

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

Section 42A Hearing Report Hearing Stream 7

**Topic: Small topics, wrap up and Variation 1 - Omitted
submission points**

**Process: Freshwater Planning Process/Schedule 1 and Part 1
Process**

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Report Date: 11 March 2024

Hearing Date: 15 April 2024

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Executive Summary

1. This report considers submission points that have been omitted in previous hearing streams in relation to Proposed Change 1 to the Regional Policy Statement for the Wellington Region ('Change 1').
2. This topic is following both the Freshwater Planning Process and the Schedule 1, Part 1 Process of the Resource Management Act 1991, because it contains general submission points which apply to provisions notified under both processes.
3. Having considered omitted submissions, I recommend a minor amendment to the definition of Te Mana o Te Wai, but otherwise do not recommend any further amendments to Change 1 over and above what was recommended in other hearing streams.

Interpretation

This report utilises a number of abbreviations as set out in the table below.

Table 1: Abbreviations of terms

Abbreviation	Means
Act/RMA	Resource Management Act 1991
AER	Anticipated Environmental Result
Change 1	Proposed Change 1 to the Regional Policy Statement for the Wellington Region
Council	Greater Wellington Regional Council
ERP	Emissions Reduction Plan
FPP	Freshwater Planning Process
NAP	National Adaptation Plan
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-UD	National Policy Statement on Urban Development 2020
NPS-IB	National Policy Statement for Indigenous Biodiversity 2023
NPS-ET	National Policy Statement for Electricity Transmission 2008
P1S1	Part 1, Schedule 1
RPS	Operative Regional Policy Statement for the Wellington Region 2013

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The Standards	National Planning Standards
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Table 2: Abbreviations of Submitters' Names

Abbreviation	Means
Ātiawa	Ātiawa ki Whakarongotai Charitable Trust
DGC	Director General of Conservation
Fish and Game	Wellington Fish and Game Council
Forest and Bird	Royal Forest and Bird Protection Society
HCC	Hutt City Council
HortNZ	Horticulture New Zealand
Kāinga Ora	Kāinga Ora Homes and Communities
Kahungunu	Kahungunu Ki Wairarapa
Muaūpoko	Muaūpoko Tribal Authority
UHCC	Upper Hutt City Council
WCC	Wellington City Council
WIAL	Wellington International Airport Limited
Winstones	Winstone Aggregates

1.0 Introduction

1.1 Purpose

4. This report has been prepared under section 42A of the RMA. The purpose of this report is to provide the Hearing Panels with an analysis of submission points which were omitted in previous hearing streams. I make recommendations as to whether or not those submissions should be accepted or rejected, and where appropriate, provide recommendations for amendments to the Change 1 provisions.
5. I have had regard to other Section 42A reports including:
 - S42A report – General Submissions – Hearing Stream One
 - S42A report – Integrated Management – Hearing Stream Two
 - S42A report – Climate Change (General) – Hearing Stream Three
 - S42A report – Climate Change (Transport) – Hearing Stream Three
 - S42A report – Climate Change (Climate Resilience and Nature-based Solutions) – Hearing Stream Three
 - S42A report – Climate Change (Natural Hazards) – Hearing Stream Three
 - S42A report – Freshwater/Te Mana o Te Wai – Hearing Stream Five
 - S42A report – Indigenous ecosystems – Hearing Stream Six.
6. This report should be read in conjunction with the Officer's report 'S42A Overview Report' from Hearing Stream One, which provides the background to Change 1, the statutory context, and administrative matters relating to Change 1.

1.2 Scope of this report

7. Change 1 has been notified via two plan-making processes under Schedule 1 of the RMA:
 - The FPP under Part 4, Schedule 1 for the provisions that form the Freshwater Planning Instrument. These provisions are marked in the Change 1 document with the freshwater icon and
 - The standard plan-making process in P1S1.
8. **Appendix 1** includes amendments to Change 1 recommended in this report.
9. **Appendix 2** includes a table setting out the submission points relevant to this hearing topic. In that table I have identified whether I recommend accepting, accepting in part or rejecting the submission point sought by the submitters, or make no recommendation. I have explained my reasons in the body of this report.

1.3 Author

10. My full name is Mika Helena Zöllner. I am a Senior Policy Advisor at Greater Wellington Regional Council. I hold a Bachelor of Environments from the University of Melbourne and a Master of Environmental Science from Victoria University of Wellington Te Herenga Waka.
11. I have 2 years' experience in resource management and 2 years' experience in environmental science, with particular experience in hydrology and urban water quality. During this time, I have undertaken a mixture of policy and planning work, including engagement, on the district plans, plan changes, and central government legislation. I have had a particular focus on, and interest in, urban development issues for most of my career, particularly three waters and the relationship between land use and development and freshwater.
12. I was peripherally involved in the development of the provisions for Change 1, however, I did not contribute to the Section 32 report beyond drafting Appendix E on the allocation of Change 1 provisions to the FPP.
13. I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court in December 2023. I have complied with that Code when preparing this report and I agree to comply with it when I give any oral evidence.
14. The scope of my report relates to omitted submission points. I confirm that the issues addressed in this statement of evidence are within my area of expertise.
15. Any data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.
16. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.4 Supporting Evidence

17. The key documents I have used, or referred to, to inform my views while preparing this report are:
 - The notified Change 1
 - The Change 1 s32 report
 - Relevant submissions
 - Operative RPS
 - National Planning Standards
 - RMA.

1.5 Key Issues

18. There are 13 omitted submission points which are addressed in Section 3 of this report. These submission points are on the following provisions:

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- General comments
- Objective 16
- Definition of Te Mana o Te Wai
- Integrated Management general
- Indigenous ecosystems general.

