitate to seek help from the staff here or  
42 from the hotel staff.

43  
44 I should mention also that to make sure that everybody has a fair allocation of  
45 time we have time slots available for each presenter. You will hear a bell ding,  
46 which is an indication that you have got two minutes to go until the end of your  
47 allotted time.

48  
49 With that, I think we are available. Please.

50  
51 **Meridian Energy Limited**

52  
53 Feierabend: Kia ora koutou. My name is Andrew Feierabend and I am responsible for  
54 coordinating Meridian Energy's statutory advocacy with respect to planning  
55 instruments nationally. To my left is Christine Foster who is an independent  
56 planning expert who has provided advice to Meridian with respect to the  
57 proposed plan change that is before you today.

58  
59 Meridian has a significant interest in renewable energy in the Wellington Region  
60 and this includes the West Wind windfarm which consists of 62 turbines, Mill  
61 Creek with 25 turbines and have a show piece, Brooklyn Turbine, situated in  
62 Wellington, as many people would be aware.

63  
64 [00.05.00] Meridian is the largest generator of renewable energy in the country. It is fair to  
65 say that given the carbonisation interests nationally it is an active prospector of  
66 new sites in the Wellington region and wider field nationally.

67  
68 The primary reason for Meridian engaging in this process is to ensure the  
69 regulatory settings within the RPS are appropriate in the context of renewable  
70 energy and the carbonisation of the New Zealand economy; and secondly, to  
71 ensure there is an enabling environment in which once sites have been identified  
72 for development they have a fair and reasonable chance going through the  
73 respective planning process to be successfully implemented.

74  
75 In the context of this hearing today, Meridian has three interests which have been  
76 addressed in Christine Foster's evidence. Firstly, it considers that the original  
77 drafting as put forward doesn't provide adequate recognition for infrastructure

78 as part of climate change resilience, and has advocated for a separate issue  
79 statement to be provided on that issue. I think it's important to reinforce that  
80 given this is the head planning instrument. Whatever follows after this plans in  
81 terms of successive plans that are developed under it, this Regional Policy  
82 Statement determines how those provisions and other plans have to be written.

83  
84 Secondly, to seek amendments to Objective A to enable and use of renewable  
85 resources to make communities more resilient to climate change.

86  
87 Thirdly, it is seeking the removal of Policy IM.2, which is a policy in relation to  
88 equity inclusiveness and decision-making. Its primary reason for doing that is in  
89 the context of the Resource Management Act. Meridian thinks it is quite  
90 ambiguous and would be difficult to implement from a planned administration  
91 point of view.

92  
93 On that short note and introduction I will make Christine available to you for  
94 questioning in terms of her planning evidence. I think she has got a couple of  
95 amendments or corrections she might want to make.

96  
97 Foster: Thank you Andrew. Ngā mihi nui, kia koutou katoa. Ko Christine Foster tōku  
98 ingoa. Thank you for the welcome. I do have just a couple of corrections. I  
99 apologise. In my statement, if you have that to hand, which will probably make  
100 a difference to clarity, on page-8 of it at paragraph 5.19, I couldn't remember  
101 when the RPS was drafted, so just delete that bit if you will. My point is simply  
102 to delete the word 'between' but it was made operative in 2013. My point was  
103 that it now has some vintage.

104  
105 The second is on page-11. It is quite a small one at paragraph 7.1, second  
106 sentence. I say, "The reason given is that so many of the expressions used are  
107 ambiguous or undefined such that the policy..." just an incomplete sentence,  
108 thank you.

109  
110 I haven't presented you with any speaking notes, and really because there are  
111 just three really brief points; the summary of which would be that I support  
112 largely the amendments that Mr Wyeth has recommended to you in response the  
113 submission points of Meridian Energy.

114  
115 There is on subtlety perhaps in Objective A, in that Meridian sought through its  
116 submission (and this son page-9 of my statement) – sought to have the expression  
117 "enabled" included in the Objective for regionally significant infrastructure.

118  
119 Meridian has other submission points that you will be considering at later  
120 hearings about exactly how within the RPS in terms of policies, a regional  
121 significant infrastructure is provided for.

122  
123 Meridian's points are seeking some greater enablement and that is responding to  
124 the reality that RPS, correctly in my view, identifies climate change and the  
125 importance of transitioning to a fossil fuel free economy as a regionally  
126 significant issue, and has initiatives to promote that, but is a little bit silent on  
127 what we replace that with.

128  
129 [00.10.00]

130 Meridian's perspective is, let's give a little bit more thought to how that's  
131 actually going to play out over the foreseeable future. That is the reason for  
132 seeking the expression "enables" rather than simply recognise and provide for in  
133 the context of the climate change issues, that RPS Change 1 is asking you to deal  
134 with.

135  
136 Just by way of clarification, and it may be obvious to you already, the reason  
137 that Meridian Energy is taking an interest in regionally significant infrastructure  
138 is because of the way the Council and its RPS and plans organise renewable  
139 electricity generation is to include it in the definition of regionally significant  
140 infrastructure. So, under that head it has an interest in those objectives and  
141 policies.

142  
143 I am happy to answer any questions.

144  
145 Paine: Mōrena Ms Foster. Just clarifying for myself really. In light of your reading of  
146 the rebuttal evidence of Mr Wyeth, does that mean that although your concern  
147 about climate change and the new Resource Management Issue 4, although it's  
148 not the exact wording of what you wanted, does the intent of that issue cover  
149 your concerns?

150  
151 Foster: Yes I think it does. I think it does. Any differences around the edges but it  
152 catches the essence I think of the important issue, yes.

153  
154 Paine: You would have already seen in Policy IM.2 Mr Wyeth has recommended to be  
155 deleted.

156  
157 Foster: Yes, I support that initiative. I say that not because I oppose the addressing of  
158 inequity, but simply that it is a policy worded in a way that if I place myself in  
159 a role as a commissioner, which I have to sometimes have to do in this region, I  
160 struggle to see how it would give me some true guidance and genuine RMA  
161 direction. So, that's the reason I endorse its deletion.

162  
163 Paine: One of the questions I asked yesterday was Objective A, of Mr Wyeth, was (a)  
164 is guided by te ao Māori. How do you see that playing out? What would that  
165 look like to you?

166  
167 Foster: I drafted the submission for Meridian and I raised it again in my statement of  
168 evidence. I don't have a clear understanding of what that expression means. I  
169 jointly understood and regionally understood the meaning of the expression.

170  
171 I have an understanding of what I think the Māori world, te ao Māori means, but  
172 there are very many elements of that are passive. They are not directive. I take  
173 it that it is wanting to give direction about how one should live, and how one  
174 should relate with environment. But, te ao Māori to me is a much wider concept.  
175 I am looking for the directive aspects of it.

176  
177 I looked through the S.32 Report as well to try and understand that better. I think  
178 it is just too broad really to be genuinely of assistance in a decision-making  
179 capacity.

180

181 I think some definition would be helpful. The RPS has attempted that with other  
182 te reo expressions.  
183

184 Paine: Thank you Ms Foster. Thank you sir.  
185

186 Wratt: Mōrena. Again thank you for your presentation. Your concern about recognition  
187 of infrastructure, again does that revision to Objective A with sub-clause (h)  
188 meet your concerns?  
189

190 Foster: It does in part – apart from the subtlety around enablement and that’s really an  
191 issue I think of weighing the provisions of the current NPS for renewable  
192 electricity generation, which goes as far as recognising and providing for; and  
193 the importance of currently the climate change challenge and what is required  
194 by communities to actually respond to that. Again, under the head of all  
195 regionally significant infrastructure, and some of that is lifeline etc.  
196

197 My view it's something more than simply recognising and providing for will be  
198 necessary in the reality of the future to actually reinforce the resilience of  
199 communities across all of those regionally significant forms of infrastructure;  
200 but including renewable electricity generation because they are jolly hard things  
201 to consent. But, it appears we are going to need those, and that will be across not  
202 just wind electricity.

203 [00.15.00]

204 Mr Feierabend talked about the exploration that the company is doing  
205 nationwide. The reality I think for the Wellington region is that there are not a  
206 lot of new places – and he can correct me if I am wrong; but there is making the  
207 best out of the assets that are already here. That’s a repowering or upgrading  
208 kind of situation. Even those are quite difficult to consent, but they will be  
209 important in the future I think of Wellington region and the country and they  
210 need some policy heft, if I can put it that way.  
211

212 Wratt: Thank you. That’s stated very clearly thank you.  
213

214 Just one other question. I’m sure you will be aware that there’s been considerable  
215 discussion about the allocation of provisions across the two Panels.  
216 Foster: Yes.  
217

218 Wratt: You questioned whether Policy IM.2 should be identified as a Freshwater  
219 provision. If that’s removed that ceases to be an issue obviously, but any  
220 thoughts on other of the provisions that are allocated to the Freshwater Planning  
221 Process?  
222

223 Foster: I haven’t turned my mind to it. It's a good question but I haven’t considered it.  
224 My observation was really that I could understand that Policy IM.2 would be  
225 considered a freshwater policy if it was more explicitly about freshwater. But,  
226 then I went to the genesis of it and found that it's actually a little bit of weak link.  
227 It's not an impossible link because its job is, as I read it, to direct the objectives  
228 and policies of the rest of the RPS. Those include freshwater ones, so I accept  
229 that point.  
230

231 But, the amendments that were proposed take it, in my view, even further away  
232 from that potential direct link to freshwater. I have not turned my mind to that.  
233 That's quite a big exercise but a worthwhile one in my view.  
234  
235 There were a lot of provisions. It was an observation I made in looking at the  
236 proposed instrument when it came out. A lot of freshwater symbols on things  
237 that I felt were distant really from freshwater.  
238  
239 I would like to help you more but I hope someone better qualified than me will.  
240  
241 Wratt: Just to explore your thoughts a little more, and your experience, where  
242 something is relevant to ki uta ki tai, where it is integrated management but it's  
243 a much broader concept, and freshwater is part of it, does that mean it should be  
244 a freshwater provision or does it need to be considered under the PIS1 as having  
245 broader implications across the Policy Statement?  
246  
247 Foster: I think it will be finely balanced for some but there are some of the policies that  
248 address for example indigenous biodiversity it might in freshwater  
249 environments. There is a scenario for many resources where that objective or  
250 policy might bear on it. It would genuinely be a freshwater and have an impact  
251 on freshwater.  
252  
253 I just think it's a feature of the construction of this particular RPS change in  
254 addressing so many things together that has created that tension and the  
255 challenge, perhaps certainly for the Council and for you. It's difficult to isolate  
256 them because of the way that they are structured together.  
257  
258 Finely balanced for some I think. It's pretty clear for others though.  
259  
260 Wratt: Thanks very much.  
261  
262 Chair: I was going to ask you about your views about allocation too, but I think we  
263 have dealt with that. I don't have anything else. Thank you.  
264  
265 Nightingale: Kia ora. Thank you Mr Feierabend and Ms Foster.  
266  
267 You mention in para 5.8 of your evidence that Proposed Change 1 inserts an  
268 overarching layer into the internal hierarchy of issues and objectives. I've got a  
269 couple of questions about that.  
270  
271 The relationship of these overarching provisions to the rest of the RPS, and I  
272 think in your response to Commissioner's Wratt's question I wrote down here,  
273 I think you said (and sorry if I have misunderstood this) the job of these  
274 provisions is to direct the policies of the RPS.  
275 [00.20.00]  
276 Foster: Yes, that answer in particular was about Policy IM.2 which is explicitly about  
277 directing the balance of the policy, the objectives of the policy.  
278  
279 Nightingale: Given the amendments that Mr Wyeth has proposed in his rebuttal evidence,  
280 how do you see these overarching provisions, in particular Objective A  
281 interacting with the rest of the provisions in the RPS?  
282

283 Foster: I think it's an entirely new feature of this RPS and this kind of statement of  
284 regionally significant issues. I think that's where everyone has to start.  
285 Elsewhere the plan divides them by topic. The plan itself structurally draws these  
286 out to the front as well, and creates an objective that responds to those.  
287  
288 I think it does still create a hierarchy. All provisions have to be considered, but  
289 these have to be considered, that the language is still forefront. Certainly in s.32  
290 that appears to be the intention. They will sit at the head, at the beginning of this  
291 plan. They are very broad ranging ambitions stated in the objective across most  
292 of the resources for which Greater Wellington has jurisdiction.  
293  
294 I think it would be challenging for someone to say that for example they have a  
295 lesser significance than the topic specific objectives. Certainly at least equal. I  
296 can see people arguing them in as being more important. It's not clear.  
297  
298 Nightingale: I was thinking about this as well because the wording in Objective A, probably  
299 the easiest place...  
300  
301 Foster: This the consolidated set?  
302  
303 Nightingale: Yes, the consolidated set, yes. In here there is a real mix. There's some  
304 "recognise and provides for". There's "recognise the benefits," and that relates  
305 to protecting and utilising the region's mineral resources. There's a "responds  
306 effectively," and we have had some submitters say that "responds" could even  
307 mean doing nothing could be a response. Mr Wyeth said to that, "Well you  
308 wouldn't be responding effectively if you did nothing."  
309  
310 Further down in the RPS or later on in the RPS, in the chapter specific  
311 provisions, you've got, let's say, provisions that do enable regionally significant  
312 infrastructure; and then in Objective A you have potentially a weaker "recognise  
313 the role of regionally significant infrastructure".  
314 Do you think that could cause a tension when it came to interpretation?  
315  
316 Foster: Yes, it's a lack of alignment that I think would draw attention and would make  
317 one question why that is that the overall objective, or region wide objective I  
318 think the language is now, doesn't have a similar instruction – recognise and  
319 provide for.  
320  
321 The interesting thing about Objective A is that its opening words relate to the  
322 integrated management of everything. That is what leaves me feeling that it is  
323 overarching all of the other objectives and policies, because they're all about  
324 this integrated management.  
325  
326 Certainly when you get to the regional and natural resources plan, that's very  
327 much its focus. Right at the very beginning of the explanation to the document  
328 it is about integrated management. That's why I think it is so powerful Objective  
329 A.  
330  
331 Nightingale: On talking about integrated management, do you think this should sit in its own  
332 topic, integrated management, because that's certainly what the Planning  
333 Standards require. I think the response from the Regional Council to that has

334 been that that is something they will address in a future change to the RPS – the  
335 structure required by the Planning Standards.

336 [00.25.00]

337 If they were to take up that opportunity now and put this into an integrated  
338 management chapter, and there is certainly scope for that, that’s been raised by  
339 some submitters, do you think that would have any impact on promoting  
340 alignment or internal cohesion in the RPS?  
341

342 Foster: I think there’s a couple of things potentially going on in that suggestion. When  
343 you read the S.32 Report, it's clear that the intention was not that. The intention  
344 was to create direction at the front. It starts moving very far away from the  
345 purpose, the essence of the purpose of the RPS change.  
346

347 I think it simply changes it. It changes it. It would mean that you would rely  
348 more heavily on the topic based chapters I think.  
349

350 Nightingale: Can I just confirm, and I’m sorry if you have already addressed this when you  
351 responded to maybe Commissioner Paine’s question, but the relief Meridian is  
352 seeking requesting the deletion of the expression “te ao Māori” from the opening  
353 paragraph of Objective A, given the restructuring that Mr Wyeth has proposed,  
354 is Meridian still seeking that relief, or are you now comfortable with how that’s  
355 been set out in Objective A?  
356

357 Foster: The recommended amendments addressed to me, part of the issue, by including  
358 the consideration in the list of considerations rather than making it the primary  
359 consideration, which I just thought raised questions around relationship with Part  
360 2 etc. at the moment. It doesn’t address the definitional issue that I think is my  
361 definition or my understanding of te ao Māori might be wrong, or poorly  
362 informed. So, I think that could be helped.

363 Nightingale: Just one more. I was interested in your views and Mr Feierabend might also have  
364 a view on this. This was a point that came up in the Regional Council’s opening  
365 legal submissions. You may wish to address this in future hearing streams.  
366

367 It is in relation to s.61 of the Act. Don’t worry if you don’t have that to hand. It  
368 says, “When preparing or changing an RPS the Regional Council shall have  
369 regard to: any emissions reduction plan, any national adaption plan. Those  
370 amendments took effect after the RPS was notified. I understand that the Council  
371 could have regard to those through these provisions but there’s no mandatory  
372 requirement to have regard to them. I would just be interested if you had any  
373 views on that. If you want to address that later that’s fine.  
374

375 Foster: Do you want to come back to it?  
376

377 Feierabend: I’d probably want to come back to it.  
378

379 Foster: Just conferring. Meridian would probably want to come back on that.  
380

381 Nightingale: You refer in your evidence to the s.7 provision and of course there’s changes  
382 there, but was all part of that 2022 package of amendments.  
383

384 Great, I think that as all I had thank you. Thanks.  
385

386 Kara-France: Kia ora Ms Foster. I have always had this question about wind farms and bird  
387 migration and tona migration, particularly in the subject matter of indigenous  
388 biodiversity.

