

# **Plan Change 1 to the Natural Resources Plan for the Wellington Region**

## **Section 42A Hearing Report Hearing Stream 3**

**Topic: Forestry and Vegetation Clearance**

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

**Prepared by: Shannon Watson**

**Report Date: 15 April 2025**

**Hearing Date: 19 May 2025**

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## Executive Summary

1. This report considers submissions received by Greater Wellington Regional Council ('the Council') in relation to the provisions of Plan Change 1 to the Natural Resources Plan for the Wellington Region ('PC1') as they apply to vegetation clearance and forestry.
2. This topic is following both the Freshwater Planning Process and Schedule 1, Part 1 Process of the Resource Management Act 1991 ('the RMA').
3. A total of 607 submission points and 727 further submission points were received on the provisions relating to this topic. The submissions on this topic were wide ranging, seeking different outcomes ranging from retain as notified, make substantive amendments to align with operative Natural Resources Plan (NRP) provisions and the requirements of national direction and to delete PC1 provisions completely. The following key issues are raised in submissions and are covered by this report:
  - Alignment of PC1 with national direction (specifically the Resource Management (National Environmental Standards for Commercial Forestry (NES-CF) in the context of the stringency test in Regulation 6 of the NES-CF
  - Robustness of evidence (in the context of the stringency test in Regulation 6 of the NES-CF and also the efficacy and effectiveness of the operative NRP vegetation clearance rules)
  - Methodology for identification and classification of highest erosion risk land
  - Consistency of PC1 with 'Whaitua' (catchment) committee recommendations – being the Council's community planning process undertaken in accordance with the National Policy Statement for Freshwater Management (NPS-FM))

These key issues apply to most of the specific provisions (set out as issues) contained within this hearing report.

4. Other issues raised by submitters in relation to this topic are also covered in the report, along with a range of consequential amendments that have arisen in responding to submissions.
5. As a result of analysing the submissions and key issues, I have recommended a number of amendments to the PC1 provisions to address concerns raised.
6. Having considered all the submissions and reviewed all relevant statutory and non-statutory documents, I recommend that PC1 be amended as set out in Appendix 4 of this report which includes a section 32AA evaluation for the amendments I have recommended.
7. For the reasons outlined in the section 32AA evaluation in Appendix 4 and outlined in this report, I consider that the proposed definitions, policies, rules, maps and schedules, with the recommended amendments, are the most appropriate.

## **Interpretation**

8. This report utilises a number of abbreviations and should be read in conjunction with the document 'Plan Change 1 to the Natural resources Plan – List of Abbreviations of Terms and Submitter Names' available on the Plan Change 1 website.

## 1.0 Introduction

### 1.1 Purpose

9. This report is prepared under section 42A of the RMA. The purpose of this report is to provide the Freshwater Hearings Panel and the Part 1, Schedule 1 Hearings Panel ('the Hearing Panels') with an analysis of submissions received by the Council in relation to the Vegetation Clearance and Forestry topic of PC1. I make recommendations as to whether or not those submissions should be accepted or rejected, and where appropriate, provide recommendations for amendments to the PC1 provisions.
10. I have had regard to other section 42A reports including:
- Hearing Stream 1 'Overarching Matters'
  - Hearing Stream 2 'Objectives' including supporting rebuttal evidence
  - Hearing Stream 2 'Ecosystem Health Policies' including supporting rebuttal evidence
  - Hearing Stream 3 'Rural Land Use'
  - Hearing Stream 3 'Earthworks'
11. This report should be read in conjunction with the Officer's report 'Overarching Matters' which provides the background to PC1, the statutory context, scope of the plan change, the approach to the categorisation of provisions, and administrative matters relating to PC1.

### 1.2 Scope of this Report

12. PC1 has been notified via two plan-making processes under Schedule 1 of the RMA:
- The Freshwater Planning Process (FPP) under Part 4, Schedule 1 for the provisions that form the Freshwater Planning Instrument. These provisions are marked in the PC1 document with the freshwater icon.
  - The standard plan-making process in Part 1, Schedule 1 ('P1S1').
13. This report covers submissions on provisions that have been notified entirely within both the FPP and P1S1 processes.
14. The provisions of PC1 that are addressed by this report are set out in Appendix 1. This table also includes the relevant page number in the notified plan change document, the relevant plan change process for each provision (FPP or P1S1), and the number of submissions received for each provision.

### 1.3 Author

15. My name is Shannon John Watson and I am a Technical Lead – Planning employed by GHD Limited. I hold a Bachelor of Environmental Planning from the University of Waikato, majoring in environmental and natural resource economics. I am a Full member of the New Zealand Planning Institute (NZPI), and until last month was Chair of the Wellington Branch of NZPI. I am a member of the Wellington Resource Management Law Association (RMLA) Committee.

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16. I have over ten years of experience in resource management and planning across both local government and the private sector. During this time, I have predominantly undertaken resource consent planning but in recent years have had more involvement in policy work. This has included supporting the Council on the water allocation sub-topic and testing alignment of NRP provisions with national direction during the Proposed Natural Resources Plan (**NRP**) mediation process. Most recently I was the reporting officer for the Definitions (Regionally Significant Infrastructure, Strategic Transport Network and National Grid) topic in Hearing Stream 7 of Proposed Change 1 to the Regional Policy Statement (**RPS Change 1**) process.
17. I have worked on a variety of projects with a range of district and regional planning issues, including consenting and compliance phases of major infrastructure projects such as Roads of National Significance (Transmission Gully and McKays to PekaPeka), regionally significant coastal protection and regionally significant three waters, roading and transport projects, including the Silverstream Pipe Bridge, Featherston Wastewater Treatment Plant, Eastern Bays Shared Path and RiverLink. Before joining GHD I was employed by the Council as a Project Consents Officer for the Roads of National Significance Team and a Resource Advisor in the Earthworks, Streamworks and Coastal Team.
18. I have been engaged by the Council to respond to submission points in relation to the vegetation clearance and forestry provisions, and to prepare and present this section 42A report. I was not involved in the development of the provisions for PC1, however I have familiarised myself with the process that was followed and with the Section 32 evaluation report.
19. The scope of my evidence relates to the vegetation clearance and forestry provisions. Other than when I state that I am relying on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise. I confirm that I have read the Code of Conduct for Expert Witnesses included in the Environment Court Practice Note 2023 and I agree to comply with it. I confirm I have considered all the material facts that I am aware of which might alter or detract from the opinions I express.
20. 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.
21. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

#### **1.4 Supporting Evidence**

22. The evidence, literature, or other material which I have used or relied upon in support of the opinions expressed in this report includes the following:
  - Statement of Evidence Hearing Stream 2 Dr Michael Greer - Freshwater
  - Statement of Evidence Hearing Stream 2 Mr James Blyth – Load Reductions to Meet Visual Clarity TAS
  - Statement of Evidence Hearing Stream 2 Amanda Valois – Impacts of Natural Colour on Visual Clarity TAS
  - Statement of Evidence Hearing Stream 3 Dr Michael Greer - Freshwater

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- Statement of Evidence Hearing Stream 3 Mr James Blyth – Sediment from Pasture and Forestry
- Statement of Evidence Hearing Stream 3 Mr Kevin Reardon - Forestry
- Statement of Evidence Hearing Stream 3 Mr Thomas Nation – Erosion Risk Mapping
- Statement of Evidence Hearing Stream 3 Mr Joshua Pepperell

### **1.5 Key Issues**

23. A number of submitters raised issues with the range of provisions relating to vegetation clearance and forestry. A total of 607 submission points and 727 further submission points were received on these topics.

24. The following are considered to be the key issues in contention:

- Vegetation clearance rules
  - General comments
  - Rules WH.R17, P.R16 (permitted activity rules)
  - Rules WH.R18, P.R17 (controlled activity rules)
  - Rules WH.R19, P.R18 (discretionary activity rules)
- Schedule 33 (Vegetation Clearance Plan)
- Forestry framework
  - Scope of PC1 as it relates to forestry
  - Policies WH.P28 and P.P26
  - Rules WH.R20, P.R19 (controlled activity rules)
  - Rules WH.R21, P.R20 (discretionary activity rules)
  - Rules WH.R22 and P.R21 (prohibited activity rules)
  - Schedule 34 (Forestry Plan)
- Maps 91 and 94 (highest erosion risk land (woody vegetation)) and Maps 92 and 95 (highest erosion risk land (plantation forestry))
- Definitions
- Forestry provisions general opposition
- Other matters

25. This report addresses each of these key issues, as well as any other issues raised by submissions.

### **1.6 Pre-hearing Meetings**

26. There have been no pre-hearing meetings for this topic.

## 2.0 Statutory Considerations

27. The section 42A report of Ms O'Callahan for the Overarching Matters topic in Hearing Stream 1 sets out the statutory considerations for PC1 as a whole and this is not repeated here<sup>1</sup>. I briefly comment below on how the provisions within this topic give effect to national direction, specifically the National Policy Statement for Freshwater Management 2020 (**NPS-FM**).

### 2.1 National Policy Statement for Freshwater Management 2020

28. The National Policy Statement for Freshwater Management 2020 (**NPS-FM**) sets the direction for management of natural and physical resources to achieve healthy waterbodies and freshwater ecosystems. In doing so, it seeks to improve the management of freshwater quality and quantity in New Zealand. The core direction of the NPS-FM is that the health and wellbeing of waterbodies and freshwater ecosystems (applying to both freshwater quality and quantity) must be maintained (where it meets stated environmental outcomes) or improved over time (where it does not meet stated environmental outcomes).
29. The NPS-FM provides key direction for the objectives included in PC1 through the National Objectives Framework (**NOF**) guiding the steps to be undertaken. The NPS-FM also provides a mandatory requirement to include limits as rules in the plan in certain situations. Further detail about the NOF and the NPSFM can be found in Ms O'Callahan's s42A report for the 'Overarching Matters' topic in Hearing Stream 1<sup>2</sup>.
30. The NOF sets a framework of attributes representing components of water quality and allows communities to select the state ('band') to be targeted (known as target attribute states (**TAS**)). Council is not permitted to set TAS below the baseline state or below any specified national bottom line (**NBL**). Where water quality is below a TAS or an NBL, improvement is required. Clause 3.12 of the NPS-FM outlines that limits on resource use must be specified (as rules) to achieve the TAS and Clause 3.14 outlines how limits on resource use can be set.
31. The Council must implement the NOF in a way that reflects Te Mana o te Wai. The concept of Te Mana o te Wai recognises that protecting the health of freshwater protects the health and wellbeing of the wider environment. Included within this is a 'hierarchy of obligations' which prioritises:
- first, the health and wellbeing of water bodies and freshwater ecosystems
  - second, the health needs of people (such as drinking water)
  - third, the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.
32. Ensuring this hierarchy is applied to the management of natural and physical resources is the sole objective of the NPS-FM.
33. PC1 gives effect to the NPS-FM by (of relevance to this topic):

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<sup>1</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#), pages 2-9

<sup>2</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#) (section 2.2)

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- The relevant attribute state for this topic is suspended fine sediment, otherwise known as visual clarity. PC1 gives effect to the NPS-FM in Te Awarua-o-Porirua FMU (TAoP) through P.O1, P.O2, P.O3 and P.O4 and in Te Whanganui-a-Tara FMU (TWT); through WH.O1, WH.O2, WH.O3, WH.O8 and WH.O9; specifically tables prescribing the suspended fine sediment TASs for rivers in WH.P.O9 (Table 8.2 (TWT) and P.PO6 and Table 9.2 (TAoP).
  - Designing regulatory provisions that aim to achieve those TAS within the specified timeframes, either by themselves, or in conjunction with action plans (setting out non regulatory methods).
34. The discussion about the NPS-FM in Ms O'Callahan's s42A report for Overarching Matters topic in Hearing Stream 1<sup>3</sup> highlighted Central Government had announced intentions to amend the NPS-FM. More recent announcements from government indicate that a discussion document on an amended NPS-FM will be released in early 2025 but at the time of writing no discussion document has been released.
35. In October 2024 the Resource Management (Freshwater and Other Matters) Amendment Bill was passed which (amongst other things) prevented regional councils from notifying plans or plan changes to give effect to the NPS-FM until a new NPS-FM is published or 31 December 2025, whichever is sooner. This was aimed at ensuring new plans were developed to be consistent with whatever form the revised NPS-FM may take. As PC1 was notified prior to this change, the prohibition does not apply to it.

