

Speaking Notes for HS5 Monday 20 November 2023

1. Thankyou for this opportunity to speak. I understand my statement will be taken as read, and I am happy to answer any questions you may have. I do wish to comment on three points, following on from the rebuttal evidence of Kate Pascall.

The first of these is in relation to Issue 5 – Objective 12 and Te Mana o te Wai statements

2. Ms Pascall at para 26 of her rebuttal evidence notes my concern that Objective 12, as drafted, does not reflect the view of the wider community. She also notes that I did not suggest any specific community views or values for consideration.
3. I would like to take this opportunity to highlight three values that the commissioners might consider for addition into Objective 12 – Te Mana o te Wai in the Wellington Region. Clause 3.9(2) of the NPS-FM states that a regional council ‘must in every case consider whether the values listed in Appendix 1B apply’. The three values I highlight for consideration are listed in the NPS-FM Appendix 1B and are as follows:
 1. *Animal drinking water (The FMU or part of the FMU meets the needs of farmed animals)*
 2. *Irrigation, cultivation, and production of food and beverages (The FMU or part of the FMU meets irrigation needs for any purpose)*
 3. *Commercial and industrial use (The FMU or part of the FMU provides economic opportunities for people, businesses and industries)*
4. As currently drafted, Objective 12 does not provide for these values directly, and provides no specific clause relating to any aspect of economic use of water other than in reference to the hierarchy of Te Mana o te Wai at h). I’ve searched the document and as far as I can tell these values (in relation to the take and use of freshwater) are not provided for anywhere in the proposed RPS, except for animal drinking water which is mentioned as an exclusion in the definition of ‘health needs of people’ in Policy 17.
5. The addition of these values into the objective would provide for more balance between the water, the wider environment and the community, as anticipated in the fundamental concept of Te Mana o te Wai at clause 1.3 of the NPS-FM.
6. The Guidance on the National Objectives Framework of the NPS-FM¹ provide some useful commentary on what is meant by restoring the balance in clause 1.3. Specifically:

¹ [Clause 1.3: The fundamental concept of Te Mana o te Wai and its use in the NOF | Ministry for the Environment](#)

The reference to ‘balance’ isn’t intended to signal a trade-off between Te Mana o te Wai and other goals. It emphasises that healthy freshwater is a prerequisite for a healthy wider environment and community, and that it is vital to keep those elements in balance.

7. The Guidelines also state that *no single reference or clause in the NPS-FM referring to Te Mana o te Wai should be read in isolation from the overall framework of the NPS-FM or the RMA that governs it. Policy 15 in the NPS-FM requires an enabling approach, within the constraints of the higher priorities. This requires conversations about:*
- *what is needed to provide for well-being*
 - *how to reach multiple goals*
 - *allocating resources, particularly where water bodies are over-allocated or degraded.*

The second comment is in relation to Policy 12

8. On the matter of consultation with the wider community in clause a), I am happy with Ms Pascall’s suggested amendments to add the words ‘engagement with communities, stakeholders and territorial authorities’. I suggest that this wording could also be included in clause ca) of Policy 12, in reference to the identification of part FMUs. Such engagement is a statutory requirement (clause 3.7(1)(a) of the NPS-FM) and will ensure the RPS has greater legitimacy with the wider Wellington community.

The third comment is in relation to Policy 15 and Method 31

9. Ironically, in an attempt to provide greater clarity over the responsibilities of the regional council and TAs in relation to earthworks and vegetation, and manage the effects of those activities, Policy 15 has now become very muddled, and a great deal more prescriptive than it needs to be given that the NRP comprehensively manages the effects of earthworks and vegetation clearance.
10. I think it is important to remember that RPS’s are high level documents that do not have to be prescriptive – under s59 of the RMA, the purpose of a regional policy statement is to provide overview (emphasis added) of the resource management issues of the region and policies and methods to achieve integrated management of the natural and physical resources of the whole region.

11. Given where the proposed Policy 15 has now got to, I recommend that the commissioners consider setting aside the proposed amendments and that Operative Policy 15 be retained. Operative Policy 15 is very simple, non-prescriptive, and states that:

Regional and district plans shall include policies, rules and/or methods that control earthworks and vegetation disturbance to minimise:

(a) erosion; and

(b) silt and sediment runoff into water, or onto land that may enter water, so that aquatic ecosystem health is safeguarded.

12. In the policy explanation, Method 31 directs Wellington Regional Council and the TAs to develop a protocol 'to guide changes to district and regional plans to avoid gaps, uncertainty and unnecessary overlaps in the regulation of earthworks and erosion from vegetation disturbance and air quality.
13. Ms Pascall considered Method 31 in her 42A report. In her view the recommended amendments to Policy 15 and Policy 41 will have greater impact on managing effects than Method 31.
14. Proposed changes to Method 31 have removed reference to earthworks and vegetation disturbance, but I suggest that this could be reinstated, and that the Protocol, developed between the various councils, would be a better way to address who does what in relation to earthworks and vegetation clearance than Policy 15 as proposed.
15. The effects of those activities are better managed through the regional plan, after a careful s32 analysis, that through a Policy in the RPS.

Question in relation to Issue 4 – FMUs and Freshwater visions

16. My point here was to draw attention to the fact that at the time of notification the proposed RPS contained neither confirmed FMUs for the region, nor their associated long term visions, which surely must be the starting blocks for everything that comes after, and that subsequent processes to address these omissions via RPS variations and directives in the NRP have created confusion, especially for those members of communities who do not dwell on planning matters as their day job. As the RPS was notified with significant gaps, anyone submitting on the document was not able to view it in its entirety and must follow a fractured process stretching months or even years before the missing parts are retrospectively added, to see how it all fits together.

17. The long-term visions are vital because they link to the allocation of water through environmental flows and levels referred to in Policy 12 (f) of the pRPS and Policy 15 of the NPS-FM.

Thank you for the opportunity to make these points, that concludes my comments.