389 [00.30.00]  
390 I certainly don't expect an answer now. Later on when we address those issues  
391 within that kaupapa of indigenous biodiversity.

392  
393 What is your position on the avoidance of basically killing birds as they're flying  
394 through wind paths, with pathways that your infrastructure are on, certainly in  
395 Hawkes Bay, at Maungaharuru Tangitū I know that area quite well.

396  
397 I would just like to hear your opinion on that please.

398  
399 Foster: Good question. There's two parts to the answer. One is, how does a policy  
400 instrument, and RPS, or a regional plan respond to those challenges, but also  
401 how does a wind farm developer in shaping its proposals do that? Perhaps Mr  
402 Feierabend can answer that.

403  
404 Feierabend: I guess in essence, I think about our hydro schemes and I think about the wind  
405 farm at Harapaki in Hawkes Bay, in all those situations we come back to  
406 ultimately we have to [31.22] power scheme and Waitaki power scheme, for  
407 example.

408  
409 In terms of new development, it's very much a case of the natural world is at the  
410 front, and practices and preparing proposals for consenting processes I'm aware  
411 of a number of applications where we do bird surveys prior as part of developing  
412 the concept. Then ultimately, if there are issues in terms of turbines being in  
413 flight paths, in every case that I'm aware of, there are conditions applied to the  
414 consent, which require ongoing monitoring to determine the extent and confirm  
415 I guess ultimately whether an issue exists or not.

416  
417 So, it is very much part of any consideration I guess as part of first of all  
418 investigating the site; is thinking about all the variables from a natural  
419 environment point of view that you might encounter and then how you might  
420 manage and mitigate those and offset those as part of a consent development,  
421 and ultimately a decision-maker will determine what has to be done in respect  
422 of that, if there are residual issues that have been identified as part of the process.

423  
424 Kara-France: Thank you for your reply.

425  
426 In speaking about this particular matter then, we talk about the te ao Māori  
427 perspective, and that's the lens which is integrated or interconnected – bird  
428 migration, tuna migration, all contributes to the ecosystem.

429  
430 So, in regards to our te ao Māori statement and position within your submission  
431 would you suggest more of a contribution in the statements regarding mana  
432 whenua/tangata whenua, and that mātauranga Māori knowledge to be applied  
433 and attached to a definition of te ao Māori?

434  
435 Foster: My view is that would be useful. I say that from the experience that I am having  
436 at the moment as well in other Regional Council jurisdictions, trying to develop  
437 freshwater provisions, and the reality that one can't easily articulate mātauranga

438 Māori and iwi values as one set. They are typically rohe specific. There will be  
439 commonalities but there are differences.  
440  
441 The desire to have a nice neat package that goes in a chapter is proving elusive  
442 I think around the country. I think that will be the reality. I think we should be  
443 open to that. There will be variances that will need to be spoken through plans  
444 about particularly what needs to be protected. So, that would be helpful. I think  
445 it would be no different here. That's reflected in the few Te Mana o te Wai  
446 statements that you have. Similarities but quite big differences as well.  
447  
448 I think for them to be truly helpful to decision-makers in the future, they need to  
449 be refined quite well and worded in a way that it's easy to take meaning from.  
450 That's helpful.  
451  
452 Can I give an answer to the policy position, or the policy approach to addressing  
453 tuna and [35.01] migration as well?  
454 [00.35.00]  
455 Both Mr Feierabend and myself were involved in settling appeals on the  
456 provisions of the Natural Resources Plan on exactly that matter, and mitigation  
457 hierarchies. A hierarchy has been established through that instrument of  
458 avoiding in the first instance, particularly in coastal situations where the species  
459 are identified as particularly important.  
460  
461 I think the key to it being successful for values that are important in te ao Māori  
462 is to have those things identified clearly in the hierarchy of what's important. So,  
463 the 'avoid' applies perhaps to those. If they are species or areas that are not then  
464 there's a different mitigation response to them.  
465  
466 So, avoid first, avoid where it's significant, avoid on the coast, and then mitigate  
467 and manage. Then ultimately offset or compensate, broadly speaking, in that  
468 hierarchy.  
469  
470 I hope that's helpful.  
471  
472 Kara-France: Thank you.  
473  
474 Nightingale: There was another question I wanted to ask.  
475  
476 The provisions Mr Wyeth supports uses the terms 'natural and built  
477 environments' as well as natural and physical resources. Do you think that  
478 there's a problem with using those different terms? Should they be consistent in  
479 these IM provisions?  
480  
481 Foster: I think there's a number of features in which this RPS change tries to get a little  
482 bit ahead of legislative change that's coming. I think that the result for the period  
483 of time until replacement legislation is bedded in will actually be unhelpful. I  
484 think that adoption of tried and true expressions that we know. If essentially the  
485 intention is the same then as an old-fashioned planner, that is the approach that  
486 I would advocate.  
487  
488 Nightingale: Do you think these provisions would work where natural and built environments  
489 is stated, if that was replaced with natural and physical resources.

490  
491 Foster: I think in the context of this RPS, yes I do. For the now, yes. That's this  
492 morning's answer. I have to say I haven't given it a great deal of thought ahead  
493 of your question.  
494  
495 Nightingale: Just one more. The word 'development' has come up in submissions. This is in  
496 Objective A para (j) – responds effectively to the current and future effects of  
497 climate change, population growth, development pressures and opportunities.  
498  
499 Do you think in the context of Objective A development pressures would also  
500 apply to Meridian's infrastructure?  
501  
502 Foster: I know that the intention was that it should address NPS urban development  
503 style/development pressures. But, I think it could be taken to mean any  
504 development pressures, yes.  
505  
506 Nightingale: That question about natural physical resources and built environments question.  
507 If you have got Policy IM.1 there, does that work in (d) if it said: "recognising  
508 the inter-relationship between natural and physical resources?" If the words  
509 "built environments" was to come out of there?  
510 Foster: I think not in the sense that the S.32 Report intended it. It was very much, as I  
511 read it, NPS Urban Development focus. I think the language in (d) is caring for  
512 the intention of it. But, in that respect, the area of built environments is a very  
513 potentially broad concept. The obligations on that RPS relate to built urban  
514 environment and that's a defined expression.  
515 [00.40.00]  
516 It may be that reverting to that is more helpful than the open wording that's there.  
517  
518 Nightingale: Thank you. That might be something that we come back and ask Mr Wyeth to  
519 perhaps address in any reply. Thank you very much.  
520  
521 Chair: Thank you.  
522  
523 **Wellington Water Limited**  
524  
525 Chair Good morning. Perhaps you could introduce yourself. Thank you.  
526  
527 Slyfield: Good morning Chair and Panel members. Hopefully you can hear me. My name  
528 is Morgan Slyfield and I am the legal counsel for Wellington Water. My  
529 apologies that I couldn't be in the room with you today, but in the room with you  
530 I understand is Caroline Horrocks who is the Planning witness for Wellington  
531 Water, and you should have from us a brief legal submission dated 30 June and  
532 the statement of evidence from Ms Horrocks dated 30 June.  
533  
534 Can I just confirm that you've had access to both those documents?  
535  
536 Chair: Yes we have thank you.  
537  
538 Slyfield: I think we can be perhaps relatively brief this morning in relation to Wellington  
539 Water's position.  
540

541 The first thing I wanted to do was simply emphasise the importance of the role  
542 that Wellington Water has to play, and that is not merely as a provider of  
543 regionally significant infrastructure which is clearly important in and of itself,  
544 but in terms of the role of implementing Te Mana o te Wai which is at the  
545 forefront of some of the change that is front of you.

546  
547 Wellington Water, as you may already know, represents the interests of five of  
548 the eight territorial authorities in the Wellington Region and has therefore a very  
549 significant role to play in that space. I really just wanted to say that by way of  
550 introduction because you are going to be hearing again from Wellington Water  
551 later in the hearing on that topic. But, it is in that context that Wellington Water  
552 is appearing here today as well.

553  
554 Next I wanted to cut to the chase really and say that things have evolved since  
555 the legal submission and planning evidence were filed for Wellington Water.  
556 Happily for Wellington Water they have evolved in a helpful direction in that  
557 Mr Wyeth has responded in ways throughout his rebuttal evidence that has  
558 materially addressed all of the remaining issues that Wellington Water had, as  
559 identified in the submissions and the evidence.

560  
561 That leaves me in the position of being able to say that Wellington Water  
562 supports and would agree with all of the changes that Mr Wyeth has put forward,  
563 to the extent that those relate to Wellington Water's issues.

564  
565 Perhaps because of that and the lack of anything contentious in that from  
566 Wellington Water's perspective, the most useful thing is to offer to answer any  
567 questions that members of the Panel may have about the issues and the manner  
568 of their resolution. But, just to emphasise, if the Panel were minded to accept the  
569 recommendations that Mr Wyeth has made in his rebuttal then there would be  
570 no outstanding issues from Wellington Water's perspective to address.

571  
572 Chair: Thank you Mr Slyfield. Perhaps I could invite the Commissioners to respond to  
573 that statement. Any questions?

574  
575 Wratt: I have one question. Thank you Mr Slyfield for that very succinct outline. I have  
576 one question which doesn't directly relate to what you said, but it does relate to  
577 a comment in your evidence, where you comment that Wellington Water  
578 opposes every part of Fish & Game's submission, including the amendment to  
579 the AER for Objective A. I just wonder if there's a specific concern there in  
580 relation to the Fish & Game submissions.

581  
582 Slyfield: Thank you Commissioner Wratt.

583  
584 [00.45.00] I think the reason that was put into the legal submission was to make sure that  
585 we had covered the bases in terms of the matters raised in Wellington Water's  
586 original submissions.

587  
588 There isn't a specific aspect of that, that is a concern for Wellington Water.  
589 Wellington Water when looking at Fish & Game's submission was concerned  
590 about the breadth of it and is certainly content to let matters lie where Mr Wyeth  
591 has recommended they lie, which is a rejection of that aspect of Fish & Game's  
592 submissions. I dare say there will be more to be said in later hearing streams

593 about the subject matter of Fish & Game’s submission and Wellington Water’s  
594 more specific position in relation to it.  
595

596 Wratt: Thank you for that. They do ask for input from stakeholders and the community.  
597 That was one of their requested additions for the anticipated environmental  
598 results. In their presentation yesterday of their evidence, whilst Mr Wyeth has  
599 now incorporated comments or clauses around considering the views and being  
600 informed by input from communities, the Fish & Game submitter/presenter also  
601 was concerned that stakeholders hadn’t been included in that. I guess Wellington  
602 Water is a stakeholder.  
603

604 Are you comfortable that the use of the word “communities” incorporates  
605 stakeholders?  
606

607 Slyfield: I think I’m in a position to express at that definitively. I am just looking for Mr  
608 Wyeth’s passage dealing with this now, if you can bear with me.  
609

610 Wratt: It is not clause (e) in the revised provisions that came through in the rebuttal  
611 evidence I think.  
612

613 “Is informed by the input of communities.” That’s in Objective A. And, in the  
614 anticipated environmental results there is now “consider the views of  
615 communities”.  
616

617 Slyfield: Perhaps what I should say here is, one of the difficulties, and I didn’t articulate  
618 this well before, but what I was grasping at is, one of the difficulties Wellington  
619 Water faced looking at Fish & Game’s original submission, is it wasn’t very  
620 clear to Wellington Water what the overall outcomes Fish & Game were seeking  
621 would be. Yet it was clear that they were of significance in this space.  
622

623 Wellington Water’s opposition to those was in some sense an exercise in  
624 ensuring that Wellington Water would be able to have input on that.  
625

626 I don’t take it in relation to the point about communities and references to  
627 stakeholders that there is a great deal in that point from a legal perspective. I  
628 think Wellington Water would say that if it is left at “communities” then it would  
629 be a party to that exercise.  
630

631 Wratt: Thank you. That answers that question, thanks very much.  
632

633 Nightingale: Mōrena Mr Slyfield. Thank you for your legal submissions.  
634

635 Can I confirm is Ms Horrocks going to be presenting your planning evidence or  
636 can we ask questions?  
637

638 Horrocks: Here just to answer.  
639

640 Nightingale: Thank you. I’ve got questions for Mr Slyfield and Ms Horrocks.  
641 [00.50.00]  
642

643 The first one is about this issue of Objective A potentially creating the objective  
644 to rule all objectives, the hierarchy issue that you have raised in your legal  
submissions.

645 We heard just before, and you might not have been online, but from Ms Foster  
646 presenting planning evidence for Meridian Energy, that in her view Objective A  
647 needed to also not only recognise regionally significant infrastructure but also  
648 enable it, because otherwise there is a risk that objectives further along in the  
649 RPS, the ones that recognise the benefits of infrastructure and enable it, might  
650 come into tension with the wording in Objective A.  
651  
652  
653 I think that is also very similar to the point that you are also making in your legal  
654 submission, so my question is, looking at wording in Objective A(h) as Mr  
655 Wyeth proposed be amended, do you or Ms Horrocks support a wording change  
656 there also enable regionally significant infrastructure; and if so have you got any  
657 wording that you would suggest?  
658  
659 Slyfield: Perhaps I will start and Ms Horrocks can add her expert opinion after.  
660  
661 I don't think Wellington Water's position is that these can't be improved. To that  
662 extent, if this (h) was to incorporate enablement rather than recognition that  
663 would be supported by Wellington Water. Wellington Water is possibly, slightly  
664 distinct from where Ms Foster was stating Meridian sat in terms of the need to  
665 go that far.  
666  
667 I think Wellington Water is satisfied by (h) as it stands but it would not be  
668 opposed either if (h) were to express enablement directive.  
669  
670 Over to you Ms Horrocks if you've got some opinion on that as well from a  
671 planning perspective.  
672  
673 Horrocks: I was listening to Ms Foster and just putting my mind to that. I tend to agree with  
674 Mr Slyfield however that it obviously has some advantages, but I don't think it's  
675 essential in the context here. I think my opinion as well would be perhaps that  
676 given where this sits as an umbrella document, there is still the opportunity  
677 within the district and regional plans, or there's the leeway there to interpret that  
678 in different ways, and to perhaps provide some enabling mechanisms at that level  
679 without requiring it at the RPS level.  
680  
681 Nightingale: I was just particularly interested in your views as to whether it created a tension  
682 in the wording; so basically recognise in Objective A and then the more enabling  
683 provisions in is it chapter 10.  
684  
685 Horrocks: Basically in short, no I don't think it does.  
686  
687 Nightingale: Also, do you have any views on the terms "natural and built environments in  
688 these provisions"? You might have heard that question earlier.  
689  
690 Horrocks: I was listening in yesterday to your question to Powerco. I don't have a strong  
691 opinion on it. I think the built environment obviously is not defined under the  
692 RMA, but it's sort of seeking, as Ms Foster said, to sort of look ahead a little  
693 perhaps.  
694 [00.55.00]  
695 I think it's sufficiently self-explanatory that there's no issue there with its  
696 interpretation.