## 2.2 New Zealand Coastal Policy Statement 2010

36. The New Zealand Coastal Policy Statement 2010 (NZCPS) sets the national policy framework for the management of activities in the coastal environment and CMA. The NZCPS is relevant to this plan change, with objectives along with policies and rules of PC1 implementing NZCPS provisions seeking to manage sedimentation and water quality in the coastal environment. Of particular relevance, Policy 22 of the NZCPS requires subdivision, use, or development to not result in a significant increase in sedimentation in the coastal marine area, or other coastal water and to control the impacts of vegetation removal on sedimentation including the impacts of harvesting plantation forestry.
37. Further details on the appropriateness of the PC1 provisions in relation to the NZCPS direction are provided in Part C and Part D of the section 32 report.

## 2.3 National Environmental Standard for Freshwater

38. The Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) are regulations made under the RMA and which regulate certain activities that pose risks to freshwater and freshwater ecosystems. Anyone carrying out these activities will need to comply with the standards. Each of New Zealand's regional councils are responsible for the consenting and consent monitoring associated with these regulations. The latest version of the NES-F came into effect on 21 September 2023.

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<sup>3</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#) (paragraph 69)

## 2.4 Resource Management (National Environmental Standards for Commercial Forestry (NES-CF))

39. The Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023 (**NES-CF**) (formerly the Resource Management (National Environmental Standards for Plantation Forestry) Regulations 2017 (**NES-PF**)) regulate commercial forestry activities for both carbon and timber production (plantation) forests. The NES-CF is an updated set of regulations following amendments made in 2023 to the NES-PF. These amendments included requirements for exotic continuous-cover forests (permanent or carbon forests) that are deliberately established for commercial purposes and other changes, including management plans for replanting and afforestation and a new permitted activity standard for managing forestry slash at harvest.
40. PC1 proposes new provisions for forestry to reduce sediment from forestry sites entering freshwater. The PC1 provisions prevail over the NES-CF rules. Although PC1 was prepared and notified while the NES-PF was still in place, the Council anticipated that any amendments that may be required to align with the NES-CF could be managed through the submissions and decision-making process for PC1. As noted in the legal submissions in the Right of Reply for Hearing Stream 1<sup>4</sup>, based on the transitional clause in Regulation 4 of the NES-CF, references within the NRP and PC1 to the NES-PF need to be read as references to the NES-CF, unless the context provides otherwise.
41. The NES-CF allows regional plans to be more stringent than the NES-CF in certain circumstances. Namely, Regulation 6 of the NES-CF includes provision for the Council to make rules for forestry activities in regional plans more stringent than the NES-CF if the rule gives effect to an objective developed to give effect to the NPS-FM or policies 11, 13, 15 and 22 of the NZCPS; and/or the rule provides for protection of outstanding natural features or landscapes or significant natural areas
42. The NES-CF comprises a mix of rules and standards, the application of which depends on the erosion susceptibility classification (**ESC**) of the underlying land. The ESC is a spatial modelling tool based on a landscape assessment of erosion severity derived from a national land use capability classification and is a contributory component of an assessment of erosion risk<sup>5</sup>. There are four main ESC classes, which operate akin to a traffic light system. Land zoned 'green' (low) or 'yellow' (moderate) has a lower ESC and is subject to less planning restrictions, with land zoned 'orange' (high) or 'red' (very high risk) reserving a greater level of control to Council for soil conservation and water quality management.
43. There are four types of activity classifications in the NES-CF (Permitted, Controlled, Restricted Discretionary and Discretionary) which apply to a range of activities. It is noted only some of the activities in the NES-CF are managed by PC1. This includes afforestation, earthworks, harvesting, mechanical land preparation and vegetation clearance (in the context of forestry) and some of the ancillary activities and general provisions as listed in the note above WH.R20 and P.R19. Council itself has made submissions to make it clear that

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<sup>4</sup> <https://www.gw.govt.nz/assets/Plans-policies-bylaws/PNRP/Hearing-Documents/HS1/RoR/20241129-GWRC-legal-submissions-in-reply-HS1.pdf>

<sup>5</sup> Plantation Forestry Erosion Susceptibility Classification Risk assessment for the National Environmental Standards for Plantation Forestry MPI Technical – Paper No: 2017/47  
<https://www.mpi.govt.nz/dmsdocument/19340/direct>

replanting was meant to be included in the activities listed in the PC1 forestry rules. The merits of these submissions are assessed later in this report.

44. Permitted activities can occur provided the accompanying standards set out in the NES-CF are met. These include limits and controls on setbacks from freshwater bodies and the coastal marine area, areas of disturbance, and measures to limit sediment and slash and debris affecting downstream environments. Some of these standards are new or have recently been revised as part of the NES-CF. In most cases, the assessment of whether these standards are met can only be made once Council receives a notification of works commencing or as part of a compliance visit (either permitted activity monitoring, as part of a compliance visit or as part of investigating a complaint). The key management measures for activities undertaken under the NES-CF are the forest planning requirements or (forest management plans). Once a notification is received Council can request a copy of the relevant forest management plan which must be prepared in accordance with the information requirements set out in the relevant Schedule of the NES-CF (Afforestation or Replanting Plan (Schedule 3), Forestry Earthworks Management Plan (Schedule 4) or Harvest Plan (Schedule 6)). Council can review the management plans and may suggest amendments but there is no obligation for a landowner or forester to make those amendments and Council cannot delay the activity based on the appropriateness of the methods or control measures included in the plan. If the forest management plan includes the information prescribed by the relevant Schedule then the plan meets the permitted activity standards related to the management plans.
45. The standards and requirements of the NES-CF vary in their application on the different ESC classes for the eight types of forestry activities regulated. My understanding is that all land in TWT and TAoP subject to forestry activities is located on green, yellow and orange zoned land and therefore, does not require consent under the NES-CF, if the relevant standards can be met, noting there are more stringent standards for orange zoned land with a slope exceeding 25 degrees for earthworks and mechanical land preparation. Therefore, forestry in the respective Whaitua operates on a 'high-trust' model which relies on a forester adequately preparing management plans identifying and mitigating risks to aquatic ecosystems from sediment runoff and woody debris mobilisation after heavy rain. While the management plan(s) do not require approval or certification, Council can request a copy of the plan to monitor compliance with the plan and recover costs of monitoring and enforcement under Regulation 106 of the NES-CF. Cost recovery does not currently extend to monitoring of replanting, however.

## **2.5 National Planning Standards**

46. The National Planning Standards Gazetted in April 2019 mandate a structure and format for planning documents and consistent definitions for commonly used planning terms. Any new definitions required for PC1 were intended to be incorporated using definitions from the National Planning Standards where relevant to the scope of PC1 and where able to be used without extending the impact of any changed definitions to affect objectives, policies and rules outside the scope of PC1.

## 2.6 Regional Policy Statement for the Wellington Region 2013 (Operative)

47. The Regional Policy Statement for the Wellington Region 2013 (**RPS**) sets out the framework and priorities for resource management in the Wellington Region. The RMA requires regional councils to produce a RPS for their region and review it every 10 years. The RPS was made operative on 24 April 2013. The RPS identifies the regionally significant issues for the management of the region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods).

48. There are four provisions in the Operative RPS relevant to this topic:

- **Objective 29:** *land management practices do not accelerate soil erosion.*
- **Policy 15<sup>6</sup>:** *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.*
- **Policy 41** (consideration): *When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to controlling earthworks and vegetation disturbance to minimise:*
  - (a) erosion; and*
  - (b) silt and sediment runoff into water, or onto or into land that may enter water, so that healthy aquatic ecosystems are sustained.*
- **Policy 68** (non-regulatory): *To minimise soil erosion by encouraging sustainable land management practices and take a whole of catchment approach.*

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

49. Ms O'Callahan provided a summary of how the RPS and Proposed Change 1 to the RPS (**RPS Change 1**) relate to PC1 in her section 42A report for Overarching Matters in Hearing Stream 1<sup>7</sup>. Since that report was published, the Council has made decisions on RPS Change 1 and Ms O'Callahan has provided the Panel with a diagram of how PC1 gives effect to the RPS, including an indication of which provisions are beyond the point of legal challenge and those which are subject to appeal, in her Right of Reply<sup>8</sup> for Hearing Stream 1. That diagram has been updated to reflect that Council now has no appeals on the Freshwater Chapter provisions in RPS Change 1, as Wellington Water Ltd withdrew its appeal. Accordingly, freshwater provisions noted on the earlier version of this diagram are all now beyond challenge. An updated diagram was provided in Ms O'Callahan's section 42A report for the

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<sup>6</sup> Amended by Change 1 refer assessment on RPS Change 1

<sup>7</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#), paras 41-50

<sup>8</sup> [Tech Review of Right of reply.docx](#), page 8.

Objectives topic in Hearing Stream 2. I understand a Council decision to make the freshwater provisions of RPS Change 1 fully operative is pending.