19. At the time of writing this report there has not been any pre-hearing meetings, clause 8AA meetings or expert witness conferencing in relation to submissions on this topic.

1.6 Report Structure

20. This report should be read in conjunction with the submissions themselves and the summary of those submissions. **Appendix 1** sets out my recommended amendments to Change 1. **Appendix 2** sets out my recommendations on whether to accept or reject individual submission points based on the analysis contained within the body of the report.

2.0 Statutory Considerations

2.1 Resource Management Act 1991

21. Change 1 has been prepared in accordance with the RMA and in particular, the requirements of:

- Section 30 functions of regional councils under this Act
- Section 61 matters to be considered by regional council (policy statements)
- Section 62 contents of regional policy statements
- Section 80A Freshwater Planning Process
- Schedule 1 Part 1 and Part 4.

22. Regional Policy Statements must be prepared in accordance with the provisions of Part 2, section 5, section 6, section 7 and section 8 of the RMA. Section 30 of the RMA sets out the functions of regional councils and section 61 sets out the matters to be considered by the Council in a regional policy statement. Section 30 parts that are of particular relevance to this topic include:

(ba) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region

(c) the control of the use of land for the purpose of—

(i) soil conservation

(ii) the maintenance and enhancement of the quality of water in water bodies and coastal water

(iii) the maintenance of the quantity of water in water bodies and coastal water

(iiia) the maintenance and enhancement of ecosystems in water bodies and coastal water

(iv) the avoidance or mitigation of natural hazards

(gb) the strategic integration of infrastructure with land use through objectives, policies, and methods

2.2 National Planning Standards

23. The National Planning Standards provide direction on the structure and formatting of planning documents to improve efficiency and effectiveness of the planning system. The Standards include direction for both Regional Policy Statements and District Plans.

24. Whilst the purpose of Change 1 is not to give effect to The Standards, there are relevant provisions of this topic which are seeking to provide for consistency with the terminology and structure of The Standards.

2.3 Section 32AA of the RMA

25. In accordance with s32AA of the RMA I have undertaken an evaluation of the recommended amendments to provisions since the initial section 32 evaluation was undertaken. Section 32AA states:

32AA Requirements for undertaking and publishing further evaluations (1) A further evaluation required under this Act—

(a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and

(b) must be undertaken in accordance with section 32(1) to (4); and

(c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and

(d) must—

(i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or

(ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.

(2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).

26. The required section 32AA evaluation for changes proposed as a result of the consideration of submissions with respect to this topic is located after each recommendations section for each provision.

2.4 Trade Competition

27. Trade competition is not considered relevant to this topic within Change 1. There are no known trade competition issues raised within the submissions.

3.0 Omitted submission points

28. 13 original submissions were accidentally omitted during the course of the hearings, and therefore have not yet been addressed by a reporting officer. These submission points relate to:

- Hearing Stream 2- Integrated Management
- Hearing Stream 5 – Freshwater/Te Mana o Te Wai
- Hearing Stream 6 – Indigenous Ecosystems
- General submissions.

29. The omitted submission points are considered in this report by referring to previous hearings documentation and discussing with report authors where necessary.

3.1 Hearing Stream 2 - Integrated Management

3.1.1 Matters raised by submitters

30. Ātiawa [131.009] submits in support of the Chapter 3 provisions and note that specific amendments are sought in relation to the regionally significant issues in Chapter 3.

31. Fish and Game [147.001] supports the over-arching resource management issues for the Wellington Region as necessary to give effect to the NPS-FM and seeks that they are retained as notified.

32. DGC [32.001] supports the additions to Chapter 3 and seeks that they are retained as notified except where amendments have otherwise been requested by DGC.

3.1.2 Analysis

33. In response to Ātiawa and DGC, these submission points do not seek any specific relief to provisions and I consider them to be summary statements. The reporting officer for Hearing Stream 2, Jerome Wyeth, has considered the specific amendments to Chapter 3 which Ātiawa and DGC seek through other submission points¹.

34. Jerome Wyeth has recommended amendments to the Chapter 3 issues introductory text, Objective A and the over-arching regionally significant issues, in response to submissions. Because the provisions are recommended to be amended, I recommend that the submissions from Fish and Game and DGC are accepted in part. Because Ātiawa has not sought specific relief, I make no recommendation.

3.1.3 Recommendations

35. I recommend that omitted submission points are accepted in part or noted as 'no recommendation', as detailed in **Appendix 2**.

¹ Section 42A report for Hearing Stream 2 – Integrated Management, dated 16 June 2023

36. I do not recommend any further amendments to the integrated management provisions in response to these omitted submission points.

3.2 Hearing Stream 5 - Freshwater and Te Mana o Te Wai

3.2.1 Matters raised by submitters

37. Ātiawa [131.016] submits in partial support of the definition of Te Mana o Te Wai in accordance with the NPS-FM. Ātiawa notes that they will include local context and interpretation of Te Mana o Te Wai through Te Whaitua o Kāpiti and seek that their expression of Te Mana o Te Wai is included in the RPS at the appropriate time through the Freshwater Planning Process.

38. Forest and Bird [165.0140] supports the definition of Te Mana o Te Wai and seeks that it is retained.

39. Kahungunu [169.013] makes a general submission seeking that the iwi expressions of Te Mana o Te Wai are retained as notified.

40. Rachel Bolstad [64.003] makes a general submissions seeking that the provisions uplifting Te Mana o Te Wai are retained, refined and enhanced.