697  
698 Nightingale: Ordinary dictionary meaning would be adequate?  
699  
700 Horrocks: Mm.  
701  
702 Nightingale: Great. Thanks.  
703  
704 Sorry, I'm not sure if this your legal submissions or your evidence Ms Horrocks.  
705 It's where you propose amendments. I think it's in paragraph 13, at the top of  
706 page-4. You say there: "community resilience to the effects of climate change  
707 will depend on the functionality, integrity and adaptability of infrastructure, and  
708 regionally significant infrastructure will need to be upgraded and adapted or  
709 relocated to maintain the necessary functionality and capacity to support  
710 community resilience.  
711  
712 Do you think Mr Wyeth's suggestion in the new Overarching Resource  
713 Management issue 4, do you think that where he proposes... the last sentence  
714 really: "This will also require resilient and well-functioning infrastructure  
715 networks including regionally significant infrastructure." Do you think that goes  
716 far enough address the relief that you are proposing, where you talk about  
717 maintaining the necessary functionality, capacity, integrity and adaptability of  
718 infrastructure?  
719  
720 Horrocks: Yes. I think the words "well-functioning" cover a lot of that off. Yes I think it  
721 does.  
722  
723 Nightingale: Thank you.  
724  
725 Just out of curiosity really, is all of Wellington Water's infrastructure considered  
726 a network, or is it more than just a network?  
727  
728 Horrocks: I should probably actually (apologies) introduce Ms Angela Penfold here who  
729 is a Senior Resource Principal Planner at Wellington Water. She might be best  
730 placed to answer that question.  
731  
732 Penfold: All our infrastructure is defined as regionally significant infrastructure in the  
733 RPS and in the Regional Plan. We are very reliant on streams to carry  
734 stormwater in particular and that is not regionally significant infrastructure.  
735 Obviously we are very reliant on rivers and aquifers to get our water from; so  
736 that's not regionally significant infrastructure.  
737  
738 We would tend to call ourselves network infrastructure providers, yes.  
739  
740 Nightingale: Actually mentioning streams there, I did want to ask about this categorisation  
741 issue. Mr Slyfield, Ms Penfold or Ms Horrocks you might have some views on  
742 whether you think it's appropriate that all of these provisions remain allocated  
743 to the Freshwater Planning Process, or whether you think that any of them should  
744 be more appropriately categorised as P1S1 provisions.  
745  
746 Penfold: I will answer that if that's okay.  
747

748 We have deliberated avoided that conversation because we could see that we  
749 could spend hours, hours and hours and not reach a firm position on it. So, we've  
750 just decided to be guided by the Regional Council's position on this.  
751

752 Nightingale: If you have seen the Minutes that the Panel has put out, Panel 5 where we  
753 proposed an approach for dealing with that, and that's basically that all Panel  
754 members would hear all submissions and at the end of our deliberations we  
755 would make recommendations for any re-categorisation that we thought was  
756 appropriate at that point, on the basis that we felt that it didn't meet the tests in  
757 s.80A or as articulated by the High Court.  
758

759 That is what we are proposing to do. We consider that there's sufficient  
760 jurisdiction to allow us to do that, and the decision will remain with the Regional  
761 Council – these will remain recommendations.  
762

763 I take your point. If Wellington Water wishes to just go with the flow, excuse  
764 the pun on that, we can leave that there.  
765

766 Penfold: I didn't read anything in that Minute that gave us concern.  
767

768 Nightingale: Thank you.  
769

770 Just to confirm, because before I think Ms Horrocks when we were talking about  
771 the hierarchy of provisions point, I think right at the beginning, in your evidence  
772 you say that there's an inference that Objective A could infer that the RSI  
773 provisions in Objective 10 have lesser importance. Is that still your view, or are  
774 you comfortable that the amendments now proposed address that?  
775

776 Horrocks: I am comfortable that the amendments address that. Really, that concern was  
777 specific to the fact that they had the word overarching in there. With that  
778 removed I think that removes that issue for us.  
779

780 Chair: Mr Slyfield thank you. Ms Horrocks and Ms Penfold, thank you for your  
781 submissions this morning. We'll carry on from there.  
782

783 We were due to break at 10.50 so we're a little ahead of time. That's fine. We  
784 will adjourn and resume with Rangitāne o Wairarapa Inc. when we are ready.  
785 Thank you.  
786

787 [Hearing adjourned 01.04.16]  
788

789 Hearing resumed  
790

791 **Rangitāne o Wairarapa Inc.**  
792

793 Chair: Our next submitter Rangitāne o Wairarapa. Thank you. Whaea, could you  
794 please...  
795

796 Whaea: [01.04.29 – 01.04.32]. Tēnā tātou katoa. Nau mai haere mai. Kua tau te kupu  
797 mihi o te tiamana ki a koutou, ki a tātou katoa. Kia ora mai rā tātou.  
798

799 Chair: Kia ora. Thank you. Good morning.

800  
801 Craig/Burns: Ko te pū, te more, te weu, te aka, te rea.  
802 Ko te waonui, te kune, te whāe, te kore, te pō  
803 Ki ngā tāngata Māori nā Rangī rāua ko Pāpā  
804 Ko tēnei te tīmatatanga o te ao  
805 Ko tēnei te tīmatatanga o te ao  
806 [01.05.00]  
807 Craig: Ko te manu e kai ana i te miro, nōna te ngahere; ko te manu e kai ana i te  
808 mātauranga, nōna te ao. Ko Tararua te pae maunga, ko Wairarapa te moana, ko  
809 Ruamahanga rāua ko Waiohine ngā awa. Ko Rangitāne o Wairarapa rāua ko  
810 Kahungunu ki Wairarapa ngā iwi. Ko Ngāti Hamoa rātou, ko Ngāti Moe, ko  
811 Ngāti Kahukura Awhiti ngā hapū. He uri au nō [01.05.57 Hemi mā te aha tau e  
812 kī pūrākau hoki. Ko Amber Craig tōku ingoa. Kei te Pou Rautaki Whenua au  
813 mō Rangitāne o Wairarapa. Ko Maggie Burns ia, kei te kaiwhakamāhirihiri ia  
814 mō Kahu Taiao. Tēnā koutou katoa.  
815  
816 Kia ora, my name is Amber Craig and I am the Pou Rautaki Whenua for  
817 Rangitāne o Wairarapa. With me here is Maggie Burns, Planner at Kahu  
818 Environmental. We will both be giving evidence to our areas of expertise.  
819  
820 I started my kōrero with a waiata this morning that is taught to our babies at  
821 Kōhanga. It is a waiata that tells us the mātauranga of the stages of creation of  
822 us at tangata as a people today.  
823  
824 It is passed down through the generations from the creation of our people to our  
825 babies today. This is one of many waiata, mōteatea and other forms of  
826 communication of our mātauranga. However, they are all intergenerational  
827 observations of our taiao passed down and adapted over generations. This is  
828 mātauranga Māori.  
829  
830 This waiata also talks to our whakapapa about who we are – that we descend  
831 from Ranginui and Papatūānuku. Where, now, ātua/mātua were separated by  
832 their tamariki, they mourn for each other. This is their gift to us, te hurihanga  
833 wai, this is the cycle of water as we know it today in all of its forms. Wai is a  
834 taonga.  
835  
836 This is why we cannot have water be a separate policy or process for us, because  
837 when you do look at this without mātauranga, without an integrated approach,  
838 as Greater Wellington calls it, we only look at a fraction of the problem. We tend  
839 to only fix symptoms and not root causes.  
840  
841 For us, Papatūānuku is embodiment of taiao. Our moana is the heart, our awa is  
842 the veins and our blood is the blood of Papatūānuku. Our wetlands are her  
843 kidneys. You cannot look at one without the other. That is like treating a wound  
844 without understanding the underlying cause.  
845  
846 The spiritual connections we have to our rivers, such as Ruamahanga are  
847 immeasurable. All life comes from Papatūānuku and we will return to her. When  
848 our wai is suffering and our taiao is suffering we as people will suffer.  
849

850 When you look at our descendants of Rangitāne o Wairarapa and the impacts  
851 colonisation has had on our awa, our people, you can clearly see the detrimental  
852 effects.

853  
854 The removal of our Rangitāne voice, stories and mātauranga has seen us  
855 observing the degradation of our waterways, our whenua and our people for the  
856 past 180 plus years. It has been heart-breaking and although generations before  
857 us have fought to be heard, degradation has continued. My kaumātua have  
858 observed some of the biggest impacts to our taiao within their life time. Now we  
859 are picking up the challenge as the younger generation.

860  
861 Some examples of issues that have resulted in ongoing degradation of our  
862 waterways is ignoring or deprioritising mātauranga Māori knowledge. Human  
863 and economic needs are consistently prioritised above the health of our water  
864 bodies and taiao. We are further alienated from our taiao and unable to undertake  
865 our cultural practices. There has been a lack of integrated and holistic  
866 approaches and solutions for our wai and taiao at all levels – so governance,  
867 management and operational; as well as a lack our participation in decision-  
868 making on our taiao at all levels – governance, management and operational.

869 [01.10.00]

870 Te Tiriti o Waitangi for our people means tino rangatiratanga over our taiao, our  
871 taonga. Papatūānuku has inequality solutions for 180 plus years, so therefore we  
872 believe we need equitable solutions now to help her heal herself, including her  
873 mokopuna. We don't have time to do anything else. Our mokopuna don't have  
874 time for us to have anything other than equitable solutions.

875  
876 A treaty principle that is referred to by the government that they talk about is  
877 partnering with us. We believe that we are not being partnered with. The  
878 inability to define kaupapa from the beginning with Māori led mātauranga  
879 means that it will forever be tacked on the side and the full benefits will not be  
880 realised. We need western science and mātauranga Māori to walk side-by-side  
881 from the beginning.

882  
883 During the Covid lockdowns when humanity came to a standstill in Aotearoa,  
884 we saw all of our taiao come to life. There were so many tohu, many telling us  
885 that taiao could breathe and start to heal. I feel we have not learnt from that  
886 experience and it is hard to sit here and go through this hearing suggesting why  
887 we should heal Papatūānuku when she is already telling us – an example being  
888 the 50 degree temperatures that are being experienced overseas, as well as many,  
889 many other tohu.

890  
891 A key aspect of our mātauranga is that it is unique and contextual per whānau,  
892 hapū, iwi and rohe. Our role as kaitiaki is given to us through whakapapa.  
893 Through this important role we uphold and contextualise mātauranga that is tika,  
894 but also safe for our people and the wider community to implement.

895  
896 My job here is not to define the full role of kaitiaki because we could be here all  
897 day and that would be another wānana, or multiple wānana. But, with the likes  
898 of the Tohunga Suppression Act there have been parts of this role that have been  
899 illegal for us to do. Because in some cases we haven't been able to fully uphold  
900 our role, there is a need for us to have equitable solutions for our people to return  
901 this mātauranga.

902 We see our job as revitalising and bringing this back. I have no doubt that  
903 Papatūānuku can survive without us, but we see our job as needing to tautoko  
904 and support her healing herself and not to control her. I use that in the wider ‘we’  
905 humanity, that she can survive without us.  
906

907  
908 This is part of our mana mātauranga hapū strategy, which we believe starts to  
909 define aspects of Māori data sovereignty; noting that mana mātauranga o hapū  
910 is our name for it, because Māori data sovereignty is very much a Crown Māori  
911 relationship term.

912 Our role is that although mātauranga is being digitised and put into virtual  
913 spaces, we need to understand the whakapapa, the context of use and uphold the  
914 mana for those whose data it is. Ngā ātua, ngāti puna, ngā tangata.  
915

916 I would like to finish off with a bit of an example of how mātauranga Māori can  
917 thrive within Aotearoa. I think the recent example of what we have just  
918 celebrated last week, Matariki, is a very prime example of what can happen  
919 when we have Māori led mātauranga being able to thrive.  
920

921 Some people have adapted and picked up Matariki, but through Māori led  
922 mātauranga the core celebration is still kept safe for our people.  
923

924 I want to finish with a story about how when Ranginui and Papatūānuku were  
925 separated, Tāwhirimātea was one of their sons who was so angry by this  
926 occurring. He was devastated and he went to go live with his father. In his grief  
927 and sadness he plucked out his eyes. He crushed them. He threw them up to the  
928 sky and spread them across his father’s chest. This was known as nga mata o te  
929 āriki, Tāwhirimātea, or otherwise known as Matariki.  
930

931 I am going to pass onto Maggie now for her kōrero.  
932

933 Burns: Tēnā koutou Commissioners. Ko Maggie Burns āhau. I have been asked to  
934 provide planning evidence on behalf of Rangitāne o Wairarapa. I will take my  
935 statement of evidence as read, but will reiterate some of my key points. I am  
936 happy to take any questions.  
937

938 I note that the rebuttal evidence of Mr Wyeth has accepted some of my  
939 recommended amendments from my primary evidence. Specifically, this is in  
940 relation to Overarching Issue 3 and the recommended addition of mana  
941 whenua/tangata whenua relationship to te taiao to ensure that relationship is  
942 considered alongside values for consistency with s.6(e) and 7(a) of the RMA.  
943

944 I explained in my evidence that Māori values and relationship to te taiao are  
945 overlapping but distinct concepts.  
946

[01.15.00]

947 Mr Wyeth also accepts the amendment in sub-clause (d) of Overarching  
948 Objective A relating to the same issue. The amendment to Policy IM.1 is also  
949 accepted in rebuttal evidence referring to partnership and removing that  
950 amendment which includes engaging. Partnership is a Te Tiriti principle and it  
951 is up to mana whenua/tangata whenua the Crown to decide on their respective  
952 levels and methods of engagement. I consider this covers the concerns relating

953 to minor activities that may not require a high level of engagement from man  
954 whenua or tangata whenua.  
955  
956 I do suggest several other amendments to Overarching Objective A. I  
957 recommend an amendment to include Te Mana o te Wai and the suite of sub-  
958 clauses.  
959  
960 I still consider the addition of Te Mana o te Wai as necessary, even where it will  
961 be considered in the objectives and policies in the freshwater chapter.  
962  
963 Te Mana o te Wai is a fundamental concept of integrated management and that's  
964 recognised in the Council in their S.32 Report, and the supplementary evidence  
965 of Mr Wyeth discussing the objectives relating to freshwater and the context of  
966 the Freshwater Planning Process.  
967  
968 I also note that there are several sub-clauses in this objective that relate to issue  
969 specific matters, so I see no reason why Te Mana o te Wai would not be included.  
970  
971 I also recommend the addition of mana whenua/tangata whenua led two clauses  
972 relating to mātauranga. I suggest that it should be clear that mātauranga is  
973 undertaken by tangata whenua/mana whenua and this amendment would support  
974 that.  
975  
976 This acknowledges and provides additional certainty that mana whenua are the  
977 experts of their own mātauranga.  
978  
979 Mr Wyeth in their rebuttal has recommended the deletion of Policy IM.2. My  
980 evidence was in support of the inclusion of this policy. I acknowledge that this  
981 is not something that is commonly dealt with in an RPS, but I do not agree that  
982 it is not in line with Part 2. Section 5 provides for enabling people in  
983 communities to provide for their social, cultural, economic wellbeing, and if this  
984 includes the needs to address equity, it should and can be addressed in the RPS.  
985  
986 I am happy to take any questions, or any questions for Amber.  
987  
988 Chair: Thank you.  
989  
990 Paine: Tēnā koe Ms Burns. Thank you for that.  
991  
992 Right throughout the issues and Objective A we have the words "mātauranga  
993 Māori". Both you and Ms Craig's evidence submission, you're saying that this  
994 is solely for Māori. I just wanted to explore that.  
995  
996 Would there be an occasion do you think that mātauranga was informed by  
997 knowledgeable people who were non-Māori?  
998  
999 Burns: That's a very good question. I probably would defer to you Amber, if you think  
1000 that would be appropriate.  
1001  
1002 Craig: From everything I have heard from my kaumātua, mātauranga Māori is for our  
1003 people and is derived through our generational knowledge. However,  
1004 mātauranga per say there can be Pākehā mātauranga and stuff like that.

1005  
1006 If there is generational information that they have received, western science to  
1007 an extent is mātauranga, so they would sit side-by-side. If they want to create  
1008 their own mātauranga, ka pai. But, I guess as well there will be some stuff with  
1009 Matariki; where I was trying to make that point is that there is a Māori led  
1010 mātauranga. But, that's been derived and there's now new kind of practices and  
1011 stuff that people within Aotearoa have started to do, while still maintaining that  
1012 Māori led core of where it has come from.  
1013  
1014 Does that make sense and answer your question?  
1015  
1016 Paine: Thanks Ms Craig. I was just pondering on some of the questions or answers from  
1017 Meridian around te ao Māori and mātauranga Māori and how that is put into  
1018 practice. We as Māori have common core values or principles, but there are  
1019 always those variations. So, how do you see Greater Wellington taking  
1020 mātauranga that is specific to Rangitāne and putting that into practice, and  
1021 balancing that against maybe other mātauranga Māori that is different?  
1022 [01.20.15]  
1023 Craig: As part of that there will be some common stuff which can come together. But,  
1024 how you roll something out in Kāpiti, versus how you might roll something out  
1025 in Wairarapa, you have to take those variances into account. You can't just  
1026 blanket roll stuff out. That's then not listening to taiao.  
1027  
1028 The mātauranga is really about there may be niches and changes per whanau and  
1029 hapū, but ultimately you can come back to objectives and what are we trying to  
1030 do, because those will be aligned a hundred percent.  
1031  
1032 In terms of implementation, it may be different on the ground, but part of what  
1033 we are trying to say here is that Greater Wellington can't lead this mātauranga.  
1034 It has to be led by mana whenua, by tangata whenua.  
1035  
1036 I guess it has to be conversations where if it's something that greater Wellington  
1037 are wanting to roll out across the rohe, whether they allow kind of these little  
1038 groups to do their own, or whether they want to do it as a full big project, how  
1039 you can allow that mātauranga to be... it's part of conversations really; and being  
1040 at the beginning from the front and not something that's tacked on the side.  
1041  
1042 Paine: You see those things being clarified more outside of this process? This is a  
1043 conversation between the iwi and Greater Wellington.  
1044  
1045 Craig: I think if Greater Wellington were partnering with us well enough then we  
1046 wouldn't have this conversations, because they would know how to do this. I  
1047 think that's why it needs to be defined at this level, because it's not consistent  
1048 across that organisation and it's not consistent with a lot of people who do  
1049 resource consents. The way in which they come to us at various ways of how  
1050 they've engaged with mana whenua.  
1051  
1052 As you raised Meridian, if they're asking those types of questions, that says to  
1053 me that they're not engaging with the whānau and hapū that they are doing a lot  
1054 of mahi with. Because a lot of our whānau and hapū will tell you how to partner  
1055 with us. They will tell you how they want things to be done. We just need the  
1056 opportunity to be there at the table.