50. The following provisions of RPS Change 1 are relevant to this topic (and regard needs to be had to these provisions under section 66(2) of the RMA):

- **Highly erodible land** (definition) *land at risk of severe mass-movement erosion (landslide, earthflow, and gully) if it does not have a protective cover of deep-rooted woody vegetation.*

- **Objective TWT: Long-term freshwater vision for Te Whanganui-a-Tara**

*By the year 2100 a state of wai ora is achieved for Te Whanganui-a-Tara in which the harbour, awa, wetlands, groundwater estuaries and coast are healthy, accessible, sustainable for future generations, and:*

*1. Mana Whenua practices and tikanga associated with Te Whanganui-a-Tara are revitalized and protected; and*

*2. Mahinga kai are abundant, healthy, diverse and can be safely gathered by Taranaki Whānui and Ngāti Toa Rangatira and served to Taranaki Whānui and Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and*

*3. Have mauri/mouri that is nurtured, strengthened and able to flourish and restored natural form and character, and ecosystems that support an abundance and diversity of indigenous species; and*

*4. Where appropriate, provide for safe access and healthy water quality for the use of all rivers, lakes, wetlands, estuaries, harbours, and the coast for a range of recreational activities including waka ama, swimming, and fishing, fostering an appreciation of and connection to these waterbodies; and*

*5. Are taken care of in partnership with Taranaki Whānui and Ngāti Toa Rangatira giving effect to the rights, values, aspirations and obligations of Ngāti Toa and Taranaki Whānui that respects the mana of Te Whanganui-a-Tara and the whakapapa connection with Taranaki Whānui and Ngāti Toa Rangatira; and*

*6. Are resilient to the impacts of climate change; and*

*7. The use of water and waterways provide for social and economic use benefits, provided that the vision for the ecological health and well-being of waterbodies, freshwater ecosystems and coastal waters is not compromised.*

- **Objective TAP: Long-term freshwater vision for Te Awarua-o-Porirua**

*Te Awarua-o-Porirua harbour, awa, wetlands, groundwater estuaries and coast are progressively improved to become healthy, wai ora, accessible, sustainable for future generations by the year 2100, and:*

*1. The values of Ngāti Toa Rangatira are upheld by way of revitalising and protecting Ngāti Toa Rangatira practices and tikanga associated with Te Awarua o Porirua; and*

*2. Mahinga kai are abundant, healthy, diverse and can be safely gathered by Ngāti Toa Rangatira and served to Ngāti Toa Rangatira uri and manuhiri to uphold manaakitanga; and*

3. Have restored and healthy ecosystems that support an abundance and diversity of indigenous species, and have natural form and character and energy that demonstrate *kei te ora te mauri* (the mauri of the place is intact); and

4. Where appropriate, provide for safe access and healthy water quality for people and communities to enjoy a range of recreational activities including *waka ama*, swimming, and fishing, fostering a strong connection to these waterbodies; and

5. Are taken care of in partnership with *Ngāti Toa Rangatira* giving effect to the rights, values, aspirations and obligations of *Ngāti Toa* as *kaitiaki* for the *mana* of *Te Awarua-o-Porirua* as a *taonga*; and

6. Are resilient to the impacts of climate change; and

7. The use of water and waterways provide for social and economic use benefits, provided that the vision for the ecological health and well-being of waterbodies, freshwater ecosystems and coastal waters is not compromised

- **Objective 12**

*The mana of the Region's waterbodies and freshwater ecosystems is restored and protected by ongoing management of land and water that:*

*(a) returns the Region's water bodies and freshwater ecosystems to, and thereafter maintains them, in a state of tūhauora/good health; and*

*(b) improves the health and wellbeing of the Region's degraded waterbodies and freshwater ecosystems; and*

*(c) applies the Te Mana o te Wai hierarchy of obligations by prioritising:*

*i. first, the health and wellbeing of waterbodies and freshwater ecosystems,*

*ii. second, the health needs of people*

*iii. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future; and*

*(d) recognises and provides for the individual natural characteristics and processes of waterbodies including their natural form, and their associated ecosystems; and*

*(e) incorporates and protects mātauranga Māori and acknowledges and provides for the connections and relationships of mana whenua / tangata whenua with freshwater; and*

*(f) provides for the ability of mana whenua / tangata whenua to safely undertake their cultural and spiritual practices associated with freshwater, including mahinga kai; and*

*(g) actively involves mana whenua / tangata whenua in decision-making in relation to the Region's waterbodies; and*

*(h) includes engagement with communities, stakeholders, and territorial authorities; and*

*(i) supports the wellbeing and safety of the community, by providing for the ability to carry out recreational activities, in and around freshwater environments; and*

*(j) supports and protects an abundance and diversity of freshwater habitats for indigenous freshwater species and, where appropriate, the habitat of trout and salmon; and*

*(k) supports the reasonable, sustainable and efficient use of water for activities that benefit the Region's economy, including primary production activities, innovation and tourism.*

- **Objective CC.5:** *By 2030, there is an increase in the area and health of permanent forest, preferably indigenous forest, in the Wellington Region, maximising benefits for carbon sequestration, indigenous biodiversity, land stability, water quality, and social, cultural and economic well-being.*

- **Policy CC.6:** *Regional plans shall include objectives, policies, rules and/or non-regulatory methods that support an increase in the area and health of permanent forest in the Wellington Region, maximising the benefits for carbon sequestration, indigenous biodiversity, land stability, water quality, and social, cultural and economic well-being, while:*

*(a) promoting and incentivising the planting or regeneration of permanent indigenous forest representative of the natural type expected in the area over exotic species, particularly on highly erodible land and in catchments where water quality targets for sediment are not reached; and*

*(b) avoiding plantation forestry on highly erodible land, particularly in catchments where water quality targets for sediment are not reached; and*

*(c) promoting and supporting the control of browsing pest animals in priority areas.*

- **Policy 15:** *Regional and district plans shall include policies, rules and/or methods to manage the effects of earthworks and vegetation clearance as follows:*

*(a) regional plans shall include policies, rules and/or methods that:*

*(i) control the effects of earthworks and vegetation clearance including through setbacks from wetlands and riparian margins, to achieve the target attribute states for water bodies and freshwater ecosystems, including receiving environments; and*

*(ii) in the absence of target attribute states, minimise silt and sediment runoff into freshwater and receiving environments, or onto land that may enter water; and*

*(iii) minimise erosion; and*

*(iv) manage sediment associated with earthworks except as specified in clause (b)iv.*

*(b) district plans shall include policies, rules and/or methods that:*

*(i) require urban development to follow existing land contours, to the extent practicable; and*

*(ii) minimise the extent and volume of earthworks required for urban development; and*

*(iii) require setbacks from waterbodies and other receiving environments for vegetation clearance and earthworks activities; and*

*(iv) manage sediment associated with earthworks less than 3000m<sup>2</sup>; and*

*(v) manage subdivision layout and design.*

- **Policy CC.18:** *Promote and support the planting and natural regeneration of permanent forest to maximise the benefits for carbon sequestration, indigenous biodiversity, erosion control, freshwater and coastal ecosystems, and the social, cultural, and economic well-being of local communities, including by:*

*(a) identifying where to promote and incentivise the planting and regeneration of permanent indigenous forest representative of the natural type expected in the area in preference to exotic species; and*

*(b) prioritising planting and regeneration of permanent indigenous forest and associated browsing pest animal control on highly erodible land and in catchments where water quality targets for sediment are not reached and in areas where it will support significant indigenous biodiversity values.*

- **Method CC.4:** *By December 2024, prepare a regional forest spatial plan, using a partnership approach with mana whenua / tangata whenua and other key stakeholders, as appropriate, to identify where to promote and support planting and natural regeneration of permanent forest and associated browsing pest animal control, to give effect to Objective CC.5 and contribute to achieving water quality targets for sediment, to inform the requirements of Policy CC.6. This plan to include:*

*(a) a target for an increase in permanent forest extent in the Wellington Region to support achieving Objective CC.5; and*

*(b) evaluation of the potential impacts of increased afforestation on rural production and social well-being, and development of an approach that will maximise the environmental, social, and economic benefits; and*

*(c) ways to implement and support capability for increasing the area of indigenous forest, including the provision of incentives; and*

*(d) identification of the types of indigenous forest to prioritise for reforestation, including links to the strategic indigenous biodiversity targets and priorities identified through Policy IE.3 and Method IE.3; and*

*(e) use of high-resolution spatial data to support identification of areas appropriate for permanent forest or plantation forestry, site-appropriate indigenous forests and other planting types; and*

*(f) a process to monitor and report on changes in the extent and health of permanent forest.*

51. I acknowledge the definition of highly erodible land and clause (b) of Policy CC.6 have been appealed by Wairarapa Federated Farmers (WFF), who seek deletion of both clause (b) of Policy CC.6 and the definition of highly erodible land. The implications of this definition and clause (b) of Policy CC.6 are described throughout this report. Mediation dates for this appeal are currently being set.

## **2.8 Approach to identifying the freshwater planning instrument**

52. The approach to identifying the freshwater planning instrument is described in paragraphs 51-53 of Ms O'Callahan's s42A report for the Overarching Matters topic in Hearing Stream 1.

## **2.9 Section 32AA**

53. I have undertaken an evaluation of my recommended amendments to provisions since the initial section 32 evaluation was undertaken in accordance with section 32AA of the RMA.

54. The required section 32AA evaluation for changes proposed as a result of consideration of submissions with respect to this topic is set out in Appendix 4.

55. The section 32AA further evaluation contains a level of detail that corresponds to the scale and significance of the anticipated effects of the amendments that have been recommended in this report. Recommendations on editorial, minor and consequential changes that improve the effectiveness of provisions without changing the policy approach or intent are not re-evaluated.

## **2.10 Trade Competition**

56. Trade competition is not considered relevant to this topic within PC1. There are no known trade competition issues raised within the submissions.

# **3.0 Consideration of Submissions and Further Submissions**

## **3.1 Report Structure**

57. The issues raised in submissions are addressed by sub-issues within this report. Some submissions cross several sub-issues and are therefore addressed under more than one sub-issue heading. Appendix 2 provides a description of the matters raised for each issue in table format, along with the relevant submission point references.

58. The RMA allows the Hearing Panels to address submissions by grouping them either by the provisions to which they relate, or the matters to which they relate.<sup>9</sup> On this basis, I have undertaken my analysis and evaluation on an issues and provisions-based approach, rather than a submission-by-submission approach.

59. A number of submissions also include suggestions or opinions in relation to the implementation of provisions, including how the provisions are enforced and integration with other agencies. These submissions are acknowledged. However, I consider these are more suggestions for the Council to action following decisions on PC1 rather than an issue relating to the provisions themselves. Accordingly, I do not provide any further analysis on these points.

60. This report should be read in conjunction with the submissions and the summary of those submissions as published on the Council's website<sup>10</sup>. Appendix 5 includes a table setting

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<sup>9</sup> Clause 49(4)(c) of Schedule 1, Part 4 of the RMA for the Freshwater Hearings Panel and Clause 10(3) of Schedule 1, Part 1 of the RMA for the P1S1 Hearings Panel.

<sup>10</sup> [Greater Wellington — Proposed Change 1 to the Natural Resources Plan Submissions \(gw.govt.nz\)](#)

out all submission points relevant to this hearing topic. In that table I have identified whether I recommend accepting/accepting in part or rejecting the relief sought by submitters or make no recommendation. My reasons for these recommendations are explained in the body of this report.