41. WCC [140.0129] seeks that a definition of 'undeveloped state' is added for greater consistency.

3.2.2 Analysis

42. The definition of Te Mana o Te Wai as notified in Change 1 is:

Te Mana o te Wai has the meaning set out in clause 1.3 of the NPS-FM.

43. I note that the reporting officer for Hearing Stream 5 did not address the definition of Te Mana o Te Wai specifically because no other submissions were received on it. This provision has therefore not yet been considered by a reporting officer. I agree with submitters that the definition as notified is useful to give meaning to the provisions where this term is used, and that it is appropriate to refer to clause 1.3 of the NPS-FM. Therefore, I recommend that Forest and Bird's submission is accepted. Note that I am recommending a minor change to this definition in response to a different submission in paragraphs 81-0.

44. I note that how NPS definitions are cross-referenced in definitions (whether the wording itself is duplicated or the definition just refers to the NPS) may be an integration matter to ensure consistency across topics. This relates more broadly to Change 1 provisions so I have not considered this further at this stage.

45. In response to Ātiawa seeking that their expression of Te Mana o Te Wai is added to the RPS through a future plan change, I understand that Council intends to insert further mana whenua / tangata whenua expressions of Te Mana o Te Wai into the RPS through future changes, as part of giving effect to the NPS-FM and implementing Te Whaitua o Kāpiti. I support this and agree that such a change should occur. I also note that the reporting officer for Hearing Stream 5 has recommended that specific mention of the Whaitua processes is included in the introduction of

Chapter 3.4². I provide no recommendation on this submission point because the content of future plan changes cannot be directed through this process for Change 1.

46. In response to Kahungunu's request that the iwi expressions of Te Mana o Te Wai are retained as notified, I note that Kate Pascall, the reporting officer for Hearing Stream 5, has recommended that the statements remain intact and unaltered³. Kate Pascall recommends accepting relief sought by Rangitāne [168.0197] to their statement, and also recommends that the statements are relocated to an appendix (which was discussed with Rangitāne and Kahungunu)⁴. I therefore recommend that this submission is accepted in part.

47. In response to Rachel Bolstad, the reporting officer for Hearing Stream 5 recommended that other general submissions with identical relief sought are accepted in part⁵, due to the amendments recommended to various provisions through Hearing Stream 5. I therefore recommend this submission is accepted in part for consistency with this recommendation.

48. In response to WCC seeking a definition of 'undeveloped state' to support the hydrological controls direction, I note that UHCC [S34.0101] made a similar submission seeking that a definition of 'undeveloped state' was added. In response to UHCC's submission the reporting officer for Hearing Stream 5, Kate Pascall, recommended that a definition of 'undeveloped state' was added. Kate Pascall recommended alignment with a definition recommended by the reporting officer for the WCC Proposed District Plan Three Waters chapter⁶, on the basis that it provided suitable clarity in relation to hydrological controls provisions in Change 1.

49. I therefore recommend that the submission by WCC is accepted. I note that a minor amendment to the definition was recommended in the Hearing Stream 5 right of reply (to italicise urban development as a previously defined term)⁷, such that the recommended definition now reads:

Undeveloped state: The modelled grassed (pastoral or urban open space) state of the site prior to urban development urban development

3.2.3 Recommendations

50. I recommend that omitted submission points are accepted, accepted in part or noted as 'no recommendation', as detailed in **Appendix 2**.

51. I do not recommend any further amendments to the freshwater and Te Mana o Te Wai provisions in response to these omitted submission points.

² Section 42A report of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 October 2023, paragraphs 95 & 100

³ Section 42A report of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 October 2023, paragraph 184

⁴ Section 42A report of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 October 2023, paragraphs 185 & 189

⁵ Appendix 2 of Section 42A report for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 October 2023

⁶ Section 42A report of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 October 2023, paragraphs 964-195

⁷ Right of Reply of Kate Pascall for Hearing Stream 5 – Freshwater and Te Mana o Te Wai, dated 20 December 2023, paragraph 44

3.3 Hearing Stream 6 - Indigenous Ecosystems

3.3.1 Matters raised by submitters

52. Ātiawa [131.031] submits in support of Objective 16 and seeks that it is retained as notified. They seek to be involved in a process to identify significant sites to ensure mana whenua are part of decision making that could involve land held by Māori.

53. Muaūpoko [133.016] submits in partial support of the indigenous ecosystems provisions, and requests that a policy, method or both is added to provide for the development of a regional and local expression of Te Rito o Te Harakeke, to be co-designed with tangata whenua including Muaūpoko.

3.3.2 Analysis

54. In response to Ātiawa's submission on Objective 16 (which relates to the protection of indigenous ecosystems and habitats with significant indigenous biodiversity values), the reporting officer for Hearing Stream 6 Pam Guest recommended some amendments to Objective 16 in response to submissions. The intent of the objective has been retained. It is now recommended to state (as at rebuttal evidence for Hearing Stream 6)⁸:

Indigenous ecosystems and habitats with significant ~~ecosystem functions and services and/or indigenous~~ biodiversity values, ~~other significant habitats of indigenous fauna, and the ecosystem processes functions that support these ecosystems and habitats~~, are maintained protected ~~and, where appropriate~~, enhanced, and restored to a healthy functioning state.

55. I therefore recommend that the submission by Ātiawa is accepted in part. Regarding their request to be involved in the identification of areas with significant indigenous biodiversity values, habitats and ecosystem functions, I consider that this is provided for by Method 32 (Partnering with mana whenua / tangata whenua, and engaging with stakeholders, landowners and the community in the identification and protection of significant values) and Policy IE.1 (Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – district and regional plans). I note that Pam Guest refers to Method 32 as explicitly providing for partnership with mana whenua / tangata whenua when identifying and protecting significant values⁹.