1057  
1058 Paine: Certainly not taking up Meridian’s rākau, but going back to te ao Māori, it's  
1059 more about, what are your thoughts about the suggestion that there’s a definition  
1060 for te ao Māori, and that this is more refined?  
1061  
1062 If people are reading the RPS and they can see te ao Māori and flick to  
1063 definitions and say, “This means that.” What do you think of that idea?  
1064  
1065 Craig: I don’t believe that’s for policy to define. However, I’m not a policy expert. I’ve  
1066 probably got policy people cringing at my statement right there. However, what  
1067 I will say is Te Mana o te Wai is not defined as to what it is in terms of what it  
1068 means to mana whenua. I would expect the same for te ao Māori. It can be  
1069 different for different people. But, there will be some aspect where we want it to  
1070 be side-by-side with te ao Pākehā.  
1071  
1072 Paine: I accept that. Thank you.  
1073  
1074 If it is defined, do you think that’s a narrowing? Do you think that’s a good thing  
1075 or not?  
1076  
1077 Craig: That would probably be a chat with my kaumātua. Me personally, when the  
1078 government and Council start to define how we do things and our world, it has  
1079 never given us any great from that.  
1080  
1081 Paine: Thank you. That’s fine.  
1082  
1083 The other thing I was wondering about is Māori data sovereignty and how that  
1084 is managed. I asked a question of Mr Wyeth yesterday about the gap between  
1085 when these provisions are made operative and the timeframe for protecting data  
1086 sovereignty comes in, which is 2025. I wanted to know how do you think that’s  
1087 been managed now, because there may be a gap between having that policy in  
1088 place and what happens now?  
1089  
1090 Craig: In terms of Māori data sovereignty we have referred to it's as mana mātauranga  
1091 [01.25.00] hapū. We have clearly defined in that how we think Greater Wellington could  
1092 move towards even just starting to recognise it. We have done it as a multi-year  
1093 plan in terms of some interim work. I believe that was attached as evidence.  
1094 Basically, we define it as even just knowing where our data is to start with is  
1095 important. We have all this information collected about ngā ātua, ngati puna,  
1096 and we don’t even know where it is or where that’s been posted at Greater  
1097 Wellington. We also don’t know the whakapapa of where it's being hosted. Is it  
1098 in New Zealand, is it in Australia, is it in the US? Because there are different  
1099 jurisdictions on that data depending on which country it is hosted in and by  
1100 which vendor as well.  
1101  
1102 So, even just knowing where our data is and doing a data map to start with would  
1103 be amazing. I know that there is a lot of data within the science team and that’s  
1104 not even been utilised or going over.  
1105  
1106 In terms of also being able to look to apply our mātauranga to some of this data,  
1107 because I think we are just only looking at it from a te ao Pākehā western science

1108 point of view, and there's probably some new information that we can derive  
1109 from that data set.  
1110  
1111 That's kind of like beginning stuff that we can start with, all the way through to  
1112 re-patriating our data. We would actually have service hosted on our whenua.  
1113 We would have our data hosted there. We would know what's tapu, what's noa  
1114 data. We would know what noa data when you contextually put stuff together  
1115 what would then become tapu.  
1116  
1117 So, it's really starting to change the way in which we think about data. Just  
1118 because it's in the digital space doesn't mean that it's not mātauranga and that  
1119 it's not held to the same standards.  
1120  
1121 Paine: I could understand how that would work for information that was specific to  
1122 Rangitāne, but is there other more general or commonly accepted information  
1123 and values? How do you see that being managed?  
1124  
1125 Craig: I would throw a question back: what do you determine is generic information  
1126 for us, Rangitāne o Wairarapa? Because we have a kaitiaki role. Our role is to  
1127 uphold the mana of our atua as well. That includes any information collected  
1128 about our awa. We want to make sure we know where that data is held; that it is  
1129 being used contextually in the right context; and that it's not going to impact  
1130 anyone. There is even a whole conversation about tikanga around do we  
1131 spiritually keep this data safe? Which we haven't had any time or space to be  
1132 able to have those wānanga yet to expand that out.  
1133  
1134 Paine: Really expansive answers. Very comprehensive. Thank you all three of you for  
1135 your evidence.  
1136  
1137 Thank you sir.  
1138  
1139 Wratt: Kia ora. Thank you also from me for the comprehensive responses.  
1140  
1141 I just have one very specific question which relates back to Issue 3, where Mr  
1142 Wyeth has incorporated relationships with te taiao into that provision.  
1143 We heard yesterday from Te Ātiawa. They requested a rather more lengthy  
1144 insertion there. I just wonder, your response in terms of whether the two align,  
1145 and whether you can put both in?  
1146  
1147 Their request was in the same place that you have put your insertion, which was:  
1148 "As a result of mana whenua/tangata whenua values, including our relationship  
1149 with our ancestral lands, water, sites, wāhi tapu and other taonga."  
1150  
1151 Burns: Absolutely. I understand that's a reflection of s.6(e) in terms of detailing all  
1152 those specific relationships to each of those sites. Certainly it provides more  
1153 detail. I would accept that is also consistent with that s.6(e) principle.  
1154 Wratt: If that phrase was put in, would your phrase not be needed? It could replace your  
1155 phrase?  
1156  
1157 Craig: Yes.  
1158  
1159 Wratt: Thank you.

1160

1161 Burns: Can we at least look at the phrase though and make sure. I would have to go  
1162 back to my kaumātua before I was okay with it. It sounds okay, but I would want  
1163 to check with my kaumātua first before I absolutely say yes.  
1164

1165 Chair: Understood. Yes. Thank you.  
1166

1167 Kara-France: Kia ora koutou katoa, e ngā mana o Rangitāne, tēnā koutou katoa. Ko Ina  
1168 Kumeroa Kara-France, Independent Commissioner.  
1169 [01.30.00]

1170 My questions are just in relation to the matter of your iwi environmental  
1171 management plan, for example, and the description of your mātauranga Māori  
1172 to be acknowledged via your iwi environmental management plan, to be applied  
1173 to this particular process regarding mātauranga Māori and te ao Māori. What are  
1174 your feelings about that? Would that be satisfactory to you, alongside direct  
1175 face-to-face consultation, engagement and partnership?  
1176

1177 Craig: Can you just repeat the question again?  
1178

1179 Kara-France: In regards to your iwi environmental management plan, would you be satisfied  
1180 for that to be directed to in regards to our mātauranga Māori, regarding policies  
1181 concerning te ao Māori and mātauranga Māori, for areas such as activities within  
1182 your rohe to have direct contact with your kaitiaki? Would you be the satisfied  
1183 for the iwi environmental management plan to be applied to any enquiry  
1184 regarding te ao Māori and mātauranga Māori? That's my question.  
1185

1186 Craig: As in refer to that document?  
1187

1188 Kara-France: As in refer to that particular document. In your absence, for example, for this  
1189 particular process.  
1190

1191 Craig: As long as it doesn't abstain them from coming to talk to us, because we can  
1192 only provide a document for so much. There's always niche cases or  
1193 contextually people will just take something out of that document and use it out  
1194 of context, if that make sense, as well.  
1195

1196 I don't see any problem with that. I know other iwi have more iwi management  
1197 plans defined pretty extensively.  
1198

1199 We are developing a lot of ours at the moment but they are also going to be  
1200 living documents; so as we go out and wānanga with our people and our whānau  
1201 there will be updates applied to them.  
1202

1203 Kara-France: In relation to Commissioner Paine's question, and it was brought up beforehand  
1204 in regards to te ao Māori, I have a personal concern in terms of putting  
1205 boundaries and restrictive statements concerning te ao Māori, because it does  
1206 come from whakapapa and it comes from the direct kaitiaki in that whānau and  
1207 that hapū.  
1208

1209 In reference to that, again I'm just going to ask you to reiterate your perspective  
1210 of te ao Māori; and hence the iwi environmental management plan to be referred  
1211 to in relation to your particular rohe, for your particular matter, for a particular

1212 activity, do you see this important as part of the clauses within the Regional  
1213 Policy Statements concerning Rangitāne, concerning your rohe?  
1214

1215 Craig: I will just make sure I understand your question. I will try and answer to what I  
1216 believe you're asking.  
1217

1218 Is, no I would prefer it's not defined within a policy or process – just to clarify  
1219 that. Because every time that happens there's barriers that are put in place where  
1220 it's very te ao Pākehā. We are trying to put something that's te ao Māori within  
1221 a te ao Pākehā process. This whole thing I find very weird and nerve-wracking.  
1222

1223 If that's something that we as whānau within each of the different rohe can  
1224 define ourselves, then yeah, that is something that I think would be better  
1225 handled than actually having it defined within a policy or process.  
1226

1227 Kara-France: Just in regards to Māori data and IP, I liked your description in regards to your  
1228 perspective on mātauranga Māori and your data. Could you give any other  
1229 examples on how we could protect IP concerning issues of tapu, cultural values,  
1230 sites of significance etc.?  
1231

1232 Craig: Just generic examples or something that's happening...  
1233

1234 Kara-France: From your kaupapa perspective. From your mātauranga Māori perspective.  
1235

1236 Craig: Probably I will give you one that's recently happened.  
1237 [01.35.00]

1238 Greater Wellington have been scanning with a helicopter our aquifers, over our  
1239 rohe. We came into that kind of late in the piece. But, from our perspective, for  
1240 us, that's scanning Papatūānuku. There was no consent kind of asked. It was just  
1241 assumed that we could do that. The way in which all that data is being looked at  
1242 is from a western science perspective.  
1243

1244 When we came onto the scene we just asked where that data is going to be stored,  
1245 who's going to be analysing that data, what mātauranga is going to be applied  
1246 to it?  
1247

1248 As a really quick example, the Maramataka. The Maramataka, the moon, can  
1249 move bodies of water and it would be remiss of us to think that it couldn't move  
1250 water underneath the ground as well. When we talked about wanting to apply  
1251 some of that knowledge, we kind of just got pushed away and said, "It's probably  
1252 not going to affect your dataset anyway." But, it's not allowing us the space and  
1253 time to be able to do that.  
1254

1255 In the end, we came to an agreement where we would be able to get a copy of  
1256 that information and we would have it stored on our own whenua, so that we  
1257 could then choose to look at that data and how we might apply our mātauranga  
1258 to it.  
1259

1260 That's kind of an example where it would have been great to have started from  
1261 the beginning together; that we are able to then share that information back to  
1262 our whānau and hapū as well. Then on top of that, our wider community; because

1263 one of my aunties always said, “If you empower the whānau and the hapū you  
1264 empower the wider community as well.”  
1265  
1266 We see it as an obligation to protect our wider communities as well. What’s good  
1267 for Māori is good for everyone.  
1268  
1269 Kara-France: Thank you for that reply.  
1270  
1271 In regards to a confidential file, for example, concerning mātauranga Māori or  
1272 issues or tapu for the iwi, would you see that as a necessary step to protect your  
1273 interests within that data collection kaupapa?  
1274  
1275 Craig: When it comes into the likes of what is tapu for us, whakapapa information, from  
1276 our perspective and from what I’ve been hearing, just shouldn’t be shared online  
1277 for everyone to get; that it depends on who it is, and contextually that has to go  
1278 through a process before people can have access to it per say. Because in the  
1279 wrong hands, if you mess with whakapapa you get very sick.  
1280  
1281 So, actually how do we protect it and just put some provisions in place, whether  
1282 it's to lock it down and have a physical request to access; or whether it's  
1283 something where digitally we feel it's okay because we've built enough barriers  
1284 around it to be able to have whānau request it digitally and we know who they  
1285 are; or whether we just take it down because we don't feel it's safe in that digital  
1286 realm. Those are things that we probably have to wānanga out as a whānau, but  
1287 that's stuff which we are heading in that direction – in terms of being able to  
1288 define what's tapu and what's noa within the digital space.  
1289 Kara-France: Kia ora. Thank you.  
1290  
1291 Nightingale: Kia ora koutou. Commissioner Nightingale. Nau mihi nui, kia koutou. Thank  
1292 you very much for travelling today from the beautiful Wairarapa to be here. We  
1293 really appreciate you coming and talking to us in person.  
1294  
1295 In your submission you say it's important that Objective A expressly says,  
1296 “integrated management requires giving effect to Te Mana o te Wai.” My  
1297 Wyeth, in presenting planning evidence for the Council, his view is that the  
1298 concept of Te Mana o te Wai can better fit into the freshwater provisions, and it  
1299 doesn't need to go into Objective A.  
1300 I understand from what you have said in your presentation that it's an integral  
1301 part of integrated management. Mr Wyeth accepts that Objective A should be  
1302 amended to say “integrated management recognises and provides for ki uta ki  
1303 tai.  
1304 [01.40.00]  
1305 I guess I'm trying to understand what you think would be the impact of not  
1306 having give effect to Te Mana o te Wai in Objective A. Thank you.  
1307  
1308 Craig: I think it is a little bit difficult to see, without seeing what those amendments  
1309 would be to that freshwater chapter, to actually give effect to Te Mana o te Wai  
1310 as required. Ultimately, I still think even with those amendments that there is a  
1311 need to have that principle within this integrated management objective. It is so  
1312 integral to ki uta ki tai integrated management and all of these aspects that are  
1313 in that objective. I think there's a risk there that it's missed. I think it just really  
1314 needs to be up front in that, especially with the nature of that objective.

1315  
1316 I know it's been amended to not be overarching anymore, but the placement of  
1317 that objective, to note that it is an important consideration.  
1318

1319 Nightingale: Thank you for the really clear explanation Ms Craig about mātauranga Māori. It  
1320 certainly expanded my understanding. Thank you very much.  
1321

1322 I would like to ask Mr Wyeth if he's preparing in reply evidence to consider  
1323 further including the words, "incorporates mana whenua/tangata whenua led  
1324 mātauranga Māori" in Objective A – which is the relief that you're seeking. I  
1325 think that is addressed in the S.42A Report, but I am interested to know if having  
1326 heard your submission today if Mr Wyeth's views on that have changed at all.  
1327

1328 Then the last thing I think I wanted to ask was, Ms Burns, your comment in  
1329 relation to Policy IM.1 Integrated Management, I think I made a note when you  
1330 were presenting earlier. You referred, I think, to minor activities. I wrote this  
1331 down quite quickly, but minor activities that perhaps don't require partnering.  
1332 Are you able to explain that a bit more, and also whether you think that any  
1333 changes in wording are needed in that policy?  
1334

1335 Burns: I appreciate that could do with a little bit more explanation. My understanding  
1336 of the concerns and the addition of that partnering or engaging in the original  
1337 S.42A Report was, that for activities like a boundary adjustment, it might not be  
1338 something that mana whenua are particularly interested in. However, I think that  
1339 that is a decision for mana whenua to make and that's what comes through the  
1340 partnership principle, that that involvement needs to happen in order for mana  
1341 whenua to make that decision that this is an activity that can be led by western  
1342 science. It doesn't need that involvement.  
1343

1344 So, that was my point there; that your partnership allows for that relationship to  
1345 be decided by mana whenua.  
1346

1347 Kara-France: Just in relation to partnership and the considerations to be made by mana  
1348 whenua, regarding what that meant for mana whenua, what are your feelings in  
1349 regards to the treaty partnership to the Crown? Does that apply? Or, still is it  
1350 based on your own interpretation? Would you be satisfied with the wording of  
1351 treaty partner to the Crown?  
1352

1353 Craig: In which?  
1354

1355 Kara-France: In any context?  
1356

1357 Craig: Certainly s.8 of the RMA requires that principles of Treaty of Waitangi are taken  
1358 into account. I think that partnership principle is very clearly defined throughout  
1359 all the Waitangi Tribunal processes. I think that it certainly should be in there.  
1360 [01.45.00]  
1361 Sorry, did you mean amendment to the partnering?  
1362

1363 Kara-France: No, just made a reference in regards to partnership and it needs to be defined for  
1364 mana whenua themselves; so therefore my question was, would you be okay  
1365 with the statement made concerning treaty partner to the Crown?  
1366

1367 Craig: I will try and answer.  
1368  
1369 I think what we are trying to say is there's a partnership overall, but contextually  
1370 per engagement we may choose not to engage in a kaupapa and that should be  
1371 our decision to make. There have been so many times when there have been  
1372 minor changes and we've been told they're minor and "we won't touch these  
1373 things," and we have seen the degradation of our stream, or they've just moved  
1374 a boundary and then they're encroaching on our urupā, or something like that.  
1375  
1376 Where we want to site some of these projects, it might be minor from your  
1377 perspective, but from our perspective this is major because we've got some wāhi  
1378 tapu sites beside.  
1379  
1380 I guess it's allowing us to contextually work out what kaupapa we want to be  
1381 across and what we might not want to be across.  
1382  
1383 Just to clarify: I think it's not making the decision for us, and that we would  
1384 make the decision on what we might want to engage in. Sometimes we are told:  
1385 "We know that you guys are super busy and you don't have much time. We  
1386 haven't brought these twenty projects to you because we know you're out of  
1387 time." Well, we would rather look over those projects and decide for ourselves  
1388 what we think is important.  
1389  
1390 Kara-France: In saying that, regarding the consultation with resource consents or any other  
1391 activity taking place within your rohe, the issue of compensation or consultancy  
1392 advisory ratepayers for advisory does that come up for you? For example, a lot  
1393 of whānau contribute voluntary time, and is that an issue for the iwi to be  
1394 contacted on a regular basis regarding any activity?  
1395  
1396 Craig: I think it's a constant issue that we are continuously trying to navigate. How do  
1397 we ensure that our whānau get paid, not just from a Greater Wellington  
1398 perspective, but from all the councils that we have to engage, as well as all the  
1399 organisations that want to do mahi in our area; and how do we make sure that  
1400 our whānau get paid for it, because they've got to pay bills at the end of the day,  
1401 and they've got rent to pay? I don't know if you've heard, but those keep going  
1402 up. We can't do everything for aroha.  
1403  
1404 Kara-France: Kia ora. So, in regards to mātauranga Māori and mainstream science, what's  
1405 your perspective on that? Do you see it on the same equal footing as tohunga?  
1406 Is carrying mātauranga Māori an equal footing as mainstream science?  
1407  
1408 Craig: Yes. I believe that they should be paid as equally.  
1409  
1410 KF Kia ora.  
1411  
1412 Chair: There were one or two matters where you said you would like to confer with  
1413 people before you responded fully to a couple of questions. We have a little time  
1414 now before our scheduled break. Would you like to have a few minutes perhaps  
1415 and you can consult now and come back and expand on anything? We are very  
1416 happy to wait.  
1417