### 3.2 Issue 1: Categorisation of Provisions to the Freshwater Planning Process

#### 3.2.1 Analysis

61. At the time of notification of PC1, section 80A of the RMA provided the relevant tests for determining which parts of PC1 should form part of the FPI. While an amendment to section 80A(4)(b) was made post notification of PC1,<sup>11</sup> and a further amendment to section 80A was then made through the insertion of section 80A(4A),<sup>12</sup> those amendments do not have retrospective effect to PC1. Regardless, the amendment to section 80A(4)(b) of the RMA related to the date by which the Council was to notify a freshwater planning instrument to give effect to the NPS-FM 2020 (a change from 31 December 2024 to 31 December 2027) and the addition of section 80A(4A) prevented new freshwater planning instruments being notified, as opposed to the content of an FPI or categorisation of provisions.
62. I have not considered the amended version of section 80A as part of this assessment, and instead have assessed the relevant FPI provisions against the version of section 80A as it was when PC1 was notified.
63. Section 80A of the RMA provided that:
- regional coastal plan provisions are not part of a freshwater planning instrument (section 80A(8));
  - any part of PC1 that relates to objectives that give effect to the NPS-FM 2020 are part of a freshwater planning instrument (sections 80A(2)(d)(i) and 80A(6B)(a));
  - any part of PC1 which relates to freshwater, where the Council has decided to use the freshwater planning process is part of a freshwater planning instrument (section 80A(2)(d)(ii)); and
  - a proposed regional plan relates to freshwater if (section 80A(6A)):
    - i. it relates (in whole or in part) to an objective of the NRP or the RPS; and
    - ii. the objective relates to the performance of a function in section 30(1)(c), (e), (f), (fa), (g) or (ga).
64. The process the Council followed in determining which provisions should be notified as part of the FPI and which provisions should be part of the P1S1 process is set out in section 6.1 of the Section 32 report that was prepared in support of PC1<sup>13</sup>.
65. I note the submission of Winstone Aggregates<sup>14</sup> raises concern with provisions in PC1 being subject to the FPP where freshwater is only a peripheral issue to which the provision relates. This submission has been assigned to all of the topics in PC1. The submitter considers this

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<sup>11</sup> Section 80A(4)(b) was amended on 12 December 2023 by section 6 of the Resource Management (Natural and Built Environment and Spatial Planning Repeal and Interim Fast-track Consenting) Act 2023.

<sup>12</sup> Resource Management (Freshwater and Other Matters) Amendment Act 2024, section 21(2),

<sup>13</sup> [Proposed-Plan-Change-1-Section-32-report.pdf \(gw.govt.nz\), from page 22.](#)

<sup>14</sup> Winstone Aggregates [S206.022]

scenario represents an inappropriate use of the FPP, resulting in restricted appeal rights. A number of other submitters express similar concerns in the context of the provisions in this topic. These are summarised as follows:

- Transpower<sup>15</sup>, Horokiwi Quarries<sup>16</sup> and Winstone Aggregates<sup>17</sup> oppose Rules WH.R17-WH.R19 and P.R16-P.R18 and Schedule 33 being subject to FPP, as these submitters consider the provisions relate to erosion and soil conservation rather than specifically freshwater. Winstone Aggregates also oppose the definitions of highest erosion risk land (woody vegetation) and highest erosion risk land (plantation forestry) being allocated to the FPP.
- Ara Poutama<sup>18</sup> notes inappropriate use of the FPP for vegetation clearance provisions and considers the principal purpose of these provisions is to control the use of land for the purpose of soil conservation and that none of these rules manage discharges to freshwater. Ara Poutama also opposes Schedule 33 and 34 being included within the FPI, as the purpose of the Schedules is to manage land use for the purposes of soil conservation and seeks these schedules be reallocated to P1S1.
- Guildford Timber, Silverstream Forest and Goodwin Estate<sup>19</sup> consider it is unclear how plantation (commercial) forestry activities in line with the NES-CF are allocated to the FPP and notes the definition of Afforestation, Harvesting, Mechanical land preparation, Replanting, Vegetation Clearance (for the purpose of the plantation (commercial) forestry rules), that all come from the NES-CF have been allocated to the FPP. The submitters' view is the primary aim of these regulations is forestry not freshwater. The submitter challenges the allocation of Policy WH.P28; Rules WH.R20, WH.R21 and WH.R22 controlling plantation (commercial) forestry and Rules WH.R17, WH.R18 and WH.R19 relating to vegetation clearance being allocated to the FPP process.
- NZCF<sup>20</sup> notes the majority of PC1 provisions part of a freshwater planning instrument and given the s32 reports the primary intent of the provisions is to

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<sup>15</sup> Transpower [S177.038] (supported in part by Meridian [FS47.228], opposed by Forest & Bird [FS23.781]); [S177.039] (opposed in part by Meridian [FS47.237], opposed by Forest & Bird [FS23.782]); [S177.040] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.026], opposed by Forest & Bird [FS23.783]); [S177.064] (supported in part by Meridian [FS47.366], opposed by Forest & Bird [FS23.807]); [S177.065] (opposed in part by Meridian [FS47.375], opposed by Forest & Bird [FS23.808]); [S177.066] (opposed by Forest & Bird [FS23.809]) and [S177.076] (opposed by Forest & Bird [FS23.819])

<sup>16</sup> Horokiwi Quarries [S2.034] (supported in part by Meridian [FS47.227]); [S2.035]; Horokiwi Quarries [S2.036] and Quarries [S2.042]

<sup>17</sup> Winstone Aggregates [S206.056] (supported in part by Meridian [FS47.230]); Winstone Aggregates [S206.057] (supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.022], opposed by Meridian [FS47.239]); [S206.058] (supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.023]); [S206.084] (supported in part by Meridian [FS47.368]); [S206.085] (opposed by Meridian [FS47.377]); [S206.086] and [S206.092]; and [S206.027] (supported by Meridian [FS47.123]); [S206.025] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.019])

<sup>18</sup> Ara Poutama [S248.006]; [S248.075] and [S248.078]

<sup>19</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.004]; [S210.048] (supported by NZCF [FS50.072]) and [S210.049] (supported by NZCF [FS50.073])

<sup>20</sup> NZCF [S263.002] (opposed by Forest & Bird [FS23.373])

manage a land use activity, NZCF considers PC1 draws a longbow in determining scope of the freshwater planning instrument and is concerned using a freshwater planning instrument to address land use activities inappropriately affects the procedural rights of the submitter. NZCF also notes PC1 including the Section 32 Report, does not explicitly identify the Objective that gives rise to the provisions being a freshwater planning instrument.

66. I have assessed each provision addressed by this report according to the tests that were applied to categorise each provision in PC1 to either the FPP or to the P1S1 process at the time of notification, consistent with the Council's understanding of section 80A at the time.
67. The result of my assessment is provided in Appendix 3. In summary, I agree with the categorisation of the PC1 vegetation clearance and forestry provisions and supporting definitions and maps to the FPP undertaken when PC1 was notified.

### **3.2.2 Recommendations**

68. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

## **Vegetation clearance**

69. A total of 149 submissions and 211 further submissions were received on the vegetation clearance provisions, WH.R17-WH.R19, P.R16-P.R18 and Schedule 33 in PC1.

### **3.3 Issue 2: Vegetation clearance rules general comments**

#### **3.3.1 Analysis**

##### General comments

70. I acknowledge the submission of Transpower<sup>21</sup> seeking amendments to avoid revegetation underneath or near to national grid transmission lines and support structures and specific reference to Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009) (**NESETA**) at the start of the chapter to highlight NESETA regulations to plan users. This matter is addressed in the s42A report of Ms O'Callahan in the Overarching Matters topic for Hearing Stream 1<sup>22</sup> and I accept in part this submission insofar as it relates to revegetation under or near National Grid transmission lines and referencing the NESETA. Transpower also questions the appropriateness of the mapping used to identify where resource consent is required for vegetation clearance, noting mapping includes small and incohesive areas of vegetation, and questions the efficiency or effectiveness of regulating these, and considers the maps should be amended to only identify cohesive areas of vegetation being subject to rules. Transpower's concerns about revegetation near the national grid and the mapping are included in Transpower's submissions on specific provisions and are addressed in the analysis of those provisions later in this report so will not be repeated here.

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<sup>21</sup> Transpower [S177.006] (opposed by Forest & Bird [FS23.749])

<sup>22</sup> Section-42A-Hearing-Report-Overarching-Matters.pdf (paragraph 201)

71. In response to Woodridge<sup>23</sup> who requests rules across the Whaitua chapters be combined, Ms O'Callahan explained in her s42A for the Overarching Matters topic in Hearing Stream 1<sup>24</sup> how the NRP has been structured in such a way that each Whaitua has a standalone chapter and this has been the case since the PNRP was notified in 2015. This approach is consistent with the 'Regional Plan Structure Standard' of the National Planning Standards, which requires separate chapters for FMUs and catchments. While the provisions in the two chapters are generally the same or similar at a policy and rule level, the objectives are different. From a plan user perspective, I agree with Ms O'Callahan and consider it would be confusing to have combined policies and rules, but different objectives for each of the Whaitua. I therefore recommend these submissions be rejected.
72. I note Ms O'Callahan in her s42A report for the Ecosystem Health Policies topic<sup>25</sup> recommended deleting Policies WH.P2 and P.P2 and these were the only policies in PC1 that applied to vegetation clearance. However, having reviewed the Plan, this does not create a policy gap as Policy P107 of the NRP is not included in PC1 as a policy that will no longer apply to these Whaitua and therefore Policy P107 will continue to provide policy direction for vegetation clearance activities when consent is required.

### **3.4 Issue 3: Rule WH.R17 and Rule P.R16 (Vegetation clearance on highest erosion risk land – permitted activity)**

73. A total of 36 submissions and 56 further submissions were received on Rules WH.R17 and P.R16.
74. The intent of Rules WH.R17 and P.R16 is to outline the vegetation clearance activities that could be undertaken without a resource consent. This is limited to vegetation clearance that is required to implement an action in the erosion risk treatment plan for the farm or for the control of pest plants. In both situations there were no area restrictions. The only condition is that debris from the vegetation clearance was not to be placed where it could enter a surface water body.

#### **3.4.1 Analysis**

75. I note that Guildford Timber Company, Silverstream Forest and Goodwin Estate's support for Rule WH.R17 is subject to better mapping, and Horokiwi Quarries<sup>26</sup>, Winstone Aggregates<sup>27</sup>, Transpower<sup>28</sup> and Best Farm & Others<sup>29</sup> seek deletion or amendments to the mapping and classification of erosion risk land to which PC1 vegetation clearance rules apply. Similarly, Louise Askin<sup>30</sup> in a submission on WH.R17 considers farm-scale assessments of highest risk land be used rather than current Whaitua-wide mapping.