56. In response to Muaūpoko's submission regarding a regional or local expression of Te Rito o Te Harakeke, I note that this is provided for in Method IE.1 (Partnering with mana whenua / tangata whenua to give local effect to Te Rito o te Harakeke). Rangitāne [168.067] sought similar relief to the indigenous ecosystems provisions, and Pam Guest similarly responded to this submission with a reference to Method IE.1 as providing for the relief sought¹⁰. Through the Section 42A report for Hearing Stream 6, Pam Guest recommended that "Te Rito o Te Harakeke" is replaced with

⁸ Appendix 1 of Pam Guest Statement of rebuttal evidence for Hearing Stream 6 – Indigenous ecosystems

⁹ Section 42A report of Pamela Guest and Jerome Wyeth for Hearing Stream 6 – Indigenous ecosystems, dated 11 December, paragraph 118

¹⁰ Section 42A report of Pamela Guest and Jerome Wyeth for Hearing Stream 6 – Indigenous ecosystems, dated 11 December, paragraph 101

“decision-making principles for indigenous biodiversity” for better alignment with the gazetted NPS-IB¹¹. As at the rebuttal evidence for Hearing Stream 6, Method IE.1 is recommended to state:

Method IE.1: Partnering with mana whenua/tangata whenua to give local effect to the decision-making principles for indigenous biodiversity Te Rito o te Harakeke

Partner with mana whenua/tangata whenua to identify the local approach to give effect to the decision-making principles for indigenous biodiversity Te Rito o te Harakeke and develop guidance on how to implement this.

Implementation: Wellington Regional Council

57. Therefore, I recommend that the submission by Muaūpoko is accepted in part on the basis that similar amendments to the relief sought have been recommended through Hearing Stream 6.

3.3.3 Recommendations

58. I recommend that omitted submission points are accepted in part as detailed in **Appendix 2**.

59. I do not recommend any further amendments to the indigenous ecosystems provisions in response to these omitted submission points.

3.4 General submissions

3.4.1 Matters raised by submitters

60. WIAL [148.011] makes a general submission in partial opposition of the Change 1 provisions and seeks that WIAL's submissions are accepted or similar changes are made, including consequential amendments to give effect to the matters raised in their submission.

61. WCC [140.003] makes a general submission seeking amendment to the wording of consideration policies. They state that if a plan already gives effect to the higher-level document or policy, then it should not refer to the higher-level document. They seek the following amendment to the consideration policies to refine wording and improve clarity for local authorities:

When considering a plan change, variation or review of a plan or if the policy has not been given effect to in the plan, an application for a resource consent or notice of requirement...

62. I note that this submission point has been assigned to Chapter 4.3 – allocation of responsibilities in the summary of submissions, because the original submission mentioned Chapter 4.3. However, the relief sought appears to relate to the consideration policies of Chapter 4.2 and I have proceeded on this assumption.

63. Kāinga Ora [15.038] makes a general submission in partial support of the definitions and seeks amendments to definitions to align them with any relevant National Policy Statement or the National Planning Standards.

¹¹ Section 42A report of Pamela Guest and Jerome Wyeth for Hearing Stream 6 – Indigenous ecosystems, dated 11 December, paragraph 105

3.4.2 Analysis

64. In response to WIAL's submission, I consider this is a summary statement which does not seek specific relief. The amendments sought by WIAL's submission have been considered and accordingly responded to by reporting officers throughout the hearings for Change 1. I therefore make no recommendation.
65. In response to WCC's submission on the wording of the chapeau of consideration policies, this matter requires more comprehensive analysis, because the relief sought relates to all consideration policies and therefore applies to provisions across Hearing Streams 2, 3, 4, 5 and 6. Although similar relief (via other submissions or matters raised at the hearing) has been considered for some policies throughout the hearings to date¹², the relief sought by WCC has not yet been assessed against for all consideration policies in Chapter 4.2 of the RPS.
66. Consideration policies and their structure have been the subject of a number of submissions and have received in-depth discussion in hearings to date. In particular, submissions have commented on whether they should apply to district or regional plan reviews, resource consents and plan changes. The application to notices of requirements has also been discussed, for example in Hearing Stream 4¹³.
67. Jerome Wyeth first discussed the application and role of consideration policies in relation to Policy IM.1¹⁴, where he recommended amendments to the introduction of Chapter 4.2 as follows:

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

68. As a result of these amendments to the introduction, Jerome Wyeth stated that changes could be made to the standard chapeau of consideration policies where it would improve clarity or readability, and recommended amendments of such a nature to Policy IM.1. While not addressing a sunset clause (i.e. the relief sought by WCC) specifically, Jerome Wyeth expressed a general comfort with the application of consideration policies to consenting decisions, and he has advised that he does not consider they necessarily need to cease to have effect once given effect to through provisions in a regional or district plan.
69. The matter of consideration policies ceasing to have effect has been traversed in several hearings in relation to specific policies, most recently in Hearing Stream 6. I discussed this matter in my rebuttal evidence in Hearing Stream 4, when discussing the application of Policy UD.2 to resource consents. I stated; "If a policy has already been given effect by the district plan, it does not add any additional work [to consider Policy UD.2] as a consent application will already need to meet these

¹² For example, the reporting officer for Hearing Stream 5 has recommended amendments to Policy 41 so that it ceases to have effect once Policy 15(a) is given effect. Another example is that HortNZ sought for Policy CC.13 to cease to have effect once Policy CC.5 was given effect to in the regional plan, and HCC sought for Policies 56 and 57 to 'fall away' once given effect to.