1418 Craig: Yes, maybe we'll do that. Just with Maggie and some my kaumātua. If we can't  
1419 come to it we'll just let you know. There may be other people in the Wairarapa  
1420 that we haven't been able to transport over.  
1421

1422 Chair: Of course. If there is anything that you can deal with right now, after a brief  
1423 consultation, we're happy to hear. Otherwise you can give us material later if  
1424 there are significant issues that you want to go back to.  
1425

1426 Burns: Can I just confirm. Commissioner Wratt, I understand your question in relation  
1427 to Ātiawa's rewording or similar wording. In their submission is that the same?  
1428

1429 Wratt: Yes it is. That's the wording that they put in their submission. I don't know if I  
1430 can give you where in their submission it is. Certainly it's in relation to Resource  
1431 Management Issue 3. Page-6 I have noted here. It's probably page-6 of their  
1432 submission or their evidence. It was their original submission.  
1433

1434 Nightingale: Just from my last question, I had another point about that, that I just wanted to  
1435 follow up.  
1436 [01.50.00]

1437 This was about Policy IM.1. I heard what you said about mana whenua choosing  
1438 whether the partnership is important in that particular kaupapa and that particular  
1439 context, or if it's something that partnership isn't required. I think you said  
1440 maybe it's a minor boundary adjustment or something like that.  
1441

1442 I think either some submitters, or it might have come up in Mr Wyeth's report,  
1443 there was some suggestion of adding the words "that the policy applies to  
1444 planning and consenting processes to the extent relevant."  
1445

1446 I don't think that is actually wording that Mr Wyeth supports but it has been  
1447 raised by some submitters.  
1448

1449 What are your views about inserting those words into that policy?  
1450

1451 Burns: I haven't seen exactly where that would be in that policy, however generally  
1452 those kind of qualifiers I am not in support of. I think in particular with this  
1453 policy there is some quite important absolutes in there, and I don't think adding  
1454 where practicable or where relevant or whatever those particular words are is  
1455 appropriate.  
1456

1457 Chair: Thank you. If you like we will take a little informal break now and you can have  
1458 a word to people who are behind you. Let us know if there is anything you want  
1459 to add right now, otherwise it can be done in writing later.  
1460

1461 Thank you. We will take a break.  
1462

1463 [Break taken - 01.52.28]  
1464 [Hearing resumes]  
1465

1466 Burns: We have had a brief discussion and our preference is to take that question away  
1467 and speak a little bit more with Rangitāne whānau, just to get a little bit more a  
1468 sense of what is appropriate here; and also to speak Ātiawa other iwi groups to  
1469 get some consensus because it does affect all of those groups.

1470  
1471 Chair: Understood. We'll take a lunch break now then. Thank you.  
1472  
1473 [Hearing adjourned for lunch break - 01.53.00]  
1474 [Hearing resumes]  
1475  
1476 **Porirua City Council**  
1477  
1478 Smeaton: Kia ora koutou. Thank you Chairs and members of the two Hearing Panels. Ko  
1479 Rory Smeaton, tōku ingoa. My name is Rory Smeaton. I have provided some  
1480 speaking notes which I have pre-circulated, but my intention today was  
1481 essentially to read through those and then take questions. If you're happy for me  
1482 to proceed on that basis then I will do so.  
1483  
1484 Chair: Absolutely.  
1485 Smeaton: My name is Rory Smeaton. I am a Principal Policy Planner employed by Porirua  
1486 City Council (PCC). I produced a statement of planning evidence in support of  
1487 a number of submission from PCC on the provisions in Change 1 being  
1488 addressed in Hearing Stream Two – Integrated Management.  
1489  
1490 My colleague to my right, Mr Michael Rachlin, also resubmitted a part of his  
1491 evidence provided for Hearing Stream One at the request of the Hearing Panel  
1492 and is also available for questions.  
1493  
1494 PCC must give effect to the Regional Policy Statement through its District Plan.  
1495 PCCs opening legal submissions outlined the key interest in Change 1 as being  
1496 to ensure that the provisions are drafted in a way that will ensure PCC can  
1497 continue to meet the statutory obligations.  
1498  
1499 I agree with PCC's submission which generally supports the intent of Change 1  
1500 and overall direction of travel, but notice that there are a number of Change 1  
1501 provisions that should be expressed more clearly.  
1502  
1503 I recommend that the use of the term "natural and built environments" in  
1504 provisions introduced or amended through Change 1 be amended to  
1505 appropriately refer to natural and physical resources.  
1506  
1507 The use of natural and built environments is inconsistent with the RMA and  
1508 national direction. The existing RPS provisions and supporting text do not use  
1509 this term. Change 1 itself is inconsistent with the wording it uses.  
1510  
1511 In Mr Wyeth's opinion, as expressed in his rebuttal evidence, the reference to  
1512 "natural and built environments" is unlikely to create interpretation  
1513 implementation issues. For the reasons set out in my evidence I disagree.  
1514 [01.55.05]  
1515 I also recommend that the additional wording, where relevant, be included in  
1516 consideration policies where appropriate, and specifically in relation to Policy  
1517 IM.1. This is because by definition the integrated management provisions will  
1518 be relevant to all planning decisions; therefore Policy IM.1 in particular needs  
1519 to be carefully worded to avoid it being inappropriately applied to resource  
1520 consents and notice of requirement processes.  
1521

1522 I address the structure of the RPS as proposed through Change 1 in my evidence.  
1523

1524 I agree with the evidence provided by Mr Rachlin on behalf of PCC on this  
1525 matter. The inclusion of overarching issues and objectives within the  
1526 introduction to Chapter 3 elevates these provisions above those included in the  
1527 sub-chapters, and will cause confusion for interpretation and implementation.  
1528

1529 Section 61 of the RMA states that a Regional Council must prepare and change  
1530 a Regional Policy Statement in accordance with a National Planning Standard.  
1531 The National Planning Standards direct Regional Councils to include an  
1532 integrated management chapter in an RPS where it is relevant.  
1533

1534 While Change 1 is not a full proposed Regional Policy Statement, I consider it  
1535 would be more appropriate to be consistent with that direction by including an  
1536 integrated management chapter in the RPS.  
1537

1538 In my statement of evidence, I recommended an additional issue be added  
1539 relating to the effects of climate change. In his statement of rebuttal evidence,  
1540 Mr Wyeth has recommended a new issue statement addressing that matter.  
1541

1542 While acknowledging the acceptance of the need for an additional issue  
1543 statement, I disagree with Mr Wyeth's proposed wording as, other than the first  
1544 sentence, it is focused on the required response to the issue rather than describing  
1545 the issue itself.  
1546

1547 As such, I continue to support my recommended issue statement in Appendix B  
1548 of my evidence in chief.  
1549

1550 I recommended in my evidence that both Objective A and Policy IM.1 be  
1551 significantly amended in order to provide greater clarity on what is sought to be  
1552 achieved, and how it is to be achieved. I recommended new objectives and  
1553 policies to accomplish that.  
1554

1555 While these are all relevant to integrated management of natural and physical  
1556 resources, I consider that the more focused objectives and policies I have  
1557 recommended provide greater clarity and easier interpretation.  
1558

1559 My recommended Objective A focusses more directly on the integration of the  
1560 management of the region's natural and physical resources, and specifically on  
1561 the concept of ki uta ki tai.  
1562

1563 This is supported by my recommended Policy IM.1, which sets out the key  
1564 aspects of adopting an integrated approach based on ki uta ki tai. I consider that  
1565 this better gives effect to national direction, and specifically the National Policy  
1566 Statement for Freshwater Management (NPS-FM).  
1567

1568 While Change 1 is focussed on the NPS-UD and NPS-FM, I note that my  
1569 recommended Policy IM.1 would also assist in giving effect to clause 3.2 of the  
1570 National Policy Statement for Highly Productive Land (NPS-HPL) and clause  
1571 3.5 of the National Policy Statement for Indigenous Biodiversity (NPS-IB).  
1572

1573 My recommended Objective B focusses on the incorporation of te ao Māori into  
1574 the management of the region’s natural and physical resources and is supported  
1575 by my recommended Policy IM.2 which addresses integrated decision-making.  
1576 These will be read alongside the other integrated management provisions, but  
1577 by separating these they provide a broader lens through which to view all other  
1578 provisions.

1579  
1580 My recommended Objective C seeks to achieve well-functioning urban  
1581 environments. This is supported by my recommended Policy IM.3 addressing  
1582 integrated and coordinated regional urban development and which recognises  
1583 the importance of a Future Development Strategy (FDS).

1584  
1585 An FDS is a key implementation tool required under the National Policy  
1586 Statement for Urban Development (NPS-UD).

1587  
1588 Local authorities that share jurisdiction over tier 1 or 2 urban environments are  
1589 jointly responsible for preparing an FDS.

1590  
1591 In my opinion, the strategic approach set out in a relevant FDS is clearly a matter  
1592 relevant to the integrated management provisions in the RPS.

1593  
1594 Additionally, in relation to Policy IM.1, I included a potential definition of  
1595 ‘Māori data sovereignty’, a term that is used in clause (e). Mr Wyeth generally  
1596 supports the intent of that definition, but states that the intent of Method IM.2 is  
1597 for GWRC to work in partnership with each mana whenua/tangata whenua to  
1598 develop and agree on tikanga and kawa for Māori data sovereignty.

1599  
1600 While I acknowledge the importance of that work, I do not consider that a  
1601 definition would undermine or constrain it as stated by Mr Wyeth.

1602  
1603 I also note that Method IM.2 sets a timeline for that method, being ‘by 2025’.

1604 [02.00.00]

1605 Policy IM.1 as notified must be given regard in resource consent decisions now  
1606 under section 104(1)(b)(v) and will need to be given effect to by PCC in its  
1607 district plan.

1608  
1609 I do not see how that can be properly achieved without an appropriate definition.

1610  
1611 I recommended that Policy IM.2 be deleted.

1612  
1613 I support the recommendation for Mr Wyeth to delete that now.

1614  
1615 Overall, the recommendations made by Mr Wyeth in the Section 42A Report  
1616 and Rebuttal Evidence have come some way in improving the provisions of  
1617 Change 1. However, I consider that further amendments are required to ensure  
1618 PCC can continue to meet its statutory obligations.

1619  
1620 Thank you.

1621  
1622 Chair: Questions?

1623  
1624 Kara-France: Sir, thank you very much for your submission.

1625  
1626 The question that I ask Mr Smeaton is, in regards to mātauranga data IM.2 –  
1627 protection and interpretation of mātauranga Māori and Māori data. The previous  
1628 submitters, Rangitāne iwi had mentioned the importance of the data itself and  
1629 the collection of data; the importance of mātauranga Māori and intellectual  
1630 property protection and concerns that they had concerning this particular policy  
1631 was based on that whatever comes out of their rohe in terms of mātauranga  
1632 Māori and their design, all aspects and all particular data coming out of their  
1633 rohe and ownership belongs to them. You don't have a problem with that  
1634 particular position? It's just concerning the protection and interpretation of that  
1635 particular IM.2, is that correct? You want that deleted?  
1636

1637 Smeaton: No. The methods, I haven't provided any evidence on that. It was specifically  
1638 on the definition of Māori data sovereignty.  
1639

1640 Kara-France: In regards to Māori sovereignty, could you describe more in terms of your  
1641 interpretation of that?  
1642

1643 Smeaton: In preparing for my evidence I did a little bit of background research. I came  
1644 across the brief that I had in a footnote in my evidence in chief. I can find that  
1645 for you – which came from Te Mana Rarunga which set out the principles of  
1646 Māori data sovereignty as they outlined them, which is a group at national level.  
1647 It appeared to me that they came from a position of knowledge in that respect. I  
1648 included the definition as more of a starting point that further discussion could  
1649 be had on, but it was really just to the point that the policy as it sits now needs  
1650 to be given regard to through processes now, and without an appropriate  
1651 definition that is very difficult to achieve in my opinion.  
1652

1653 Kara-France: Thank you Mr Smeaton. Is it that particular wording of that particular policy?  
1654

1655 Smeaton: It's not so much the wording itself, it just introduces a term that hasn't been used  
1656 before certainly through the RPS and is new to Porirua City Council, I suppose,  
1657 as well; and including the quite strong language in the policy clause at the  
1658 moment around upholding Māori data sovereignty. For us to give effect to the  
1659 Regional Policy Statement in the future and having regard to the Proposed  
1660 Regional Policy Statement Change 1 now, it would be very difficult without  
1661 having that concept more clearly articulated.  
1662 [02.05.05]  
1663

1664 Kara-France: Understand. Thank you.  
1665

1666 Nightingale: Kia ora. Thank you for your presentation.  
1667

1668 The point you have raised about protecting and enhancing the life supporting  
1669 capacity of ecosystems, which is in para (f) of Objective A, it's the word  
1670 "enhance" that is perhaps a bit of a nod to the new system coming up. Those  
1671 words are not present in the act.  
1672

1673 Smeaton: Correct, yes. "Safeguarding" I think is the...  
1674

1675 Nightingale: Safeguarding, yes. I think you've made the point that that could call into  
1676 question the interpretation or just what that means, and if it's trying to do

1677 something different. But, if it repeated the words then what's it really adding to  
1678 the statute?  
1679  
1680 Have you got a suggested amendment for that as an alternative?  
1681  
1682 Smeaton: Not specifically for that clause. In my Appendix B of my evidence in chief I had  
1683 three proposed objectives. I hadn't carried through that wording specifically as  
1684 you have just mentioned. I think at the moment the wording goes further under  
1685 the purpose of the Act. It is also just pulling through very similar but slightly  
1686 further, so I didn't see what value it was adding. I didn't carry that through into  
1687 my proposed amendments.  
1688  
1689 Wratt: Could I just explore a little bit further? You've come up with the three A, B, C  
1690 objectives. Are you proposing that those would entirely replace the current  
1691 Objective A and the sub-clauses under that?  
1692  
1693 Smeaton: Yes.  
1694  
1695 Wratt: So, A to J?  
1696  
1697 Smeaton: Yes.  
1698  
1699 Wratt: Thank you. That clarifies that for me.  
1700  
1701 Nightingale: Your recommendation that "population growth" change to "population change"  
1702 is that because the population may not grow; people might want different types  
1703 of housing for example?  
1704  
1705 Smeaton: Yes, along those lines. I think it's not just "population growth". I think that's too  
1706 narrow a consideration. It's the changing demographics of the population as well,  
1707 which may result in demand for smaller housing, more communal housing and  
1708 that sort of thing.  
1709  
1710 Nightingale: I think that's something I will be interested in looking at when we come to  
1711 Hearing Stream 4 as well; and just seeing if the provisions in there are wanting  
1712 to support that demographic change and that flexibility of housing type for  
1713 example. Sorry, that was just a comment and mental note to come back to that.  
1714  
1715 The other one thing I wanted to ask, where relevant, I've just made a note here  
1716 to help me understand it as a scale of consenting, and I know it may not be as  
1717 simplistic as that, but my concern with the wording you've suggested, putting  
1718 "where relevant" into IM.1 and IM.2, is that it might then make some of those  
1719 really important provisions, which you've also supported in your evidence, it  
1720 might make them optional?  
1721 [02.10.00]  
1722 I think Mr Wyeth agrees that every element of that policy may not apply to all  
1723 types of consents. It would be great if you think there's any other wording,  
1724 because I do think the words "were relevant" in that particular location might  
1725 mean that the whole policy becomes optional.  
1726  
1727 Smeaton: Yes, I think it's quite a difficult aspect of drafting these sorts of provisions. In  
1728 drafting those I was reflecting on Mr Wyeth's S.42A Report where he mentioned

1729 that they would be considered as relevant to any particular proposal. I think that  
1730 also reflects the wording of s.104 where “have regard to” I think is relevant from  
1731 memory – the list of relevant policy documents.