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<sup>23</sup> Woodridge [S255.066]; [S255.067] and [S255.068]

<sup>24</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#) (paragraphs 123 and 124)

<sup>25</sup> [S42A ecosystem health policies - Appendix 4 - Recommended Amendments and S32AA.docx](#)

<sup>26</sup> Horokiwi Quarries [S2.034] (supported in part by Meridian [FS47.227])

<sup>27</sup> Winstone Aggregates [S206.056] (supported in part by Meridian [FS47.230]) and [S206.084] (supported in part by Meridian [FS47.368])

<sup>28</sup> Transpower [S177.038] (supported in part by Meridian [FS47.228], opposed by Forest & Bird [FS23.781]) and [S177.064] (supported in part by Meridian [FS47.366], opposed by Forest & Bird [FS23.807])

<sup>29</sup> Best Farm & Others [S254.017] (supported by Meridian [FS47.370])

<sup>30</sup> Louise Askin [S9.023]

76. In response to concerns about the erosion risk mapping used in PC1, relying on the Statement of Evidence of Mr Nation, I am concerned about the PC1 vegetation clearance rules being tied to land identified as highest erosion risk (woody vegetation). I understand highest erosion risk land mapping in PC1 has been based on a 'relative risk' approach where the top 10th percentile of erosion risk land per land use category used in PC1 (e.g. pasture, woody vegetation, forestry) in each Whaitua has been mapped. However, adopting this relative risk approach means that, as land uses change, land that is not currently identified as being in that top 10th percentile (shown in the highest erosion risk (woody vegetation) map) could be if the mapping was redone after the land use change. For example, if a 10 ha parcel of land changes from 'woody vegetation' to pasture or is converted to urban development then 10 ha of land in woody vegetation with a lower risk of erosion (not currently mapped as highest erosion risk (woody vegetation)) might now be identified as being 'highest erosion risk' without the actual risk of erosion from that land having changed.
77. I also acknowledge concerns from submitters about the accuracy and pixelation of the erosion risk mapping in PC1. The limitations in the mapping are addressed in the Statement of Evidence of Mr Nation<sup>31</sup>. These limitations result in considerable overlap between the pasture layer and woody vegetation layers in places (i.e. areas that should be woody vegetation are shown as pasture and vice versa).
78. For these reasons, in my opinion the highest erosion risk mapping used in PC1 is not suitable for making policy decisions which control or restrict land use activities. I consider the definition of erosion prone land (defined as 'land with a pre-existing slope of 20 degrees') used in the NRP to be more certain for plan users and recommend this definition is retained for the vegetation clearance rules in PC1, including Rules WH.R17 and P.R16. Accordingly, I am also recommending the deletion of the highest erosion risk (woody vegetation) definition as outlined in paragraph 300. I consider these recommended amendments respond at least partially to the relief sought by these submitters and therefore recommend these submissions be accepted in part, noting that the relief sought by some of these submitters is broader than just this matter.
79. Ian Stewart<sup>32</sup> considers controls on vegetation clearance should be left to district plans and seeks that Rule WH.R17 be deleted. I disagree, noting district and regional councils have different functions under sections 30 and 31 of the RMA respectively. Vegetation clearance rules under district plans manage effects on terrestrial ecology and landscape and amenity values while vegetation clearance rules in regional plans are related to soil erosion, stability and the soil-water interface (impacts on water quality). The operative NRP has rules related to vegetation clearance on erosion prone land and Policy 15 of RPS Change 1 requires Council to include policies, rules and methods to control the effects of vegetation clearance to achieve the TAS for freshwater environments in regional plans. I consider it appropriate that risks associated with erosion and sediment linked to vegetation clearance activities are regulated by the Council and recommend this submission be rejected.

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<sup>31</sup> Paragraphs 24-30 of Mr Nation's Statement of Evidence

<sup>32</sup> Ian Stewart [S32.009]

**Plan Change 1 to the Natural Resources Plan for the Wellington Region**

**Hearing Steam: 3**

**Officer's Report: Vegetation clearance and forestry**

80. Forest Enterprises<sup>33</sup>, PF Olsen<sup>34</sup> and CFG<sup>35</sup> generally oppose rules WH.R17 and P.R16 on the basis they are inconsistent with the NES-CF. My understanding is that the vegetation clearance rules in PC1 are not intended to align with the NES-CF requirements; rather the vegetation clearance rules (WH.R17-R19 and P.R16-R18) are intended to cover vegetation clearance **not** associated with forestry, where the NES-CF does not apply, which includes clearance of vegetation prior to afforestation (this is specifically excluded from the NES-CF by Regulation 5(3) and the definition of afforestation in the NES-CF). Vegetation clearance associated with forestry (e.g. clearance as part of harvesting or clearance associated with creation of roading and establishment of infrastructure to support forestry activity) was intended to be covered by the relevant forestry rules (WH.R20-R21 and P.R19-20). The definition “vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)” was added to PC1 in an attempt to make it clear which vegetation clearance activity applied to each set of provisions. Forest Enterprises seek no relief and therefore I provide no recommendation. I recommend the submissions of PF Olsen and CFG be rejected as there is no need to align these rules with the requirements of the NES-CF.
81. I note the submission of Mangaroa Farms<sup>36</sup> to retain Rule WH.R17 as notified or to be actively involved in any changes that would result in a more restrictive framework. I recommend accepting this submission in part on the basis that I am recommending amendments to PC1 but they will not be more restrictive than PC1 as notified.
82. Yvonne Weeber<sup>37</sup> seeks amendments to address concerns related to slash and debris causing flooding in storm events. I am unclear as to what amendments the submitter is seeking and note the recommended amendments which largely reinstate the NRP rules do not include additional consideration of slash or debris. I therefore recommend these submissions be rejected at this time.
83. The remaining submissions on Rules WH.R17 and P.R16 largely relate to the lack of clarity around the nature of the activities the rules apply to, the threshold for vegetation clearance as a permitted activity, how the area of vegetation clearance is calculated and the scope of these rules in terms of the receiving environments they are intended to protect. I address these submissions and the relief sought by these submitters in turn.

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<sup>33</sup> Forest Enterprises [S111.010] and [S111.016] (supported by Pukerua Holdings [FS30.060])

<sup>34</sup> PF Olsen [S18.032] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.059]) and [S18.058]

<sup>35</sup> CFG [S288.066] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.111], opposed by Forest & Bird [FS23.090]) and [S288.110] (opposed by Forest & Bird [FS23.134])

<sup>36</sup> Mangaroa Farms [S194.014]

<sup>37</sup> Yvonne Weeber [S183.240] (supported by MPHRCI [FS27.240]) and [S183.322] (supported by MPHRCI [FS27.322])

**Plan Change 1 to the Natural Resources Plan for the Wellington Region**

**Hearing Stream: 3**

**Officer's Report: Vegetation clearance and forestry**

84. Ara Poutama<sup>38</sup>, Transpower<sup>39</sup>, Horokiwi Quarries<sup>40</sup>, Winstone Aggregates<sup>41</sup>, Cannon Point<sup>42</sup>, Kāinga Ora<sup>43</sup> and Forest & Bird<sup>44</sup> seek changes to rules WH.R17 and/or P.R16 to provide a clear threshold for vegetation clearance that can occur as a permitted activity and to avoid vegetation clearance less than that threshold becoming an innominate activity (activity without a specific rule) and therefore discretionary. Transpower also consider that it is unclear how the area of vegetation clearance is to be calculated. Based on Rules WH.R18 and P.R17 requiring vegetation clearance over 200m<sup>2</sup> to be considered a controlled activity, some of these submitters have assessed that WH.R17 and P.R16 allows for vegetation clearance up to 200m<sup>2</sup> as a permitted activity and if this is the case Winstone Aggregates, Cannon Point and Best Farm & Others<sup>45</sup> consider the threshold of 200m<sup>2</sup> is too low.
85. In response to concerns about the area threshold that applies to WH.R17 and P.R16, my understanding from Council officers is that the intent of these rules was that vegetation clearance associated with implementing an action in an erosion risk treatment plan for the farm or for pest plant control were to have no area restrictions applied to them. This was because of the generally small scale of these activities and the benefits of clearance in these circumstances being seen to outweigh the potential adverse effects of the vegetation clearance. I also understand the intent of making vegetation clearance to implement an action in the erosion risk treatment plan for the farm a permitted activity in PC1 was to mirror Rule R105 of the NRP, which provided for vegetation clearance as a permitted activity where it was expressly allowed by a certified Freshwater Farm Plan under s217G of the RMA, in recognition that Freshwater Farm Plans may take a different form in future. Subject to my recommended amendments to Rules WH.R17 and P.R16, to clarify the situations in which no restriction on the area of vegetation clearance for pest plant control would be appropriate, I agree with the intent of having no area restriction for these activities. My recommended amendments make it clear what activities are covered by the permitted activity rules and the area thresholds that apply and therefore I recommend these submissions be accepted in part. Concerns about the appropriateness of the vegetation clearance thresholds for activities that do not fall within the scope of the permitted activity rules are discussed in my analysis on Rules WH.R18 and P.R17.

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<sup>38</sup> Ara Poutama [S248.011]

<sup>39</sup> Transpower [S177.038] (supported in part by Meridian [FS47.228], opposed by Forest & Bird [FS23.781]) and [S177.064] (supported in part by Meridian [FS47.366], opposed by Forest & Bird [FS23.807])

<sup>40</sup> Horokiwi Quarries [S2.034] (supported in part by Meridian [FS47.227])

<sup>41</sup> Winstone Aggregates [S206.056] (supported in part by Meridian [FS47.230]) and [S206.084] (supported in part by Meridian [FS47.368])

<sup>42</sup> Cannon Point [S260.013] (supported in part by Meridian [FS47.233], opposed by Forest & Bird [FS23.016])

<sup>43</sup> Kāinga Ora [S257.034] (supported by Meridian [FS47.232]) and [S257.062] (supported by Meridian [FS47.371])

<sup>44</sup> Forest & Bird [S261.110] (supported by MPHRCI [FS27.729], opposed in part by Meridian [FS47.234] and Transpower [FS20.030], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.040], Hort NZ [FS1.049], NZFFA [FS9.437], and Winstone Aggregates [FS8.023]) and [S261.187] (supported by MPHRCI [FS27.806], opposed in part by Meridian [FS47.372], Transpower [FS20.047], opposed by Hort NZ [FS1.072] and NZFFA [FS9.514])

<sup>45</sup> Best Farm & Others [S254.017] (supported by Meridian [FS47.370])

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86. Hannah Bridget Gray (No2) Trust<sup>46</sup>, Pāuatahanui Residents Association<sup>47</sup>, Jo McReady<sup>48</sup> and Christine Stanley<sup>49</sup> request a definition for pest plants in Rule P.R16. I acknowledge the concern of these submitters and agree that a definition for pest plants is helpful to support implementation. I recommend amendments that describe pest plants are those plants listed in Table 1 and Appendix 2 of the Greater Wellington Regional Pest Management Plan 2019-2039<sup>50</sup> within the rule itself. I note submissions requesting a definition for pest plants only apply to P.R16 (and not WH.R17), however for consistency across the plan, given the same rules and activities apply in both Whaitua I consider this change should apply to both rules. Both rules were notified under the FPP so the Panel is not bound by the scope of submissions and the change is largely consequential and therefore I recommend the same amendments apply to WH.R17 and these submissions be accepted.
87. Four submitters seek provision for specific activities as permitted:
- Transpower<sup>51</sup> seek exclusions for vegetation clearance for the purposes of operating or maintaining the National Grid
  - Cannon Point<sup>52</sup> seek provision for vegetation clearance for track maintenance
  - PCC<sup>53</sup> seek amendments to provide for creation or maintenance of fire breaks
  - NZTA<sup>54</sup> seek exclusions for vegetation clearance associated with maintenance of a transport network
88. In response to Transpower, while I acknowledge that in most cases to support the National Grid, vegetation clearance will have broader benefits which require recognition, the clearance still has the potential to generate sediment and related effects on water quality. In my opinion it would be inconsistent with the objectives of PC1 and the NPS-FM, which are focused on maintaining or improving water quality, to make vegetation clearance associated with the national grid permitted on the basis of the activity itself. This same reasoning applies to creation or maintenance of firebreaks sought by PCC. I consider vegetation clearance required for these activities should be subject to consideration as to their appropriateness in terms of location and management of sediment as part of a resource consent process where they are unable to meet the permitted activity conditions. I therefore recommend the submission from PCC be rejected and the submission from Transpower be accepted in part, on the basis the relief sought is broader than just this matter. In response to the submissions from Cannon Point and NZTA, I note the definition of vegetation clearance in the NRP (which also applies to PC1) excludes vegetation clearance associated with the repair and maintenance of existing roads and tracks. There are no changes proposed to this definition and therefore these same exemptions apply to the vegetation clearance rules in PC1.