¹³ Mika Zöllner Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 26 September 2023, paragraph 10

¹⁴ Section 42A report of Jerome Wyeth for Hearing Stream 2 – Integrated Management, dated 16 June 2023, paragraphs 145-150

requirements. Some consideration policies are appropriate to 'fall away', and where they are intended to be transitional this is made clear"¹⁵.

70. I maintain this opinion. While a sunset clause may be appropriate in the context of some policies, I do not consider that a blanket sunset clause should be applied to all consideration policies, which would be the outcome if WCC's relief is accepted in full.

71. While some consideration policies have a 'counterpart' regulatory policy in Chapter 4.1¹⁶ others stand alone and do not have equivalent direction in Chapter 4.1¹⁷. In my opinion if the intention is for a Chapter 4.2 consideration policy to cease to apply once given effect in a district or regional plan, this should be deliberately stated in the policy through a 'sunset' clause making it clear it is intended to fall away. There are examples of this in the operative RPS, particularly where there are complementary policies in Chapters 4.1 and 4.2. In general, if the author or reporting officer of a particular policy intended for it to cease to apply once given effect, I consider that a sunset clause would have been added.

72. My general opinion is that consent planners need to consider plan provisions that give effect to higher order provisions, however this does not mean those higher order provisions must cease to have effect and no longer be considered. In my experience with district plans and RPS implementation, determining when an RPS policy has been fully given effect to can be unclear, subjective and vary spatially. For example, a freshwater policy may be given effect to for some freshwater management units and not others. There can also be additional information that may inform a consenting decision which is directly relevant but not yet included in a district or regional plan. For example, ongoing research into natural hazards means that new information is being produced that requires consideration in resource management and consenting matters. The RPS consideration policy may allow such information to be considered rather than relying solely on the district plan.

73. In my view a consent planner should not need to conclusively determine the status of implementation for each consideration policy to determine whether it applies or not; as this could be a subjective and potentially time-consuming process. As long as the RPS consideration policy is providing consistent direction, its role as a 'backstop' is therefore useful and not in my view creating additional work.

74. To fully respond to this submission I have collated the consideration policies notified in Change 1 in Table 1. Where the reporting officer for each policy has discussed similar relief to the omitted submission point from WCC, this has been summarised. Where similar relief has not been discussed, I provide a brief assessment of the relief sought in relation to that consideration policy. The analysis has focussed on whether there are particular circumstances which mean it would be appropriate for a particular consideration policy to fall away.

75. As a result of the analysis in Table 1 and the reasons expressed above, I recommend the submission by WCC is rejected.

76. The following reporting authors have provided additional advice to inform this analysis:

¹⁵ Mika Zöllner Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 26 September 2023, paragraph 178

¹⁶ For example, Policy 47's counterpart is Policy 23 and 24, Policy 39's counterpart is Policy 8 and Policy 9.

¹⁷ For example, Policy 55, Policy IM.1, Policy 57 and several others do not have equivalent policies in Chapter 4.1.

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- Jerome Wyeth (Integrated management, climate change)
- Kate Pascall (Freshwater/Te Mana o Te Wai)
- Pam Guest (Indigenous ecosystems, climate change)
- Dr Iain Dawe (Natural hazards)
- Myself (Urban development, transport).

Table 1: Analysis of all consideration (Chapter 4.2) policies in RPS Change 1 as notified, in response to relief sought to the chapeau by WCC [submission point 140.003].

Chapter 4.2 policy (policy heading as at notified RPS Change 1)	Previous consideration where relevant	New analysis where required (where analysis is not by the author, this is noted)
IM.1 (Integrated Management – ki uta ki tai):		I cannot see a particular reason why this policy should fall away. It does not have an equivalent policy in Chapter 4.1 and in my view provides useful matters for consideration to contribute to the RPS objectives.
IM.2 (Equity and Inclusiveness)	Recommended to be deleted by reporting officer.	
CC.9 (Reducing greenhouse gas emissions associated with transport emissions)	Duplication with direction in regulatory policies was a point of discussion in expert caucusing on this policy ¹⁸ .	This policy has an equivalent policy in Chapter 4.1 through Policy CC.1. However, Policy CC.9 is phrased in a more general sense than Policy CC.1 and I cannot see a particular reason why this policy should fall away. In my view it provides a useful policy backstop for consideration.
CC.10 (Freight movement efficiency and minimising greenhouse gas emissions)		I cannot see a particular reason why this policy should fall away. It does not have an equivalent policy in Chapter 4.1 and in my view provides useful matters for consideration to contribute to the RPS objectives.
CC.11 (Encouraging whole of life carbon emissions assessment)	A number of matters remained in contention regarding this policy following expert caucusing, including its application as a consideration policy ¹⁹ .	I cannot see a particular reason why this policy should fall away. It does not have an equivalent policy in Chapter 4.1 and in my view provides useful matters for consideration to contribute to the RPS objectives.
CC.12 (Protect, enhance and restore ecosystem that provide nature-based solutions to climate change)	Recommended to be deleted by reporting officer.	