1732  
1733 I think in my evidence in chief I did not that the provisions will need to be very  
1734 carefully crafted to ensure that although they are very broad that they aren’t  
1735 inappropriately applied to processes, as was mentioned by a previous submitter  
1736 as “a change in boundary” or something like that.

1737  
1738 I was trying to think of other mechanisms to do that through the provisions but  
1739 I didn’t come up with anything more articulate than that.

1740  
1741 Wratt: In Policy IM.1, the rebuttal evidence has now added into the introductory  
1742 paragraph “local authority shall”. Does that help address your concerns?

1743  
1744 Smeaton: I think to a degree. In my evidence in chief I had included local authorities in  
1745 clause (a) referring to mana whenua/tangata whenua. I think it does pick up on  
1746 that point and provides a suitable response to that.

1747  
1748 I do wonder whether it's on anyone working within the system to adopt an  
1749 integrated approach even when developing a proposal. I would probably have to  
1750 think about that a little bit further, but I think my initial reaction is, yes I am  
1751 comfortable with that wording in there.

1752  
1753 Nightingale: I’m wondering if some of the language in the beginning of Chapter 4.2, which  
1754 is in the part of the suite of provisions, and I am (1) in particular could be  
1755 simplified because we’ve got Chapter 4.2, the introductory text, stating the RMA  
1756 requirements – whether that’s give effect to, regard, or I think particular regard  
1757 might be in there as well for NORs; and then the officer is recommending a  
1758 sentence that says: “This applies regardless of whether this is stated at the start  
1759 of each policy in this section.” Then within the policies we have, “when  
1760 considering those matters local authorities shall adopt an integrated approach.”

1761  
1762 I’m just looking at the wording that you have suggested there as well. I’m  
1763 wondering if we might be able to simplify that wording because we’ve got quite  
1764 a few basically verbs in there and directions; and they all sort of come back to  
1765 what’s actually required by the Act.

1766 [02.15.00]  
1767 Smeaton: Yes, I understand where you’re coming from there. I think I made a point in my  
1768 evidence as well, that while the policies and objectives will need to be read in  
1769 context of the supporting text in the RPS, it's actually the wording of the policies  
1770 themselves that are really important. So, while the introduction may give  
1771 guidance on how each one is to be applied, I think it is the wording of the policies  
1772 themselves that focus should be on. If that can be simplified then I would  
1773 certainly support that.

1774  
1775 At the moment, I think it's also reflecting the existing wording of the policies in  
1776 the RPS. If the provisions introduced that Change 1 are inconsistent with those  
1777 then it may create some confusion. Probably not a lot, but I think it would be  
1778 better to be consistent.

1779

1780 Nightingale: Have you come across difficulties because you don't support the consideration?  
1781 I think that's what your submission said – because it potentially conflicts with  
1782 the Regulatory.  
1783

1784 Smeaton: In some cases it may do. I noted in my evidence as well that the wording of  
1785 particular policies between the Regulation policies and the consideration  
1786 policies. If they overlap on a particular topic, from memory they are often  
1787 worded quite carefully. For example, as I included in my evidence, around  
1788 significant natural areas where the consideration policy sets out a framework for  
1789 addressing those areas prior to the relevant territorial authority mapping those  
1790 and putting them into the District Plan; so a framework for managing those in  
1791 the interim period. I set that out, I think quite clearly, in the supporting text of  
1792 those policies as well.  
1793

1794 If there is conflict between them, or overlap between them, then that wording  
1795 needs to be quite carefully thought about as well.  
1796

1797 Nightingale: In paragraph 56 of your evidence you refer to ki uta ki tai. You quote clause  
1798 3.51(a) of the NPS-FM which requires local authorities to recognise the  
1799 interconnectedness of the whole environment. I think the point you draw from  
1800 that is that you can't narrow that to only the natural environment.  
1801

1802 Smeaton: Yes.  
1803

1804 Nightingale: But, that text from clause 3.5 of the NPS-FM, that does seem be dealing with  
1805 the natural environment.  
1806

1807 Smeaton: Yes, I see your point in terms of the text that follows that. I think, in my mind, I  
1808 was jumping to environment as defined by RMA, which includes the entire  
1809 environment. While that clause does go on to say, "From the mountains and  
1810 lakes down to rivers and hapua, and to the sea," I think it's that travel of water  
1811 as a concept, including consideration of all aspects of the environment that it  
1812 may come into contact with through that process – is what I took from it.  
1813

1814 I don't think you could separate out the built environment from that, because the  
1815 built environment will have impacts on other aspects of the environment.  
1816

1817 Nightingale: I did have a question for Mr Rachlin. Were you going to present?  
1818

1819 Rachlin: Thank you Commissioner. Michael Rachlin, Porirua City Council. No, I guess  
1820 my evidence was so short that I wasn't planning on specifically doing any  
1821 summary on it because it's very short. I'm here to answer questions on that. I  
1822 wasn't going to do more than that.  
1823

1824 [02.20.18] Nightingale: I think I just have one question. Thank you very much for presenting that again.  
1825 It's useful to think about this in this hearing stream, so thanks very much for  
1826 coming back.  
1827

1828 Now that Mr Wyeth recommends deleting the words "overarching" from the  
1829 beginning of Objective A, does that resolve your concern about there being  
1830 potentially a higher order objective which all topic based objectives and policies  
1831 have to implement?

1832  
1833 Rachlin: It goes some way towards it, but ultimately no. I think Mr Smeaton has touched  
1834 on the importance of how you craft the wording. My concern is a rebuttal version  
1835 of Objective A is a form of touchstone objective that you've seen everyone  
1836 wants to be included on that list. Once you have done that, you are elevating  
1837 some topics over others and that doesn't seem to be integrated management.  
1838  
1839 I listened into some of it yesterday and I think one of the Panel asked why  
1840 aggregates and minerals and not highly productive land. I would add to that, why  
1841 reasonably significant infrastructure or integrated management and physical  
1842 resources? When I switch the light on, it's the local distribution network that's  
1843 supplying the electricity as well as the national grid.  
1844  
1845 Another one that's come up a log in the urban intensification process is health  
1846 and wellbeing. Access is like, "Why not that?" You start getting into this type  
1847 of "Me too, I want to be on this list." Once you've done that, you've elevated it.  
1848 You may not intend it to be sitting above, but I think that's what is going to  
1849 happen.  
1850  
1851 So, the way for me to resolve that and have a genuine objective setting out what  
1852 integrated management looks like and feels like in the Wellington region, I  
1853 prefer the wording that Mr Smeaton has come up with, because that to me  
1854 describes the characteristics and principles of integrated management, without  
1855 dropping down into this topics. Because once we start doing that I don't know  
1856 where we end.  
1857  
1858 I think that would alleviate that problem with an unintended hierarchy.  
1859  
1860 The other one, and again I support Mr Smeaton's approach, is to actually have  
1861 it in a chapter for integrated management. Again that signals to users of the plan  
1862 of the policy statement that is a topic, and we've got to cover all of those topics  
1863 before we get to integrated management.  
1864  
1865 Nightingale: Thanks very much. That's really clear. That actually reminded me, I did want to  
1866 ask you Mr Smeaton, I missed it exactly, but you said earlier today that the relief  
1867 you were recommending would also address the point about currently highly  
1868 productive land is missing from the list. Sorry, could you remind me, what was  
1869 the wording that you had in mind that would do that?  
1870  
1871 Smeaton: I think it was actually just the introduction of my Objective A which is a broader  
1872 concept for integrated management. When I was looking at the national direction  
1873 and the clauses in there under the headings of integrated management, how that  
1874 would be reflected down the RPS. I think it addressed that section of the NPS.  
1875  
1876 Nightingale: I do wonder if the wording you're suggesting may be a bit more future-proof,  
1877 because there is more national direction kind of coming, as we know.  
1878  
1879 Just to check I understand: you think Mr Rachlin that the rebuttal evidence  
1880 version of Objective A still creates a risk of having an unintended hierarchy,  
1881 some tension with the other objectives and policies in the topic chapters; and  
1882 uncertainty if you're not in this list that maybe you're second tier?  
1883 [02.25.15]

1884 Rachlin: That would certainly be at the very least open to that interpretation. Once it's  
1885 open to interpretation it leads to that potential for inconsistency and unintended  
1886 consequences. So, yes, you've summarised the issue there.

1887  
1888 Nightingale: One submitter yesterday in relation to this question about including highly  
1889 productive land in Objective A, and there is a question about whether there is  
1890 actually scope to do that, but they said that territorial authorities anyway have  
1891 got obligations under I think it's 3.6 of the NPS-HPL. You don't need to look at  
1892 that.

1893  
1894 I guess just as planning experts, really keen to hear your view on whether highly  
1895 productive land can still be recognised and protected in the way the NPS-HPL  
1896 requires independently of being included in say an integrated management  
1897 provision at the RPS level?

1898  
1899 Rachlin: I couldn't give you a definitive answer on that. I would need to go and recheck  
1900 on that. My point was raising the sense of why some things and not others. I  
1901 couldn't answer that because I'm not familiar with that. Perhaps it was more a  
1902 conceptual issue around how you frame Objective A. So, I couldn't give you  
1903 that one. I know Mr Smeaton can. It probably goes back to that point of how we  
1904 draft Objective A needs to be carefully done, so that it doesn't do what we are  
1905 talking about now and why this and why not that – because we're getting to  
1906 debate and I would have to go back and get the evidence as to why some things  
1907 are deemed to be more important than others in terms of integrated management  
1908 in Objective A. I don't recall there being anything along those lines.

1909  
1910 It was more of a "Why this?" and I couldn't tell you myself whether it's needed  
1911 in the RPS or not, or whether we can just let the NPS [02.27.40] sit on its own.

1912  
1913 Chair: Sorry Mr Smeaton, we're running rather over time. If there is some substantive  
1914 issue that you think still needs to be addressed, we are open to having further  
1915 material in writing if you think that's required to put a fair position.

1916  
1917 Smeaton: Thank you for that offer. I think we will consider that, but at the moment I don't  
1918 think there is anything.

1919  
1920 Chair: Thank you gentlemen.

1921  
1922 **Wairarapa Federated Farmers**

1923  
1924 Chair: Good afternoon. We're the Panel. Sorry, we are running a little over time. We  
1925 will have as much time as you need, within reason of the submitters who are still  
1926 to come of course.

1927  
1928 Would you like to introduce yourself to us please?

1929  
1930 McGruddy: Good afternoon. I'm Liz McGruddy. I'm the Senior Policy Advisor with  
1931 Federated Farmers. I will just speak briefly to some of the points. In fact, from  
1932 our summary statement, I will just highlight one point, paragraph 11, where we  
1933 reference the Ministry for the Environment, guidance on s32 evaluations clearly  
1934 defining the problem, issue or opportunity is a critical part of robust policy  
1935 analysis and is strongly linked to s32 evaluation.

1936 [02.30.00]

1937 The degree of clarity about the problem will influence the type and range of  
1938 policy solutions to be considered, and the quality of analysis of the options.

1939  
1940 That advice from MFE certainly informed our thinking when we prepared our  
1941 original submission. Related to that point, I will turn to several points of  
1942 agreement with Council arising from the S.42 and lack of evidence being part of  
1943 the Hearing Stream Two, starting with the S.42A Report at paragraph 60. There  
1944 is a statement here, which we can certainly agree with, that developing RPS issue  
1945 statements based on the best available information is a necessary response to  
1946 RMA statutory requirements.

1947  
1948 From the same report in paragraph 129, discussing Objective A and the context  
1949 that is intended to elaborate on how integrated management of the natural and  
1950 built environments is best achieved in the context of the Wellington region. How  
1951 integrated management is best achieved.

1952  
1953 A third point from the Council rebuttal legal submission that we can also agree  
1954 with the sentiment, is paragraph 12. From a practical perspective, if no  
1955 amendments are made to Change 1, it is not a situation where there is a gap and  
1956 that there are no constraints.

1957  
1958 That statement is made in the context of the NPS-HPL, but the sentiment, I think,  
1959 is equally relevant to other matters under consideration in Hearing Stream Two.

1960  
1961 Just briefly a final point picked up from this morning's hearing, Commissioner  
1962 Nightingale was asking a question about the National Planning Standards, and  
1963 in particular the question about the integrated management chapter.

1964  
1965 Those points, which I think are all certainly for us clear points of agreement with  
1966 Council, we have then applied those thoughts to the consolidated provisions. We  
1967 have got the consolidated provisions recommended by Mr Wyeth. In looking at  
1968 these where they have currently landed, we're applying those questions and  
1969 applying those tests. So, have we clearly defined the problem? Are the issue  
1970 statements based on the best available information? Did provisions set out how  
1971 integrated management can be best achieved? Do they meet the National  
1972 Planning Standards? If amendments are not made then practically is there a gap?

1973  
1974 If the answer to those various questions was yes, then that would certainly give  
1975 us cause to revisit our preferred relief. In the event, I think the answer to those  
1976 questions is no. So, in that context, our preferred relief does stand as set out in  
1977 our submission and summarised in our statement for Hearing Stream Two.

1978  
1979 Happy to take any questions about our position and our reasons for that, and our  
1980 thoughts on the consolidated amended provisions that are on the table in front  
1981 of us at the minute.

1982  
1983 Just one final point in respect of allocation. Our legal counsel, Mike Campbell,  
1984 did respond to the Panel invitation to provide further legal evidence in respect  
1985 of the Panel's pathway, in terms of how best to navigate. Mike did lodge further  
1986 evidence in respect of that and extended the invitation to be available for Panel  
1987 questions. If the Panel wish that offer stands.

1988  
1989 I did sit in on the livestream yesterday. Arising from some of the conversation  
1990 yesterday I do have a question of clarification relating to allocation. But, on that  
1991 note I will pause and am very happy to take questions.  
1992 [02.35.00]  
1993 Chair: Thank you. The Commissioners may indeed have questions for you. We'll start  
1994 with Commissioner Paine.  
1995  
1996 Paine: Good afternoon Ms McGruddy. Just one question in regards to the new RMI.4  
1997 about climate change. Do you know which one I am talking about?  
1998  
1999 McGruddy: I have got the new consolidated version in front of me.  
2000  
2001 Paine: I just wanted your thoughts on that para.  
2002  
2003 McGruddy: Probably first thought is I can understand that in the course of Mr Wyeth  
2004 addressing various submitters, he's proposing various amendments and this is  
2005 yet another one of them. The bigger context as Commissioner will be aware is  
2006 that in respect of RPS Change 1 and the climate change aspects of it, including  
2007 the chapter that is still to come, the bigger position there for Federated Farmers  
2008 is that in the small time window, prior to the scheduled full review of the RPS  
2009 in 2024, our position is that these changes should not be progressed at this time;  
2010 that they should in fact be deferred to the full review of the RPS in 2024.  
2011  
2012 I can expand on the reasons for that if you wish.  
2013  
2014 The reasons, a critical aspect there, is... just going back to that NFE guidance  
2015 about the quality of the robust process and the data that's tabled, and the analysis  
2016 that's applied to it, so that we get that clean and clear line of logic from the issues  
2017 through the objectives and through the provisions to address them.  
2018  
2019 In Hearing Stream One we gave context for our concerns about the very rushed  
2020 nature of RPS Change 1. I won't repeat that here, but the essence there was that  
2021 RPS Change 1 had clear deadline about implementing the NPS-UD. No  
2022 argument and no difficulty with that. But, it came a very large creature and  
2023 further to that it took some bold steps second-guessing matters which were still  
2024 in process at the national level; and that includes the fact that the changes hadn't  
2025 been made to the climate change provisions in the RMA. It includes that at that  
2026 time the NPS-IB was not yet in the arena. It includes that the natural and built  
2027 environments bill is still in process. It's second-guessing a lot of things and they  
2028 all got jammed together into actually quite a rushed process.  
2029  
2030 So, our very strong preference is that we do a quality job of addressing these  
2031 important matters in the scheduled full review of the RPS, which to my  
2032 understanding is still scheduled in 2024.  
2033  
2034 Paine: Thank you for that. Thank you sir.  
2035  
2036 Wratt: Thank you Ms McGruddy. A couple of questions. I hear your concerns about  
2037 the breadth of the coverage that's within this plan change and your concerns  
2038 about rush and all the rest of it, but just to come back to some of the specifics  
2039 which are in the documents that we have in front of us, and the S.42A Report.