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<sup>46</sup> Hannah Bridget Gray (No2) Trust [S105.017]

<sup>47</sup> Pāuatahanui Residents Association [S16.011]

<sup>48</sup> Jo McReady [S94.010]

<sup>49</sup> Christine Stanley [S26.017]

<sup>50</sup> [Greater Wellington — Regional Pest Management Plan](#)

<sup>51</sup> Transpower [S177.038] (supported in part by Meridian [FS47.228], opposed by Forest & Bird [FS23.781]) and [S177.064] (supported in part by Meridian [FS47.366], opposed by Forest & Bird [FS23.807])

<sup>52</sup> Cannon Point [S260.013] (supported in part by Meridian [FS47.233], opposed by Forest & Bird [FS23.016])

<sup>53</sup> PCC [S240.074] (supported by WCC [FS36.017], opposed by NZFFA [FS9.171])

<sup>54</sup> NZTA [S275.027] (supported by Meridian [FS47.235], opposed by Forest & Bird [FS23.721]) and [S275.029] (supported by Meridian [FS47.373], opposed by Forest & Bird [FS23.723])

Accordingly, I recommend the submissions from NZTA be rejected and the submissions from Cannot Point be accepted in part insofar as they relate to track maintenance.

89. Forest & Bird<sup>55</sup> request additional standards such as setbacks, an area restriction for removal of pest plants and reference to ephemeral watercourses and the coastal marine area in Rules WH.R17 and P.R16. I agree with further submissions<sup>56</sup> opposing this relief on the basis ephemeral watercourses are typically not mapped and are difficult to clearly define and classify, which will introduce uncertainty to the scope and spatial application of the rules for plan users. However, my recommended amendments in response to submissions on WH.R18 and P.R17 will result in setbacks and reference to the coastal marine area being included in the revised permitted activity rules, consistent with the NRP rules for vegetation clearance.
90. In response to Forest & Bird's request for an area restriction on removal of pest plants because their removal also generates sediment, I agree that pest plant removal might not always justify an unrestricted area of clearance and recommend amendments to Rules WH.R17 and P.R16 to clarify the situations in which no area limit will apply to pest plant removal. Pest plant removal in all other situations will need to comply with the relevant standards in Rules WH.R17/P.R16 as relevant. I also acknowledge the further submission from Hort NZ seeking amendments to recognise that vegetation clearance may be required to remove material infected by unwanted organisms as declared by the Ministry of Primary Industries Chief Technical Officer or an emergency declared by the Minister under the Biosecurity Act 1993. After reviewing these submissions, I recommend amendments to include provision for removal of harmful organisms (in limited circumstances) in the scope of the permitted activity rules which responds to the relief sought by Hort NZ. These amendments have been proposed for the following reasons:
- From my understanding, rural landholders can face obligations to manage pest plants under Regional Pest Strategies which are prepared under the Biosecurity Act 1993 and can receive Notices of Direction under that Act to manage pest plants. Notices of Direction are issued by regional councils and there is a legal obligation to comply.
  - In relation to the further submission from Hort NZ, I also understand that a person can receive a Notice of Direction to remove unwanted organisms, the difference being this direction would come from the Ministry for Primary Industries (MPI) not the Council. The most appropriate method of compliance and the timing for compliance with any Notice of Direction will depend on the circumstances in each case, including the nature of the biosecurity incursion. If a person is required to obtain a consent before they can give effect to that direction, the person may find themselves in the position of having to breach their legal obligations under one statute (Biosecurity Act) to comply with another (RMA). In my opinion, any pest or biosecurity incursions that risk affecting primary production activities must be able

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<sup>55</sup> Forest & Bird [S261.110] (supported by MPHRCI [FS27.729], opposed in part by Meridian [FS47.234], Transpower [FS20.030], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.040], Hort NZ [FS1.049], NZFFA [FS9.437], and Winstone Aggregates [FS8.023]) and [S261.187] (supported by MPHRCI [FS27.806], opposed in part by Meridian [FS47.372], Transpower [FS20.047], opposed by Hort NZ [FS1.072] and NZFFA [FS9.514])

<sup>56</sup> Winstone Aggregates [FS8.023]; Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.040] and Transpower [FS20.030] and [FS20.047]

to be managed with a rapid response to quickly and efficiently contain the spread and eliminate the incursion. I therefore recommend limiting the vegetation clearance activities to which no area limit applies to those where the removal of pest plants or plants and plant material infected by unwanted organisms has been directed by a person authorised under the Biosecurity Act 1993, as in my opinion this would reflect a situation serious enough to warrant a rapid response. Where removal of pest plants is not part of such direction the permitted activity standards in relation to area would apply. I also note that in extreme cases, such as emergency situations as declared by the Governor-General on the recommendation of a Minister of the Crown (s144 Biosecurity Act), the Biosecurity Act 1993 provides a Minister of the Crown with an exemption from RMA provisions for up to 20 working days (s7A) and for up to 2 years (s7D).

91. Accordingly, I recommend the submissions from Forest & Bird and all further submissions on this matter be accepted in part because the amendments I have recommended at least partially achieve the relief sought.
92. EDS<sup>57</sup> seek controlled activity status or amendments to permitted activity standards to avoid sedimentation of receiving waterbodies and the coastal marine area. It is unclear what specific amendments to the standards the submitter is seeking, and the submitter has not provided any evidence to support their request for controlled activity status. However, I have recommended amendments to Rules WH.R17 and P.R16, which now include standards requiring consideration of effects on the coastal marine area and setbacks from surface water bodies, which partially responds to the relief sought, and therefore, I recommend the submission from EDS be accepted in part.
93. WFF<sup>58</sup> seek deletion of Rules WH.R17 and P.R16 so that the approach is consistent with that for freshwater farm plans. It is not clear to me what relief the submitter is seeking but I note that WFF seek WH.R17 and P.R16 be deleted and that they seek the operative NRP rules be retained in all other submissions on the vegetation clearance rules (as per their relief sought on WH.R18, P.R17 and WH.R19 and P.R18). Recommended amendments to WH.R17 and P.R16 will result in the operative NRP rules largely being reinstated through PC1 and therefore I recommend this submission be accepted in part.
94. I acknowledge the submissions from KiwiRail<sup>59</sup> and Taranaki Whānui<sup>60</sup> who generally support Rule WH.R17 and/or P.R16. KiwiRail and Taranaki Whānui seek Rule P.R16 and Rule WH.R17 be retained as notified respectively. As I am recommending substantive amendments to Rules WH.R17 and P.R16 I recommend these submissions be rejected.

### **3.4.2 Recommendations**

95. I recommend that Rules WH.R17 and P.R16 be amended as shown in Appendix 4.

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<sup>57</sup> EDS [S222.057] (supported by Forest & Bird [FS23.213], MPHRCI [FS27.949], opposed by Meridian [FS47.231], NZFFA [FS9.238], Transpower [FS20.007], Winstone Aggregates [FS8.016]) and [S222.099] (supported by Forest & Bird [FS23.255], MPHRCI [FS27.991], opposed by Meridian [FS47.369], NZFFA [FS9.280], Transpower [FS20.014])

<sup>58</sup> WFF [S193.094] (supported in part by Meridian [FS47.229], opposed by Forest & Bird [FS23.1050]) and [S193.143] (supported in part by Meridian [FS47.367], opposed by Forest & Bird [FS23.1099])

<sup>59</sup> KiwiRail [S279.020] (supported by MPHRCI [FS27.1084], opposed by Meridian [FS47.374])

<sup>60</sup> Taranaki Whānui [S286.081] (supported by Rangitāne [FS24.081], opposed by Meridian [FS47.236])

96. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.5 Issue 4: Rule WH.R18 and Rule P.R17 (Vegetation clearance on highest erosion risk land – controlled activity)**

97. A total of 39 submissions and 59 further submissions were received on Rules WH.R18 and P.R17.

98. Rules WH.R18 and P.R17 as notified prescribe that vegetation clearance on highest erosion risk land (woody vegetation) and the associated discharge of sediment to a surface waterbody exceeding 200m<sup>2</sup> per property per 12 month period is a controlled activity provided an erosion and sediment management plan (**ESMP**) prepared in accordance with Schedule 33 is provided in support of the resource consent application. Ultimately, these rules require any vegetation clearance on highest erosion risk land (woody vegetation) exceeding 200m<sup>2</sup> to obtain as a minimum a controlled activity consent.

#### **3.5.1 Analysis**

99. PCC<sup>61</sup>, KiwiRail<sup>62</sup> and Taranaki Whānui<sup>63</sup> generally support Rules WH.R18 and/or P.R17 and seek they are retained as notified.

100. Ian Stewart<sup>64</sup> opposes Rule WH.R18 and seeks its deletion and that vegetation clearance be managed by district plan rules. I have addressed this relief in paragraph 79 and reject this submission for the same reasons.

101. Forest Enterprises<sup>65</sup>, PF Olsen<sup>66</sup> and CFG<sup>67</sup> generally oppose Rules WH.R18 and P.R17 on the basis they are inconsistent with the NES-CF. I have addressed this concern in paragraph 80 and make the same recommendations for the same reasons.

102. Civil Contractors NZ<sup>68</sup> support the intent of Rule WH.R18, but seek engagement with contractors and industry bodies regarding preparation of sediment control plans. While I agree more guidance from the Council regarding best practice in the vegetation clearance context could be provided, I consider this matter is something for the Council to action following decisions on PC1. The submitter has not sought any specific relief, therefore I make no recommendation.