¹⁸ Joint witness statement for Hearing Stream 3 – Climate change transport, dated 28 September 2023, paragraphs 52-53

¹⁹ Joint witness statement for Hearing Stream 3 – Climate change transport, dated 28 September 2023, paragraph 56

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CC.13 (Managing agricultural gross greenhouse gas emissions)	Recommended to be deleted by reporting officer.	
CC.14 (Climate-resilient urban areas)		<p>Pam Guest: This is a complex policy and unless it is replicated in full it will not always be clear when it has been given effect to in a plan. It therefore provides more confidence to retain it in the RPS as a backstop. Any concerns regarding duplication can be considered when the RPS comes up for review.</p>
39 (Recognising the benefits from renewable energy and regionally significant infrastructure)		<p>The operative version of Policy 39 includes the following two statements in the policy explanation: <i>Policy 39(a) shall cease to have effect once policy 9 is given effect in a relevant district or regional plan.</i> <i>Policy 39(b) shall cease to have effect once policy 8 is given effect in a relevant district or regional plan.</i></p> <p>These sentences were removed by RPS Change 1 which substantially shortened the policy explanation. I consider that these sunset clauses should not be reinstated because I do not consider that the scope of these clauses (now clauses (a) and (c) as at right of reply for Hearing Stream 3), is fully captured by Policies 8 and 9. I therefore consider that the matters in all clauses of Policy 39 should remain relevant for consideration.</p>
40 (Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems)		<p>Kate Pascall: This policy only applies to regional resource consents. The matters in Policy 40 are still a relevant consideration, as it is a general policy applying to regional councils regardless of whether the regional plan has given full effect to the NPS-FM.</p>
41 (Controlling the effects of earthworks and vegetation disturbance)	Sunset clause recommended to be added by Kate Pascall, such that Policy 41 ceases to have effect once Policy 15(a), the corresponding Chapter 4.1 policy, is given effect for all Freshwater Management Units ²⁰ .	
42 (Effects on freshwater and the coastal marine areas from urban development)		<p>Kate Pascall: Policy 42 only applies to regional consents. I consider this policy is an important consideration as it provides criteria that should be considered by a processing officer and/or applicant in assessing effects of any exceedances of target attribute states, limits etc.</p>
44 (Managing water take and		<p>Kate Pascall:</p>

²⁰ Right of repl..

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use to give effect to Te Mana o Te Wai)		I consider this policy is an important consideration as it provides criteria that should be considered by a processing officer and/or applicant.
FW.5 (Water supply planning for climate change and urban development)		Kate Pascall: This policy is an ongoing consideration as the population and climate changes and demand for water changes. It does not have an equivalent policy in Chapter 4.1.
47 (Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values)	Considered by Pam Guest in response to submitter evidence ²¹ . Recommended not to fall away.	
IE.2 (Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity)		I cannot see a particular reason why this policy should fall away. This is a complex policy and unless it is replicated in full it will not always be clear when it has been given effect to in a plan. It therefore provides more confidence to retain it in the RPS as a backstop. Any concerns regarding duplication can be considered when the RPS comes up for review.
51 (Minimising the risks and consequences of natural hazards)		Iain Dawe: In particular with natural hazards, it is common for additional information to potentially be relevant for consideration in a decision, which may not yet be included in the relevant district or regional plan. This policy therefore provides useful criteria for consideration.
52 (Minimising adverse effects of hazard mitigation measures)		Iain Dawe: In particular with natural hazards, it is common for additional information to potentially be relevant for consideration in a decision, which may not yet be included in the relevant district or regional plan. This policy therefore provides useful criteria for consideration.
55 (Providing for appropriate urban expansion)		I do not consider this policy should fall away. There is no equivalent policy in Chapter 4.1, and it provides criteria for greenfield development that should be considered by a processing officer and/or applicant. This is a complex policy and unless it is replicated in full it will not always be clear when it has been given effect to in a plan. It therefore provides more confidence to retain it in the RPS as a backstop.

²¹ Pam Guest Statement of rebuttal evidence for Hearing Stream 6 – Indigenous ecosystems, dated 13 February 2024, paragraphs 87-89.

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56 (Managing development in rural areas)	Considered by reporting officer in response to submitter evidence ²² . Recommended not to fall away.	
57 (Integrating land use and transportation)	Considered by reporting officer in response to submitter evidence ²³ . Recommended not to fall away.	
58 (Co-ordinating land use with development and operation of infrastructure)	Considered by reporting officer in response to submitter evidence ²⁴ . Recommended not to fall away.	
UD.2 (Enable Māori cultural and traditional norms)	Considered by reporting officer in response to submitter evidence ²⁵ . Recommended not to fall away.	
UD.3 (Responsive planning to developments that provide for significant development capacity)		This policy gives effect to the NPS-UD in a specific capacity; it is written to always apply by including criteria for what is deemed to add significantly to development capacity. It would not be appropriate for this policy to fall away through a sunset clause.

77. In response to Kāinga Ora's submission, the theme of the consistency of definitions with national direction has been raised throughout hearings. Reporting officers have also generally sought for definitions to be consistent with national direction wherever possible. Similar submission points to the relief sought by Kāinga Ora are summarised in Table 2.

Table 2: Submission points on definitions similar to submission point 15.038.