2040  
2041 You have quite a strong emphasis on the whole catchment group approach,  
2042 certainly here. In the S.42A and rebuttal reports there hasn't been that degree of  
2043 recognition of catchment groups, but there has been more recognition of  
2044 engagement with and input from communities. Does that go some way towards  
2045 addressing your concerns?  
2046 [02.40.00]  
2047 McGruddy: No. I think here you are thinking in particular of the addition that was made to  
2048 Objective A. I can see that it was intended to respond to the Fish & Game  
2049 submission, but it's quite a different concept to what we were proposing.  
2050  
2051 Just very briefly, as Commissioner Wratt will know, the front end of the  
2052 operative RPS has got that introductory section which speaks strongly to the  
2053 importance, not just generally of community but a lot more specifically; the  
2054 importance of catchments as a unit of management, and the importance of the  
2055 active engagement of communities working towards the multiple mixed  
2056 purposes within it.  
2057  
2058 That's a long answer to your question: Does that little addition of the word  
2059 "community" address our alternative relief?  
2060  
2061 Just to put that in context again: our preferred relief is that the Chapter not be  
2062 progressed. If it is progressed then our alternate relief is intended to reflect the  
2063 current emphasis on integrated management and integrated catchment  
2064 management within the operative RPS; acknowledge that at the moment that  
2065 section of the RPS is not structured as a proper chapter as per the National  
2066 Planning Standards – but nevertheless it's there at the front end. I think what's  
2067 an issue here is, have we got something that looks like a bit of a gap in adding  
2068 to it with an objective?  
2069  
2070 Very briefly, last Hearing Stream, I alluded to the fact that since the RPS was  
2071 made operative over a decade ago, having made those very strong statements  
2072 about the importance of enabling catchment groups and promoting, then the  
2073 wonderful news is that we have made very significant concrete progress in that  
2074 area. In that context, we propose that a key issue for the upcoming period was  
2075 to sustain and accelerate that momentum.  
2076 Wratt: Thank you. I guess one way of dealing with that is saying that inclusion of the  
2077 community input at that high level that is proposed in Objective A could then be  
2078 brought into the catchment level in the more detailed objectives – for example,  
2079 in the freshwater chapter of the RPS.  
2080  
2081 McGruddy: Potentially, but it would be stronger again (and I've had to take a cue from  
2082 another submitter this morning) it would be stronger again if it didn't just rely  
2083 on quite a very general statement "communities". It would be stronger again if  
2084 it actually a statement along the lines of "enabling and empowering catchment  
2085 groups".  
2086  
2087 Wratt: Yes, but then we do come back to the point made by our Porirua City Council  
2088 team that was that you get into a 'me too' situation of everybody wants their  
2089 particular point, or their particular focus reflected in that list under Objective A.  
2090  
2091 I think we have probably explored that one far enough.

2092  
2093 I did have a question around your challenge and Resource Management Issue 1,  
2094 where you have a concern about the statement of ongoing ecosystem loss and  
2095 lack of evidence of that. I note in the S.42A rebuttal report in paragraph 19 there  
2096 is actually a statement there in terms of what broader information there is around  
2097 the deterioration in the environment, and that it is not just considering an old  
2098 state of the environment report from 2012.  
2099  
2100 McGruddy: Yes I see that statement. I've got it in front of me Commissioner Wratt – para  
2101 19.  
2102  
2103 The essence of what you're saying – two things.  
2104 [02.45.00]  
2105 Firstly, accepting that the earlier references that were provided were very dated,  
2106 in this para 19 Mr Wyeth is suggesting firstly that Council have got other bits of  
2107 information in their files somewhere, in consents or wherever; and furthermore,  
2108 that they're intending to bring some more stuff to the table.  
2109  
2110 My very significant difficulty with that response is that this information in these  
2111 various other places, and still to come, is not on the table informing how we land  
2112 the regionally significant issues, and from there craft our regional objectives.  
2113  
2114 The second reason why I have a difficulty with that rebuttal response is because  
2115 in our submission we specifically reference our understanding of information  
2116 that possibly meets that test of best current available information. In respect of  
2117 the three big topic areas: climate change, regional emissions are trending down;  
2118 in respect of water quality evidence presented by Greater Wellington to the  
2119 PNRP was that overall water quality across the region is improving; and in  
2120 respect of biodiversity and regional land cover, indigenous land cover, it's stable  
2121 over the last twenty-odd years.  
2122  
2123 So, the S.42 rebuttal statement does not address those references to what we  
2124 currently understand as meeting that requirement of best available information.  
2125 Wratt: Thank you, that's a very clear response.  
2126  
2127 I think just one more from me was, in Policy IM.1 you had concerns about the  
2128 breadth of that requirement to partner with mana whenua. In the introductory  
2129 para there, that has now added "specifically local authorities shall". Does that  
2130 address a concern there?  
2131  
2132 McGruddy: That's an improvement. It does clarify. We would prefer that "resource  
2133 consents" were removed as well.  
2134  
2135 Wratt: Thank you very much. I think that's all I have. Thank you.  
2136  
2137 Nightingale: Thank you Ms McGruddy. Please convey our thanks to Mr Campbell as well.  
2138 We did receive his legal submissions. They were appreciated and very clear. We  
2139 noted that he did say he could be available for questions. At this stage we didn't  
2140 have any questions arising from his submissions. Please pass on our thanks.  
2141  
2142 McGruddy: I will just note again that I do have a tiny question arising from yesterday.  
2143

2144 Nightingale: Would you like to ask that now?  
2145

2146 McGruddy: Thank you very much.  
2147

2148 The conversation was Commissioners Thompson and Wratt, responded to by  
2149 Ms Anderson. As I caught the conversation the advice from the Ms Anderson  
2150 was that the Panel could make the recommendation to Council to reallocate, and  
2151 in case Council didn't, this is how it could get substantively changed.  
2152

2153 It was addressing the matter of the Panel being able to make recommendations  
2154 on reallocation and also the question of the Panel making substantive  
2155 recommendations on the content of the provision.  
2156

2157 This is just a question of clarification.  
2158

2159 [02.50.00]  
2160 At the point where the Panel say, "We recommend that you can reallocate from  
2161 freshwater to Schedule 1, and in case you don't, this is how it should get  
2162 substantively changed." Which panel is making that substantive  
2163 recommendation?

2164 Nightingale: So the scenario is if the Freshwater Hearings Panel is to make a recommendation  
2165 saying, "We don't think this provision is a freshwater provision," then is your  
2166 question what happens, or who makes the recommendation on the merits of that  
2167 provision? Is that your question?  
2168

2169 McGruddy: Yes it is.  
2170

2171 Nightingale: I think what we proposed in Minute 5 is, if the Freshwater Hearing Panel says  
2172 "We don't think a provision is a freshwater provision," then it has no jurisdiction  
2173 to make a recommendation on the merits of that provision, which means the  
2174 P1S1 Panel is left with that responsibility and has the jurisdiction to do that.  
2175

2176 The whole PC1 was notified as one change proposal. Some of the provisions  
2177 were notified as freshwater provisions and then some provisions were notified  
2178 as non-freshwater provisions.  
2179

2180 McGruddy: Again, just for my own clarification, in respect of a freshwater provision, the  
2181 Freshwater Panel can indeed make a recommendation to Council that it should  
2182 not be a freshwater provision, it should be reallocated to Schedule 1?  
2183

2184 And, in respect of that particular provision, the substantive recommendations on  
2185 the merits or otherwise of how it's worded, won't then come from the Freshwater  
2186 Panel? Is that what I'm hearing you say?  
2187

2188 Nightingale: Correct.  
2189

2190 McGruddy: The substantive recommendation will come from the other Panel?  
2191

2192 Nightingale: Yes, that is the approach we are proposing.  
2193

2194 McGruddy: Just to be crystal clear: so the package that Council will receive at the end of the  
2195 process in respect of Provision A - it was as freshwater thing, the Freshwater

2196 Panel will recommend that it gets reallocated, and in advance of hearing the  
2197 decision on that, the Schedule 1 Panel will be recommending various changes  
2198 and amendments to Provision A? Just to clarify my understanding.  
2199

2200 Nightingale: Yes.  
2201

2202 I have just received a note saying that the Commissioners need to speak a bit  
2203 more into the microphone. I hope you can hear us okay Ms McGruddy.  
2204

2205 McGruddy: I can Commissioner Nightingale.  
2206

2207 Nightingale: We are almost out of time but I did have one question I wanted to ask.  
2208

2209 The alternative relief that you are seeing to Objective A, the first option for  
2210 catchment communities to be enabled and empowered, I was wondering if that  
2211 is going to assist the Regional Council to meet or fulfil its functions and  
2212 responsibilities to achieve integrated management of all the natural and physical  
2213 resources of the region, or is the work (and it's obviously incredibly important  
2214 work) that's happening in the catchment and by the communities involved  
2215 focused on freshwater quality/quantity issues?  
2216

2217 McGruddy: Good question.  
2218

2219 Part of the answer to that is in the operative RPS. There's a line in the operative  
2220 RPS to the effect of that catchments are the best unit of management for  
2221 considering the full mix of purposes, uses and values within that area.  
2222 [02.55.08]

2223 So, that's part of the answer. Then practically on the ground, how is that playing  
2224 out? Good question Commissioner.  
2225

2226 What I can say is that, is it confined to just water, or just biodiversity and  
2227 predator management, or just this thing or that thing? No it's not. It would be  
2228 fair to say that some of the catchment groups will have a particular focus, like  
2229 the predator free Wellington thing, or water. But, I think it's also fair to say that  
2230 as they develop they are tending to take a wider and more integrated approach  
2231 to integrated management within their catchment – even though the focus might  
2232 be different at certain times and in different places.  
2233

2234 Nightingale: Thank you, that's explained that really well. I appreciate that.  
2235

2236 Just lastly, very, very briefly and don't feel you need to comment on this – it's  
2237 an observation. In a few places in your submission you say things should be  
2238 deferred to the full review of the RPS which is scheduled for 2024. The Natural  
2239 and Built Environment Bill which had it's second, or possibly even third reading  
2240 (I haven't caught up) in the House yesterday, I found the provision that I referred  
2241 Ms Anderson to. It is buried deep in the transitionals. It's in the new amendments  
2242 to a new Schedule 1A. There's a clause in there. New 79A says, "that a local  
2243 authority must not commence a full plan review after the Natural and Built  
2244 Environment Act receives Royal assent." It's possibly at third reading now.  
2245

2246 I just thought I would point that out. It might be something that you might want  
2247 to think about in other hearing streams. It seems that there might be a bit of a  
2248 statutory bar on full RPS reviews once the new legislation is in force.

2249  
2250 Don't feel you need to respond to that now.

2251  
2252 McGruddy: No. Only to say that there is of course a lot of stuff happening at the national  
2253 level and things don't always play out quite as was initially intended.

2254  
2255 Nightingale: The changing world we are in isn't it. Thank you very much.

2256  
2257 McGruddy: Yes.

2258  
2259 Chair: Thank you Ms McGruddy. Perhaps if I could just add in connection with your  
2260 questions about separation of streams, or separation of topics more accurately,  
2261 into freshwater or non-freshwater. My anticipation would be that those decisions  
2262 and recommendations, if that's what they turn out to be, will be jointly made by  
2263 both Panels, so that there isn't any, or won't be a suggestion of one Panel saying,  
2264 "I'm having this and you're not," or the other way around. I think we will get to  
2265 the point where both will agree on which should deal with which.

2266  
2267 Does that help?

2268  
2269 McGruddy: Thank you Commissioner.

2270  
2271 Chair: Thank you very much.

2272  
2273 **Wellington International Airport**

2274  
2275 Chair: Good afternoon. We have you on-screen. I anticipate that you will have us too.  
2276 We are ready to begin your matter. Perhaps if you could introduce yourself to  
2277 us.

2278  
2279 Dewar: Sure. I would say that we are having real difficulty hearing you.

2280  
2281 My name is Amanda Dewar and I am counsel for Wellington Airport. I am  
2282 appearing with Claire Hunter who is a Consultant Planner and Director at  
2283 Mitchell Daysh.

2284  
2285 Chair: Thank you.

2286 [03.00.00]  
2287 Dewar: Wellington Airport filed legal submissions and some planning evidence on this  
2288 Hearing Stream. Most of the concerns have been dealt with by way of the  
2289 rebuttal evidence of the S.42A Report writer.

2290  
2291 The Airport is pleased that there has been a proposal to delete IM.2, which was  
2292 that equity policy, and that is supported by the Airport.

2293  
2294 In terms of the overarching issues, the report writer has recommended a new  
2295 issue, Issue 4, and Wellington Airport supports that. That deals with its concerns  
2296 about that matter.

2297

2298 The only thing left for me to say is really the allocation of the overarching Issue  
2299 1. The Council officer has suggested that is still going to be an IPI provision, but  
2300 has agreed that the other two, and presumably the fourth one, would not be an  
2301 IPI but to be considered under the First Schedule.

2302  
2303 In my submission I still really struggle to understand how you would reach that  
2304 conclusion. The only place where water management and those tests is  
2305 mentioned is the phrase “degrading water”. It's just a mention. In my submission  
2306 a mention in the context of the issue as a whole is not one that's directly related.

2307  
2308 I think, as a matter of course, when you have got all the other issues that are to  
2309 be considered under the First Schedule, it makes no sense to have one left out.  
2310 We are all aware that the legislative context here does provide for a pretty messy  
2311 decision-making process, to put it mildly. So, where we can, in my submission,  
2312 was best to keep those together, that will allow for better decision-making and  
2313 better integration.

2314  
2315 So really, unless you have got any other questions for me or for Claire, that's all  
2316 the submissions that I have to say in response to the rebuttal evidence provided.

2317  
2318 Chair: Thank you. I will invite any of the Commissioners who have questions to do  
2319 that.

2320 Nightingale: The relief the Airport is seeking for including infrastructure in the overarching  
2321 issues, I just want to check. At para 2.4 of your legal submissions, in the last  
2322 sentence there, “infrastructure assets are vulnerable to the effects of climate  
2323 change.” That's clearly recognised by this new overarching issue.

2324  
2325 I just want to check whether you think that the issue also deals adequately with  
2326 the rest of your sentence there, which talks about “flexibility needs to be  
2327 provided to allow those assets to continue to be operated and maintained.”

2328  
2329 Dewar: I would say that all in all we probably would have drafted it differently, and  
2330 Claire is probably best to talk to that. But, in the spirit of compromise and getting  
2331 on with life, we said “Fine.”

2332  
2333 Hunter: I can add to that if that's helpful now, or I can come back to it.

2334  
2335 Nightingale: Yes, absolutely. I guess maybe if I can just be a little bit more specific.

2336 [03.05.00]  
2337 It's the wording in the new issue that says: “This will also require resilient and  
2338 well-functioning infrastructure networks including RSI.” Just your views on  
2339 whether that wording, you consider is appropriate and adequate to meet your  
2340 needs. If not, have you got any alternative wording that you would suggest?

2341  
2342 Hunter: I have considered that. I think as Ms Dewar has suggested it's adequate the  
2343 wording, but probably could be improved.

2344  
2345 I have had a bit of a play there, and I thought of striking that sentence out and  
2346 reading, “critical to this is the protection of and provision for well-functioning  
2347 and resilient infrastructure including RSI.” I think that would probably cover  
2348 that flexibility requirement in terms of operating and maintaining infrastructure  
2349 as well.

2350

2351 Nightingale: Thank you Ms Hunter. Is that sentence in your evidence?

2352

2353 Hunter: This is the rebuttal evidence that I am referring to. I don't think we have been

2354 able to reply to that, have we? No.

2355

2356 Wratt: Could you just read out what you said a bit more slowly, so that we can note it.

2357

2358 Hunter: Crossing the last sentence out on the rebuttal version, in blue, to read "critical to

2359 this is the protection of and provision for well-functioning and resilient

2360 infrastructure, including RSI."

2361

2362 Nightingale: In paragraph 16 of your evidence Ms Hunter, you say, "It is important in my

2363 opinion that the PC1 provisions recognise that climate change adaptation

2364 measures by infrastructure providers will only occur over time." And, that "the

2365 adaption will significantly, if not primarily, be driven by separate legislation to

2366 the RMA."

2367

2368 Do you mind expanding on what you mean by that, and also if this idea that the

2369 adaption measures can only occur over time, if you think that is provided for

2370 appropriately in this new issue statement?

2371

2372 Hunter: I think what I mean there is that there are other Acts that are relevant to the

2373 climate change matter. They've been talked about in Wellington Airport's

2374 submission in other sections. I am talking about the Climate Adaptation Act and

2375 also mission control type things and things that are set at a national level outside

2376 RMA. Of course the new MBA will come into play potentially.

2377

2378 Things take time and there needs to be a timeframe to allow adaptation to occur.

2379 Whether it's captured within that issue statement – I think it might be by the

2380 provision I've just suggested in terms of that last sentence.

2381

2382 Nightingale: I guess the primary relief that you're seeking for this new overarching issue, you

2383 had referred to flexible planning frameworks being needed. I guess I'm

2384 wondering if that is a really important element for you to retain in that provision.

2385

2386 Hunter: I think it would be preferred. In my view, yes, we could include it.

2387

2388 Nightingale: I think the last question I had was just the very last paragraph of your evidence,

2389 where you say, "Given the above, it's my view that s.80(3)(b) requires the above

2390 PC1 provisions."

2391 **[03.10.05]**

2392 Could you just clarify please, what are the provisions you are referring to there?

2393

2394 Hunter: I'm talking about the issue statements which I think are RM1 is still to be within

2395 the FPP process. And, IM.2 which is no longer of concern if it is going to be

2396 deleted.