103. Transpower<sup>69</sup> are neutral on Rules WH.R18 and P.R17, subject to their relief on the respective permitted activity rules being granted, and note Regulation 32 of the NES-ETA

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<sup>61</sup> PCC [S240.075] (opposed by Meridian [FS47.379], NZFFA [FS9.172])

<sup>62</sup> KiwiRail [S279.008] (supported by MPHRCI [FS27.1072], opposed by Meridian [FS47.244] and [FS47.384]) and [S279.021] (supported by MPHRCI [FS27.1085])

<sup>63</sup> Taranaki Whānui [S286.082] (supported by Rangitāne [FS24.082], opposed by Meridian [FS47.245])

<sup>64</sup> Ian Stewart [S32.010]

<sup>65</sup> Forest Enterprises [S111.011] and [S111.017] (supported by Pukerua Holdings [FS30.061])

<sup>66</sup> PF Olsen [S18.033] and [S18.059]

<sup>67</sup> CFG [S288.067] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.112], opposed by Forest & Bird [FS23.091]) and [S288.111] (opposed by Forest & Bird [FS23.135])

<sup>68</sup> Civil Contractors NZ [S285.022] (supported by Goodman Contractors [FS35.022], Multi Civil Contractors [FS49.022])

<sup>69</sup> Transpower [S177.039] (opposed in part by Meridian [FS47.237], opposed by Forest & Bird [FS23.782]) and [S177.065] (opposed in part by Meridian [FS47.375], opposed by Forest & Bird [FS23.808])

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would prevail over any rule prescribed by PC1. Transpower also seek amendments to matters of control to avoid rehabilitation of cleared areas of vegetation where it can impact lines or structures associated with the National Grid. While I acknowledge the concerns of Transpower, in my opinion, vegetation clearance will typically be taking place to enable an activity where it will not be logical or necessary to re-vegetate or re-plant (i.e. clearance of vegetation to develop the land). In locations where the vegetation clearance will be cleared but replanted or revegetated, the vegetation must already be present and therefore if the vegetation is located near the national grid the risks of this vegetation must be known and likely accepted by Transpower. Ultimately, as I am recommending re-writing vegetation clearance rules R104 and R105, and R106 and R107 (insofar as they relate to vegetation clearance), into PC1, and these rules do not have conditions which require consideration of the impacts of vegetation on the natural grid, I recommend these submissions be rejected.

104. Horokiwi Quarries<sup>70</sup> and Winstone Aggregates<sup>71</sup> generally support controlled activity status for vegetation clearance that does not comply with the permitted activity conditions and seek controlled activity status is retained. I am effectively recommending reinstatement of the operative NRP rules by re-writing them into PC1, which means the default activity status where vegetation clearance cannot meet permitted activity standards will be discretionary, unless the vegetation clearance is associated with a renewable energy generation activity, where it will be restricted discretionary. I recommend these submissions be accepted in part, noting the relief sought by these submitters is broader than just this matter.

105. I note the submission from Mangaroa Farms<sup>72</sup> to retain Rule WH.R17 as notified or to be actively involved in any changes that would result in a more restrictive framework. I recommend this submission be accepted in part on the basis that amendments to PC1 will be made, but they will not be more restrictive than PC1 as notified.

106. NZTA<sup>73</sup> seek provision for vegetation clearance associated with the maintenance of a transport network as a permitted activity. This relief is addressed in my analysis in paragraph 88 and I recommend this submission be rejected for the same reason.

107. Yvonne Weeber<sup>74</sup> seeks amendments to Rules WH.R18 and P.R17 to address risks from slash and debris causing flooding in storm events. I note where permitted activity standards are not met the activity status would be fully discretionary, unless the activity is associated with renewable energy generation. As the matters for discretion in my recommended restricted discretionary activity rules (which mirror R106 of the NRP) include specific consideration of natural hazards, land stability, soil erosion, sedimentation and flood hazard management, and a discretionary activity rule is not limited in the scope of matters that may be considered, I consider the relief sought by this submitter is at least partially achieved. I therefore recommend these submissions be accepted in part.

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<sup>70</sup> Horokiwi Quarries [S2.035]

<sup>71</sup> Winstone Aggregates [S206.057] (supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.022], opposed by Meridian [FS47.239]) and [S206.085] (opposed by Meridian [FS47.377])

<sup>72</sup> Mangaroa Farms [S194.015]

<sup>73</sup> NZTA [S275.028] (supported in part by Meridian [FS47.243], opposed by Forest & Bird [FS23.722]) and [S275.030] (supported in part by Meridian [FS47.383], opposed by Forest & Bird [FS23.724])

<sup>74</sup> Yvonne Weeber [S183.241] (supported by MPHRCI [FS27.241]) and [S183.323] (supported by MPHRCI [FS27.323])

108. Louise Askin<sup>75</sup> on Rule WH.R18 and Jo McReady<sup>76</sup> on Rule P.R17 seek amendments to allow a more property specific response. Similarly, in addition to their concerns on the conditions and application of these rules, and consistent with their submissions on WH.R17 and P.R16, Winstone Aggregates, Horokiwi Quarries and Best Farm & Others<sup>77</sup> cite concerns with the mapping linked to the rules. I address concerns about the highest erosion risk (woody vegetation) mapping in PC1 in paragraph 76 to 78 and recommend amendments which retain the NRP definition of 'erosion prone land' as the erosion risk 'trigger' for the vegetation clearance rules in PC1. I therefore recommend these submissions be accepted in part as I consider recommended amendments at least partially achieve the relief sought by these submitters, noting the submissions of Winstone Aggregates, Horokiwi Quarries and Best Farm & Others go beyond just this matter.
109. I note the submissions from Kāinga Ora<sup>78</sup>, Best Farm & Others<sup>79</sup>, Guildford Timber, Silverstream Forest and Goodwin Estate<sup>80</sup>, and Cannon Point<sup>81</sup>, similar to their submissions on WH.R17 and/or P.R16, suggesting that the notified 200m<sup>2</sup> threshold is too restrictive. Guildford Timber, Silverstream Forest and Goodwin Estate seek an exemption for vegetation clearance for forestry operations, Cannon Point seek an increase of the vegetation clearance threshold to at least 2,000m<sup>2</sup> or provision for track maintenance and Best Farm & Others seek a 3,000m<sup>2</sup> threshold. I address vegetation clearance associated with forestry in paragraph 80 and provision for track maintenance in paragraph 8887.
110. I also acknowledge the submission from WFF<sup>82</sup> who seek the deletion of Rules WH.R18 and P.R17 and retention of the NRP rules and that Horokiwi Quarries and Winstone Aggregates in their submissions on WH.R17 and P.R16 suggest they prefer that the NRP rules are retained. Submissions seeking that operative NRP rules for vegetation clearance be retained are supported by Meridian who seek retention of the operative NRP rules or an increase in the permitted vegetation clearance thresholds to that in the operative NRP rule (R104) or a larger area for regionally significant infrastructure.
111. I have reviewed these submissions and the specific relief sought by these submitters alongside the evidence and best available information underpinning the PC1 provisions in accordance with clause 1.6 of the NPS-FM. Other than the TAO P Whaitua Implementation Programme (WIP) committee, which reviewed vegetation clearance rules as part of the WIP process and determined they were appropriate<sup>83</sup> I cannot find any evidence the effectiveness and efficacy of the operative NRP provisions for vegetation clearance has been assessed. Other than in the context of urban development and riparian disturbance from flood protection activities and stock access, vegetation clearance was not an issue addressed in the TWT WIP report.

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<sup>75</sup> Louise Askin [S9.024]

<sup>76</sup> Jo McReady [S94.011]

<sup>77</sup> Best Farm & Others [S254.018] (supported in part by Meridian [FS47.380])

<sup>78</sup> Kāinga Ora [S257.034] (supported by Meridian [FS47.232]) and [S257.035] (supported by Transpower [FS20.059], opposed in part by Meridian [FS47.241])

<sup>79</sup> Best Farm & Others [S254.018] (supported in part by Meridian [FS47.380])

<sup>80</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.046]

<sup>81</sup> Cannon Point [S260.014] (opposed by Forest & Bird [FS23.017])

<sup>82</sup> WFF [S193.095] (supported in part by Meridian [FS47.238], opposed by Forest & Bird [FS23.1051]) and [S193.145] (supported by Meridian [FS47.385], opposed by Forest & Bird [FS23.1101])

<sup>83</sup> [Te-Awarua-o-Porirua-Whaitua-Implementation-Programme.pdf](#) (s11.2, pg 80)

112. Relying on the Statement of Evidence of Dr Greer<sup>84</sup>, I do not support a mandatory consent requirement for vegetation clearance which exceeds 200m<sup>2</sup>. This is because I understand that contributions of sediment from vegetation clearance and their influence on the visual clarity TAS have not been assessed in the WIP science work or PC1 technical work to date. Dr Greer outlines that vegetation clearance was not included in the sediment load modelling used in the WIP or PC1 modelling processes. It is therefore unclear what contribution vegetation clearance as an activity has on the ability to meet the visual clarity TAS in each pFMU. Further, I agree with Dr Greer that vegetation clearance has the potential to increase sediment losses in the short term and that the long-term effects of vegetation clearance will be determined by the land use following the clearance. For example, vegetation clearance for urban development could lead to a decrease in sediment loads in the long term whereas if the vegetation clearance was for conversion to pasture or other more intensive land uses it could lead to increases in sediment loads. However, this is variable and will depend on the situation, the nature of the activity taking place and the underlying characteristics of the slope, soil and vegetation types being disturbed. While there will generally be a short-term increase in sediment loads during and immediately following vegetation clearance, the extent or magnitude of that increase at a pFMU scale has not been defined and to what extent it contributes to the visual clarity TAS being met or not has not been assessed. To this end, relying on the evidence of Dr Greer, I consider there is no scientific evidence linking vegetation clearance activities and sediment loads in surface water bodies that justifies regulating this activity beyond the requirements of NRP rules at this time, other than a general principle of equity, whereby if visual clarity TAS are not being met in some pFMU, the identified sediment generating activities in PC1 (forestry, vegetation clearance and rural land uses) are expected to 'do more' to achieve the TAS.
113. In terms of the permitted NRP vegetation clearance rules (Rules R104 and R105), these rules were subject to appeal and Environment Court mediation as part of the NRP process, and were only made fully operative in 2023. In my opinion, it is too early for the effectiveness of these rules to be properly evaluated. I also note that Council officers have confirmed that no more than 12 consent applications related to vegetation clearance in these Whaitua have been received since the PNRP was notified in 2015, with a number of these consents being associated with major infrastructure, being Transmission Gully (multiple consents in different areas of the project) and RiverLink. The other consent applications received for vegetation clearance also required consent for earthworks. This makes it difficult to understand whether vegetation clearance as an activity in its own right is having a material influence on the achievability of TAS in these Whaitua.
114. As described in the Statement of Evidence of Dr Greer, there is no scientific evidence that links PC1 rules (including WH.R18 or P.R17) as notified to achievability of the visual clarity TAS or the environmental outcome objectives of PC1. In addition, the low number of consents and short period of time the NRP rules have been fully operative, and lack of understanding of how much vegetation clearance is being undertaken across these Whaitua, makes it difficult to determine the extent to which 'more' might need to be done to meet objectives. For these reasons, I do not support retaining Rules WH.R18 and P.R17 as notified. I am also unable to determine to what extent any amendments might be needed to the rules in PC1 as notified (and how far they might need to go) which makes it challenging to satisfy the tests required under s32 or s32AA of the RMA. I consider any amendments I

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<sup>84</sup> Paragraph 39 of Dr Greer's Statement of Evidence

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might recommend would be somewhat arbitrary or 'token', based solely on the general principle that vegetation clearance is a sediment generating activity and to meet objectives/TAS (where they are not being met) more *might* need to be done. Therefore, in my opinion the NRP rules for vegetation clearance should be retained at this time. However, retaining NRP rules for vegetation clearance is not possible as the NRP rules that apply where vegetation clearance cannot meet permitted activity standards in Rules R104 or R105 include earthworks (Rules R106 and R107) and Ms Vivian is not recommending that these rules be retained for these Whaitua in her s42A report on the Earthworks topic in Hearing Stream 3.