Submission point number	Submitter	Relief sought	Relevant hearing topic/s
S30.0116	PCC	Add any further definitions for any terms that are unclear and where a definition would assist in interpretation and implementation, including any relevant terms proposed to be introduced in response to submissions.	General, considered in all hearing streams
S30.099	PCC	The real value of regional policy statements is to provide policy direction that either does not exist at a national level or exists at a national level but needs to be articulated at a regional level. Council is concerned about the many provisions in Proposed Change 1 that either duplicate or are inconsistent with matters now comprehensively addressed by national direction. In some	General, considered in all hearing streams

²² Owen Jeffreys Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 25 September 2023, paragraph 37

²³ Owen Jeffreys Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 25 September 2023, paragraph 54

²⁴ Owen Jeffreys Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 25 September 2023, paragraph 78

²⁵ Mika Zöllner Statement of rebuttal evidence for Hearing Stream 4 – Urban development, dated 26 September 2023, paragraph 178

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		instances, they duplicate national direction without giving specific guidance in a Wellington Region context.	
S162.034	Winstones	Winstone notes that the new definitions appear to be focused on indigenous biodiversity and do not appear to introduce definitions required by NPS-FM. This appears to be inconsistent. The introduced policies and objectives in PPC1 do use terms referred to and defined in NPS-FM and therefore those terms should be included and defined in the RPS	Freshwater/Te Mana o te Wai
[S162.020-S162.025], [S162.027], [S162.030-S162.033]	Winstones	Opposed/ neutral to the inclusion of the listed new definitions. It is unclear where some of these defined terms have come from or what the basis is for defining these terms in this way. Some do not appear to reflect up to date caselaw, the RMA or even the draft NPS-IB. Others appear to reflect NRP definitions, but it is unclear how these change the interpretation of the RPS policies	Indigenous Ecosystems

78. The analysis in Table 3 includes a brief assessment of all definitions notified in Proposed RPS Change 1, including references to where reporting officers have considered alignment with national direction when responding to submissions on definitions.

Table 3: Analysis of all definitions in RPS Change 1 as notified, in response to relief sought by Kāinga Ora [submission point 15.038].

Hearing topic	Definition	Consistency with National Planning Standards or National Policy Statement
Climate change - general	Carbon emissions assessment	Not defined in NPS or the Standards ²⁶
	Climate change adaptation	Considered by reporting officer, deemed consistent ²⁷
	Climate change mitigation	Considered by reporting officer, deemed consistent ²⁸
	Emissions	Deleted by reporting officer and combined with definition for greenhouse gases ²⁹
	Greenhouse gases	Considered by reporting officer, amendments recommended ³⁰
Climate change – nature-based solutions	Nature-based solutions	Considered by reporting officer, amendments recommended ³¹
	Highly erodible land	Considered by reporting officer, amendments recommended ³²

²⁶Statement of rebuttal evidence for Hearing Stream 3 – climate change general, dated 22 August 2023, paragraph 118

²⁷ Section 42A report for Hearing Stream 3 – climate change general, dated 31 July 2023, paragraph 328

²⁸ Section 42A report for Hearing Stream 3 – climate change general, dated 31 July 2023, paragraph 330

²⁹ Section 42A report for Hearing Stream 3 – climate change general, dated 31 July 2023, paragraph 334

³⁰ Section 42A report for Hearing Stream 3 – climate change general, dated 31 July 2023, paragraph 334

³¹ Section 42A report for Hearing Stream 3 – climate change climate resilience and nature-based solutions, dated 31 July 2023, paragraphs 76-81

³² Section 42A report for Hearing Stream 3 – climate change climate resilience and nature-based solutions, dated 31 July 2023, paragraphs 350-351

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	Permanent forest	Considered by reporting officer, amendments recommended ³³
	Plantation forestry	Considered by reporting officer, amendments recommended ³⁴
Climate change – energy, waste, industry	Small scale	Considered by reporting officer, amendments recommended ³⁵
	Large scale generators	Consistent with the Natural Resources Plan but reporting officer recommended deletion ³⁶
	Organic waste	Not defined in NPS or the Standards, however definition is consistent with national guidance from Ministry for the Environment.
Climate change – natural hazards	Hazard sensitive activity	Considered by reporting officer, amendments recommended ³⁷
Climate change - transport	Travel demand management plan	Considered by reporting officer, amendments recommended ³⁸
Urban Development	City centre zone	Consistent with the Standards
	Complex development opportunity	Considered by reporting officer, recommended deletion ³⁹
	Future Development Strategy	Consistent with NPS-UD
	High density development	Considered by reporting officer, amendments recommended ⁴⁰
	Key centres	Deleted by RPS Change 1
	Marae	Deleted by RPS Change 1
	Medium density development	Considered by reporting officer, amendments recommended ⁴¹
	Metropolitan centre zone	Consistent with the Standards
	Papakāinga	Deleted by RPS Change 1
	Regional form	Deleted by RPS Change 1, recommended to be reinstated by reporting officer with consideration of national direction (not defined in the Standards or NPS) ⁴²
Regionally significant centres	Deleted by RPS Change 1	

³³ Section 42A report for Hearing Stream 3 – climate change climate resilience and nature-based solutions, dated 31 July 2023, paragraphs 358

³⁴ Section 42A report for Hearing Stream 3 – climate change climate resilience and nature-based solutions, dated 31 July 2023, paragraphs 362

³⁵ Section 42A report for Hearing Stream 3 – climate change energy, waste and industry, dated 31 July 2023, paragraphs 122, 123, 128 & Statement of rebuttal evidence for Hearing Stream 3 – climate change energy, waste and industry, dated 22 August 2023, paragraph 40-41

³⁶ Section 42A report for Hearing Stream 3 – climate change energy, waste and industry, dated 31 July 2023, paragraph 191

³⁷ Section 42A report for Hearing Stream 3 – climate change natural hazards, dated 31 July 2023, paragraph 415

³⁸ Section 42A report for Hearing Stream 3 – climate change transport, dated 31 July 2023, sections 3.13 & 3.14 & Technical evidence for Hearing Stream 3 - climate change transport, dated 31 July 2023, paragraphs 38-48 & 112