2397

2398 Nightingale: I just wanted to check it was the issue statements that you were meaning there.

2399 Thank you.

2400

2401 Wratt: Just a question around the allocation of the provisions to the two Hearing Panels.

2402  
2403 Your planning expert, you mentioned that you would still want to see the  
2404 Resource Management Issue 1, which should be allocated to the P1S1 process.  
2405 In your submissions you also identified Objective A as being allocated to the  
2406 P1S1. I don't think you made any comment on the methods – so methods, IM.1  
2407 and 2, and the anticipated environmental results for integrated management. Any  
2408 comment on that?  
2409  
2410 Hunter: I think this chapter generally should be subject to the Schedule 1 process would  
2411 be my view. It's an integrated management chapter which affects all aspects of  
2412 the region. It makes sense that it is an overarching chapter that is subject to an  
2413 inclusive community process.  
2414  
2415 Wratt: So, that would mean you would recommend or ask that all the provisions we're  
2416 dealing with in this hearing under integrated management should all be P1S1?  
2417 Hunter: In my view yes.  
2418  
2419 Wratt: Thank you.  
2420  
2421 Chair: I don't have any questions. I think everything I have has been covered. Thank  
2422 you both. We will continue on from there.  
2423  
2424 Dewar: Thanks very much for your time.  
2425  
2426 Hunter: Thank you.  
2427  
2428 Chair: We're a little early but we could break now and we will resume at 2.45pm when  
2429 we have Horticulture New Zealand.  
2430  
2431 [Hearing adjourned 03.13.10]  
2432 [Hearing resumes]  
2433  
2434 **Horticulture New Zealand**  
2435  
2436 Chair: The next submitter we have on our list is Horticulture New Zealand. I take it you  
2437 are representing?  
2438  
2439 Levenson: Yes I am.  
2440  
2441 Chair: Perhaps if you could introduce yourself for us please?  
2442  
2443 Levenson: Sure. Thank you for the opportunity to speak to you today. My name is Emily  
2444 Levenson. I am an Environmental Policy Advisor at Horticulture New Zealand.  
2445  
2446 I will start by laying out our main concerns with the regard to the National Policy  
2447 Statement for highly productive land, then I will address the Council's rebuttal  
2448 evidence, and then I will leave time for questions.  
2449  
2450 To begin implementing the National Policy Statement for urban development  
2451 without the National Policy Statement for highly productive land undermines  
2452 the goals of integrated management.  
2453

2454 Highly productive land is a limited resource with special importance to New  
2455 Zealand’s food security and primary industries. Planning urban development  
2456 without necessary protections for productive land will only cause contradictions  
2457 when the Council fully implements the NPS-HPL.

2458  
2459 Fruit and vegetable production occurs almost exclusively on highly productive  
2460 land and the Wellington region is dependent on other regions for the supply of  
2461 fresh fruits and vegetables. Further loss of highly productive land could further  
2462 erode the region’s resilience of food supply.

2463  
2464 In our submission, Hort NZ sought reference to loss, fragmentation or adverse  
2465 sensitivity effects on highly productive land in overarching Issue 1. We also  
2466 sought an amendment to the definition of highly productive agricultural land to  
2467 include LUC3 land.

2468  
2469 We also sought references to highly productive land throughout relevant policies  
2470 and objectives found later in the plan outside of the integrated management  
2471 section.

2472  
2473 Hort NZ recognises that this plan change cannot give full effect to the National  
2474 Policy Statement for highly productive land, but we consider that highly  
2475 productive land should be recognised to the extent possible in the PC1  
2476 provisions.

2477 [03.15.00]

2478 In response to our industry statement, the Council released rebuttal planning and  
2479 legal evidence, which concluded that any amendments the Panels and Greater  
2480 Wellington Regional Council can make to give effect to the NPS-HPL are still  
2481 limited by scope constraints as relevant.

2482  
2483 Hort NZ believes amending provisions to protect highly productive land is  
2484 within scope because the original S.32 Report of the plan change reads: “The  
2485 driver for the scope of Change 1 is all relevant national direction, both NPS-UD,  
2486 NPS-FM and other related national direction. It is important that inter-related  
2487 issues are addressed at the same time.”

2488  
2489 The NPS-HPL falls under this category of related national direction, especially  
2490 since it is meant to be provide a counter balance to the NPS-UD and has direct  
2491 links to both the NPS-UD and the NPS-FM.

2492  
2493 The S.32 Report continues that indigenous biodiversity and climate change were  
2494 included because at the time of consultation there was draft national direction.  
2495 While there was not yet an NPS for either of these topics, there was strong  
2496 enough government guidance for them to be addressed under PC1.

2497  
2498 By the same logic the NPS-HPL should be addressed. An exposure draft of the  
2499 NPS-HPL was circulated in 2021. Plan Change 1 was notified on the 19<sup>th</sup> of  
2500 August 2022, and the NPS-HPL was gazetted in September 2022 or shortly  
2501 thereafter. In contrast, the NPS indigenous biodiversity was only just gazetted  
2502 this month in July 2023, and yet it is still being considered under this plan  
2503 change.

2504

2505 Hort NZ, Greater Wellington Regional Council itself and other submitters made  
2506 submission points and further submission points related to the NPS-HPL, which  
2507 further shows that it is within scope.

2508  
2509 In Hort NZ's original submission we sought in general terms, regarding the  
2510 entire plan change, recognition of the value of highly productive land for food  
2511 production for current and future generations, protection of the highly  
2512 productive land resource from inappropriate sub-division, use and development;  
2513 and enablement of the use of highly productive land for food production.

2514  
2515 Before our more specific requests for amendments to the provisions of the Plan  
2516 Change, we wrote: "Without limiting the generality of the above, Hort NZ seeks  
2517 the following decisions on the proposed Change 1 to the RPS as set out below,  
2518 or alternative amendments to address the substance of the concerns raised in this  
2519 submission and any consequential amendments required to address the concerns  
2520 raised in this submission."

2521  
2522 We believe that this provides scope to insert further language protective of  
2523 highly productive land and other provisions, such as Objective A, as was  
2524 discussed earlier in this hearing stream.

2525  
2526 For these reasons Hort NZ believes that protection for highly productive land  
2527 should be integrated throughout the plan change to protect this limited resource.

2528  
2529 Thank you for your time. I am happy to answer any questions at this time.

2530  
2531 Wratt: Thank you for that concise presentation of your position.

2532  
2533 One comment that was made by our S.42A author, I think it was yesterday, was  
2534 that whilst acknowledging your concerns that the NPS-HPL does have quite  
2535 specific tests in it for any consenting processes, etc. that potentially impact on  
2536 highly productive land, so that in fact there wouldn't be a gap in protecting that  
2537 land because of those specific provisions in the NPS, do you have any comment  
2538 on that?

2539  
2540 Levenson: I believe that to be true, but I also believe there is a requirement for the Council  
2541 to implement the NPS as soon as is practicable. We believe that there is scope  
2542 to start inserting protective provisions even while there is that additional  
2543 protection that exists already within the NPS.

2544  
2545 Wratt: Even though at this stage the Council also isn't in a position to start  
2546 implementing the other requirements, such as mapping that are part of that NPS  
2547 requirement.

2548  
2549 Levenson: We agree that you can't add mapping as part of this plan change, but you can  
2550 begin to insert protective language.

2551  
2552 Wratt: Thank you.

2553  
2554 Nightingale: Kia ora. Can I check that I understand your position on scope properly, because  
2555 submission point two in your submission, which relates to the overarching  
2556 Objective A, in the summary of decisions requested, your position is noted as

2557 [03.20.00] supporting the notified version of Objective A decision requested retain as  
2558 notified; and in your evidence in paragraph 14 you say that your submission  
2559 sought to include relevant provisions from the NPS-HPL, including reference to  
2560 loss fragmentation and **resident** [03.20.53] sensitivity effects on HPL in  
2561 Objective A. But, I think that that relief is sought in relation to one of the issue  
2562 statements.

2563

2564 Levenson: Yes, I believe that was a typo. It was overarching Issue 1.  
2565

2566 Nightingale: I was looking to see if there was scope and when I saw that maybe in fact there  
2567 is scope. I am still not a hundred percent sure that there is scope to amend  
2568 Objective A. Do you have any views on that?  
2569

2570 Levenson: In our original submission, our first submission on the plan change, we wrote a  
2571 very general section that was many pages long at the beginning, outlining our  
2572 general perspective on highly productive land within the plan change. Then we  
2573 had all of our very specific recommended amendments. Before those specific  
2574 amendments we wrote, "...without limiting the generality of the above these are  
2575 the amendments that we seek." So, we believed that does provide scope to add.  
2576 As we wrote in our submission, we said that there could be alternative  
2577 amendments to address the substance of the concerns raised in this submission,  
2578 or any consequential amendments required to address the concerns raised in this  
2579 submission. So, if the Council or the Panel sees there's a more appropriate place  
2580 to include provisions for highly productive land, I believe that gives scope.  
2581

2582 Nightingale: Thank you for clarifying that. It might be something that we ask Mr Wyeth to  
2583 look at in the reply which is being provided next week.  
2584

2585 There has been some discussion, in particular today I think, about Objective A  
2586 with the amendments Mr Wyeth now proposes, creating a hierarchy of  
2587 objectives which could potentially come into conflict or at least tension with  
2588 other provisions in the RPS. There is also this issue of, if you're not in the list  
2589 what does that then mean.  
2590

2591 Do you see protection of highly productive land being recognised in any of these  
2592 paragraphs? For instance, I was wondering, (h) talks about the role of natural  
2593 and physical resources in providing for well-functioning rural areas, or in (j)  
2594 which talks about responding effectively to population growth, development  
2595 pressures and opportunities. Any views on whether that would provide some  
2596 recognition of versatile or highly productive land?  
2597

2598 Levenson: I think it gets us halfway there. In terms of the urban and rural areas, horticulture  
2599 often takes place on the urban rural fringe and may not be distinctly within one  
2600 of those two types of areas. I have concern that highly productive land would be  
2601 missed out at that intersection point.  
2602

2603 In terms of development pressures and opportunities, again that addresses some  
2604 of the points of the NPS-HPL with regard to housing, but I think you would need  
2605 much clearer language, specifically talking about versatile soils or LUC Class 1,  
2606 2, 3 to give effect to the extent practicable.  
2607

2608 Nightingale: The Class 1, 2, 3 point, as I understand it, the mapping is needed in order to  
2609 [03.25.00] bring all of those classifications in and give them protection under the NPS. But,  
2610 because this PC1 can't do that mapping exercise, are you saying that there is still  
2611 a lot of value in trying to recognise and protect highly productive land, even if  
2612 it doesn't cover the full range of land that is important for your growers?

2613 Levenson: Yes, absolutely I think there is reason to. In the current plan before the Plan  
2614 Change there are protections for LUC.1 and 2 soils but not 3. So, I think if we  
2615 can be explicit in this plan change that we are protecting LUC.3 soils as well,  
2616 from inappropriate subdivision use and development, that that would add  
2617 additional protection.  
2618  
2619 I just think if the Council can take as strong a position as possible to protect  
2620 highly productive land at that point that will make the biggest difference.  
2621

2622 Nightingale: Is there any protection in the region at all for LUC.3 land?  
2623

2624 Levenson: Not that I am aware of in the previous plan, although I haven't studied it closely  
2625 enough to check.  
2626

2627 Nightingale: Thank you.  
2628

2629 Chair: Thank you Ms Levenson. I don't have any further questions. Thank you very  
2630 much for your submission. We will of course take it aboard and deal with it in  
2631 due course.  
2632

2633 Levenson: Thank you so much for your time.  
2634

2635 Chair: Thank you.  
2636

2637 **Department of Conservation**  
2638

2639 Chair Mr Brass. It is perhaps a little earlier than might have been indicated, but we are  
2640 ready to hear your submissions now if you are ready to present them. Thank you.  
2641

2642 Brass: I only have one point to cover. From looks of other evidence I guess it's not  
2643 challenged, so I will try to be very brief.  
2644  
2645 I would just note, I understand this hearing his being heard by the freshwater  
2646 panel, so where that's relevant I will just confirm that I agree and comply with  
2647 the relevant practice note for the Freshwater Commissioner and Freshwater  
2648 Panels.  
2649

2650 Chair: Perhaps if I could just interrupt there Mr Brass. There is nothing to be read into  
2651 the fact that I am chairing on these last couple of days. It is not to be taken as an  
2652 indication. We simply are trading jobs a little bit at the moment. We will make  
2653 decisions about classification and allotment of issues in due course.  
2654

2655 Brass: Thanks for that. As I say, to the extent that it's relevant, I do confirm compliance  
2656 with that practice note.  
2657  
2658 I do also confirm that DoC is not seeking to raise any issues in terms of which  
2659 way provisions are allocated. We deal with the provisions – what we face.

2660

2661 Chair: Thank you.

2662 Brass: In terms of the content of my evidence, it really just relates to one matter in

2663 Objective A and seeking what was clause (c) to separate the reference to life

2664 supporting capacity. That is being supported by the S.42A Report. I understand

2665 there are no parties that have opposed that.

2666 [03.30.18]

2667 That concludes my evidence. I am happy to take any questions if there are any.

2668

2669 Really my purpose of being here today was to be available should there be any

2670 questions.

2671

2672 Chair: Commissioner Nightingale.

2673

2674 Nightingale: Kia ora. Thanks Mr Brass. Are you joining us from Dunedin?

2675

2676 Brass: I am indeed, yes.

2677

2678 Nightingale: The question is about the words that you support in Objective A, para (f)

2679 regarding the life supporting capacity of ecosystems. The wording there is

2680 obviously different from the reference in s.5 of the Act which is safeguarding

2681 the life supporting capacity of ecosystems.

2682

2683 Do you think that difference in wording has any material affect?

2684

2685 Brass: My reading is that that comes because when life supporting basically was

2686 particularly nested with mana whenua/tangata whenua values, protects and

2687 enhances was the term used there; so it has certainly been copied through, if you

2688 like.

2689

2690 I don't have an issue in terms of that conflicting with the Act. I think that

2691 reference to enhance does add something, which certainly at an RPS level the

2692 Panel or the Council is entitled to do.

2693

2694 I am comfortable and I would actually support the wording that's there.

2695

2696 Nightingale: Thank you.

2697

2698 This might be something that I know DoC has submissions on the biodiversity

2699 stream which is coming up later in the year, or perhaps next year – it's coming

2700 up in the future.

2701 You will be obviously very pleased now that the NPS has been gazetted. We

2702 will certainly be looking to hear your views, and perhaps it's more appropriate

2703 in that hearing stream, about how now that the NPS has been gazetted and that's

2704 happened after PC1 has been notified, just sort of where does that leave things

2705 really; in terms of, the hearing panels, do they have any additional

2706 obligations/requirements now that the NPS is no longer a draft; and how do you

2707 bring in those provisions and implement them? Because it seems that

2708 implementing a draft NPS just has this feeling of being not fully satisfactory.

2709 But, this opportunity is here.

2710 Feel free if you do want to comment about that, but otherwise, just I guess a  
2711 heads-up that we will be looking forward to hearing your views about that in the  
2712 future.

2713

2714 Brass: Certainly we would expect to address that in legal submissions and planning.  
2715 [03.35.00]

2716 As a general comment – because not surprisingly we’ve had the same issue with  
2717 a number of processes around the country – Doc’s submission has sought to  
2718 align as much as possible with where the direction of the travel was for the NPS-  
2719 IB. The NPS-IB will be a relevant matter at the time of Panel making decisions,  
2720 except that it can’t fully give effect to the NPS-IB. But, where that is available  
2721 and within the scope of notification and submissions we would certainly be  
2722 encouraging the Panel to do so.

2723

2724 As I say, where the DoC submission gives scope for that we are certainly open  
2725 and supportive of it being used in that way.

2726

2727 Nightingale: Just another question on Objective A. Do you have any concerns that there’s  
2728 been a suggestion that it may be interpreted as an objective that trumps others in  
2729 the event of any tension or conflict? Do you have any concerns about that?

2730

2731 Maybe a related a question to that is, do you think that would be better placed in  
2732 its own integrated management chapter within the RPS, as required by the  
2733 Planning Standards?

2734

2735 Brass; If that was within your scope I would certainly support it being as a standalone  
2736 chapter. That approach does work. If that’s not possible yet, I would not have  
2737 concern about it being seen as trumping other policies. I see actually the reverse  
2738 interpretation. Its reason for it even existing is that where you do have conflict  
2739 and consistency uncertainty between different parts of the plan you need to give  
2740 effect to integrated management, and that is there to assist to do that. I see its  
2741 role in those circumstances as a benefit and like its reason for existing.

2742

2743 Nightingale: That’s really helpful. Thanks very much.

2744

2745 Chair: No further questions?

2746

2747 Thank you Mr Brass. We’re grateful for your contribution. We will take it into  
2748 account as we go forward of course. Thank you.

2749

2750 Brass: Thank you.

2751

2752 Chair: That’s the day. I think we have come to the end of the formal part of the  
2753 proceedings for the moment. We would be grateful if you could close that for us  
2754 whaea thank you.

2755

2756 Whaea: [Karakia]

2757

2758 Chair: Kia ora. Thank you.

2759

2760

2761 [End of recording 03.39.09]