³⁹ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraph 699

⁴⁰ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraphs 693 & 696

⁴¹ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraphs 693 & 696

⁴² Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraphs 177-178

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	Relevant Residential Zone	Consistent with the Standards, but recommended to be deleted by reporting officer ⁴³
	Rural areas	Considered by reporting officer, amendments recommended ⁴⁴
	Tier 1 territorial authority	Consistent with NPS-UD
	Tree canopy cover	Not defined in NPS or the Standards
	Urban areas	Considered by reporting officer, amendments recommended ⁴⁵
	Urban environment	Consistent with NPS-UD
Freshwater/Te Mana o Te Wai	Hydrological controls	Considered by reporting officer, amendments recommended ⁴⁶
	Te Mana o te Wai	Definition not previously considered by reporting officer. Definition refers to clause 1.3 of the NPS-FM, however as notified it does not specify the year of gazettal.
Indigenous ecosystems	Biodiversity compensation	Reporting officer recommended amendments to align with the NPS-IB. ⁴⁷
	Biodiversity offsetting	Reporting officer recommended amendments to align with the NPS-IB. ⁴⁸
	Ecological connectivity	Reporting officer recommended amendments to align with the NPS-IB. ⁴⁹
	Ecological integrity	Reporting officer recommended amendments to align with the NPS-IB. ⁵⁰
	Ecosystem health	Considered by reporting officer, deemed consistent ⁵¹
	Enhancement (in relation to indigenous biodiversity)	Not defined in NPS or the Standards ⁵²
	Maintain/maintained/maintenance (in relation to indigenous biodiversity)	Reporting officer recommended amendments to align with the NPS-IB. ⁵³
	Naturally uncommon ecosystems	Considered by reporting officer, deemed consistent ⁵⁴
	Protect (in relation to indigenous biodiversity)	Recommended to be deleted by reporting officer. ⁵⁵

⁴³ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraph 681

⁴⁴ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraphs 685-689

⁴⁵ Section 42A report for Hearing Stream 4 – Urban development, dated 4 September 2023, paragraphs 685-689

⁴⁶ Section 42A report for Hearing Stream 5 – Freshwater/Te Mana o Te Wai, dated 20 October 2023, paragraph 951

⁴⁷ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁴⁸ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁴⁹ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁵⁰ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁵¹ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 527-528

⁵² Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 529

⁵³ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁵⁴ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 531

⁵⁵ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 532

	Resilience (in relation to indigenous biodiversity)	Reporting officer recommended amendments to align with the NPS-IB. ⁵⁶
	Restoration	Reporting officer recommended amendments to align with the NPS-IB. ⁵⁷
	Te Rito o te Harakeke	Reporting officer recommended amendments to align with the NPS-IB. ⁵⁸
	Threatened ecosystems or species	Amended by reporting officer to align with Threat Classification System. ⁵⁹
Regionally significant infrastructure	National grid	Amended by reporting officer to align with NPS-ET. ⁶⁰
	Regionally significant infrastructure	Considered by reporting officer, deemed consistent. ⁶¹
	Strategic Transport Network	Not defined in NPS or the Standards, but consistent with the Regional Land Transport Strategy.

80. All definitions are either already consistent with the relevant NPS or The Standards, or if not defined through these documents they have already been assessed against other national or relevant regional direction by the relevant reporting officer.

81. As detailed in Table 3, the definition of Te Mana o Te Wai as notified refers to clause 1.3 of the NPS-FM but does not specify the year. Across Change 1, where provisions refer to an NPS they refer to the full title of the NPS and the year that it was gazetted, as this supports clarity and certainty for plan users. I consider that not including a date when referring to the NPS-FM is particularly unclear because there have been multiple versions of the NPS-FM. In response to the submission by Kāinga Ora I therefore recommend the following amendment:

Te Mana o te Wai has the meaning set out in clause 1.3 of the [NPS-FM-National Policy Statement for Freshwater Management 2020](#).

82. As discussed in paragraph 43, this definition has not yet been considered by a reporting officer in Change 1 hearings to date. Additional scope for the amendment I’m recommending comes from general submission points seeking the use of clear and concise definitions to support clarity [PCC, S30.0116] and to align definitions with the NPS-FM [Winstones, S162.034].

83. I therefore recommend that Kāinga Ora’s submission is accepted in part on the basis that amendments have been made to definitions to align with national direction throughout the hearings to date, and that I am recommending one minor amendment to the definition of Te Mana o Te Wai.

3.4.3 Recommendations

84. I recommend a minor amendment to the definition of Te Mana o Te Wai as shown in **Appendix 1**.

⁵⁶ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁵⁷ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 524 & 533

⁵⁸ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraph 524

⁵⁹ Section 42A report for Hearing Stream 6 – Indigenous ecosystems, dated 11 December 2024, paragraphs 532

⁶⁰ Section 42A report for Hearing Stream 7 – Regionally significant infrastructure, dated 11 March 2024, paragraphs 65-66

⁶¹ Section 42A report for Hearing Stream 7 – Regionally significant infrastructure, dated 11 March 2024, paragraph 82

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85. I recommend that omitted submission points are accepted in part, rejected or noted as 'no recommendation', as detailed in **Appendix 2**.

3.4.4 Section 32AA evaluation

86. In accordance with RMA section 32AA I consider the minor recommended amendments to the definition of Te Mana o Te Wai is most appropriate because it improves clarity and certainty for plan users and thereby supports efficient and effective implementation.

4.0 Conclusions

87. After considering submission points not yet considered in previous hearings, I recommend a minor amendment to the definition of Te Mana o Te Wai in Change 1.

88. I recommend that:

- The Hearing Panels accept, accept in part, or reject submissions as outlined in **Appendix 2** of this report.
- Change 1 is amended in accordance with the changes recommended in **Appendix 1** of this report.