115. Therefore, I recommend re-writing NRP rules R104, R105, R106 and R107 (insofar as they relate to vegetation clearance) into PC1, with specific amendments to include vegetation clearance associated with those specific activities (to implement an erosion risk treatment plan for a farm and pest plant and harmful organism control) described in my analysis on Rules WH.R17 and P.R16 above. Effectively this will amalgamate Rules WH.17/P.R16 of PC1 (and R104 and R105 in the NRP) into one permitted activity rule (per Whaitua), with Rules WH.R18/P.R17 to be re-written to mirror R106 of the NRP and Rules WH.R19/P.R18 to mirror rule R107 of the NRP. In my opinion, other than changes to the scope of pest plant activities managed under Rules WH.R17 and P.R16 responding to the relief sought by Forest & Bird and Hort NZ, my recommended amendments do not change how these activities were intended to be managed under PC or the NRP but will better support implementation under PC1. This is because as a consequence of the 'not applicable to Whaitua' icons in Rules R106 and R107, Council would otherwise end up with the permitted activity rules for vegetation clearance rules being in the NRP but rules that would apply when permitted activity standards cannot be met would be located in PC1. In my opinion, it is clearer for plan users to have all vegetation clearance rules that may apply in one place. Accordingly, I recommend the submissions from WFF be accepted and the submissions from Kāinga Ora, Best Farm & Others, Guildford Timber, Silverstream Forest and Goodwin Estate, Cannon Point, Horokiwi Quarries and Winstones Aggregates be accepted in part, as my recommended amendments partially give effect to the relief sought by these submitters which was to increase the vegetation clearance threshold that was permitted.

116. I note the submissions from Forest & Bird<sup>85</sup> and EDS<sup>86</sup> seeking a higher activity status because of concern the inability to refuse consent may mean higher order policy direction is not met. For the reasons outlined above, I am not recommending amendments to vegetation clearance rules which go beyond those in the NRP. However, where permitted activity standards cannot be met the activity status will be higher than controlled (restricted discretionary or fully discretionary) which is partially consistent with the relief sought and therefore I recommend these submissions be accepted in part.

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<sup>85</sup> Forest & Bird [S261.111] (supported by MPHRCI [FS27.730], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.041], Meridian [FS47.242], NZFFA [FS9.438], NZTA [FS28.079], Transpower [FS20.031]) and [S261.188] (supported by MPHRCI [FS27.807], opposed by Meridian [FS47.382], NZFFA [FS9.515], NZTA [FS28.080], Transpower [FS20.048])

<sup>86</sup> EDS [S222.058] (supported by Forest & Bird [FS23.214], MPHRCI [FS27.950], opposed by Meridian [FS47.240], NZFFA [FS9.239], Transpower [FS20.008], Winstone Aggregates [FS8.017]) and [S222.100] (supported by Forest & Bird [FS23.256], MPHRCI [FS27.992], opposed by Meridian [FS47.378], NZFFA [FS9.281], Transpower [FS20.015])

### 3.5.2 Recommendations

117. I recommend that Rules WH.R18 and P.R17 be amended as shown in Appendix 4.

118. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### 3.6 Issue 5: Rule WH.R19 and Rule P.R18 (Vegetation clearance – discretionary activity)

119. A total of 29 submissions and 41 further submissions were received on Rules WH.R19 and P.R18.

#### 3.6.1 Analysis

120. Guildford Timber, Silverstream Forest and Goodwin Estate<sup>87</sup>, Forest & Bird<sup>88</sup>, KiwiRail<sup>89</sup>, PCC<sup>90</sup> and Taranaki Whānui<sup>91</sup> support Rules WH.R19 and/or P.R18 and request these rules be retained as notified. As I am recommending substantive amendments which ultimately re-write NRP Rule R107 into PC1, I recommend these submissions be rejected.

121. Forest Enterprises<sup>92</sup>, PF Olsen<sup>93</sup> and CFG<sup>94</sup> generally oppose Rules WH.R18 and/or P.R17 on the basis they are inconsistent with the NES-CF. I have addressed this concern in paragraph 80 and recommend rejecting these submissions for the same reasons.

122. Ian Stewart<sup>95</sup> opposes Rule WH.R18 and seeks its deletion and that vegetation clearance be managed by district plan rules. I have addressed this matter in paragraph 79 and recommend rejecting this submission for the same reason.

123. Civil Contractors NZ<sup>96</sup> raises the same matters as their submission on Rule WH.R18, which I have addressed at paragraph 102. I make no recommendation on this submission for the same reasons.

124. I note the submission from Mangaroa Farms<sup>97</sup> which is the same as their submission on Rule WH.R18 which I address at paragraph 105. I make the same recommendation for the same reason.

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<sup>87</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.047] (opposed by Meridian [FS47.247])

<sup>88</sup> Forest & Bird [S261.112] (supported by MPHRCI [FS27.731], opposed by Meridian [FS47.248], NZFFA [FS9.439]) and [S261.189] (supported by MPHRCI [FS27.808], opposed by Meridian [FS47.387], NZFFA [FS9.516])

<sup>89</sup> KiwiRail [S279.009] (supported by MPHRCI [FS27.1073], opposed by Meridian [FS47.249])

<sup>90</sup> PCC [S240.076] (opposed by Meridian [FS47.386], NZFFA [FS9.173])

<sup>91</sup> Taranaki Whānui [S286.083] (supported by Rangitāne [FS24.083], opposed by Meridian [FS47.250])

<sup>92</sup> Forest Enterprises [S111.012] and [S111.018] (supported by Pukerua Holdings [FS30.062], [FS30.063], [FS30.064], [FS30.065])

<sup>93</sup> PF Olsen [S18.060]

<sup>94</sup> CFG [S288.068] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.113], opposed by Forest & Bird [FS23.092]) and [S288.112] (opposed by Forest & Bird [FS23.136])

<sup>95</sup> Ian Stewart [S32.011]

<sup>96</sup> Civil Contractors NZ [S285.023] (supported by Goodman Contractors [FS35.023], Multi Civil Contractors [FS49.023])

<sup>97</sup> Mangaroa Farms [S194.016]

125. Yvonne Weeber<sup>98</sup> seeks amendments to Rules WH.R18 and P.R17 to address risks from slash and debris causing flooding in storm events. I address this matter in paragraph 107 and make the same recommendation for the same reasons.
126. Transpower<sup>99</sup>, Horokiwi Quarries<sup>100</sup> and Winstone Aggregates<sup>101</sup> are neutral on Rules WH.R19 and P.R18, and Cannon Point<sup>102</sup> supports WH.R19, subject to their relief sought for permitted and controlled vegetation clearance rules being granted. WFF<sup>103</sup> seek the deletion of Rules WH.R19 and P.R18 and retention of the operative NRP rules.
127. I have considered the submissions and the relief sought by the above submitters alongside the evidence of Dr Greer and the best available information. For the reasons I have outlined in paragraphs 111 to 115, I recommend amendments to Rules WH.R19 and P.R18, to mirror Rule R107 of the NRP, insofar as it applies to vegetation clearance. Accordingly, I recommend the submissions from WFF be accepted and the submissions from Transpower, Horokiwi Quarries, Winstone Aggregates and Cannon Point be accepted in part, as my recommended amendments at least partially achieve the relief sought by these submitters.

### **3.6.2 Recommendations**

128. I recommend that Rule WH.R19 and Rule P.R18 be amended as shown in Appendix 4.
129. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

## **3.7 Issue 6: Schedule 33: Vegetation Clearance Erosion and Sediment Management Plan**

130. A total of 46 submissions and 54 further submissions were received on Schedule 33.

### **3.7.1 Analysis**

#### General support

131. I acknowledge the submissions of Yvonne Weeber<sup>104</sup>, Guardians of the Bays<sup>105</sup>, EDS<sup>106</sup> and Forest & Bird<sup>107</sup> supporting Schedule 33. I note there is no relief sought by these submitters and therefore I make no recommendation on these submissions.

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<sup>98</sup> Yvonne Weeber [S183.242] (supported by MPHRCI [FS27.242]) and [S183.324] (supported by MPHRCI [FS27.324])

<sup>99</sup> Transpower [S177.040] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.026], opposed by Forest & Bird [FS23.783]) and [S177.066] (opposed by Forest & Bird [FS23.809])

<sup>100</sup> Horokiwi Quarries [S2.036]

<sup>101</sup> Winstone Aggregates [S206.058] (supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.023]) and [S206.086]

<sup>102</sup> Cannon Point [S260.015] (opposed by Forest & Bird [FS23.018])

<sup>103</sup> WFF [S193.096] (supported by Meridian [FS47.246], opposed by Forest & Bird [FS23.1052]) and [S193.145] (supported by Meridian [FS47.385], opposed by Forest & Bird [FS23.1101])

<sup>104</sup> Yvonne Weeber [S183.377] (supported by MPHRCI [FS27.377])

<sup>105</sup> Guardians of the Bays [S186.173] (supported by MPHRCI [FS27.596])

<sup>106</sup> EDS [S222.137] (supported by Forest & Bird [FS23.293], MPHRCI [FS27.1029], opposed by NZFFA [FS9.318])

<sup>107</sup> Forest & Bird [S261.233] (supported by MPHRCI [FS27.852], opposed by NZFFA [FS9.560])

Neutral submissions

132. I note the neutral submission from Mangaroa Farms<sup>108</sup> and their request for retention of provisions as notified or active involvement in changes that would result in a more restrictive framework that may affect the works of Mangaroa Farms. I recommend accepting this submission in part on the basis that, although I am recommending changes they will not be more restrictive than PC1 as notified.

General opposition

133. PF Olsen<sup>109</sup> and WFF<sup>110</sup> seek deletion of the Schedule. PF Olsen seeks deletion because there are already erosion and sediment management requirements under the NES-CF. Similarly, CFG<sup>111</sup> seek to separate out non-plantation vegetation clearance from the Schedule and align it with the non-plantation clearance requirements of the NES-CF. I note Schedule 33 is related to vegetation clearance associated with Rules WH.R17-WH.R19 and P.R16-P.R18 and not forestry activities, which are managed by Rules WH.R20-WH.R22 and P.R19-P.R21, so there is no need to align Schedule 33 with the NES-CF. While the reasons for deletion are different to those raised by these submitters, I recommend deletion of Schedule 33 and therefore recommend the submissions from PF Olsen, WFF and CFG be accepted.

134. UHCC<sup>112</sup> seek that the Greater Wellington Regional Council Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (2021) (ESC Guidelines) be referred to in the Schedule for consistency across the NRP. As I am recommending deletion of Schedule 33 there is no reason for this amendment and therefore I recommend this submission be rejected.

135. I acknowledge the submission from NZTA<sup>113</sup> who supports the general principle of a management plan but is concerned the range of detail is overly prescriptive and seeks the Schedule be reframed as a guideline and/or the detail within Schedule 33 be reassessed and inclusion of prefacing statements indicating that the ESMP should reflect likely effects of the proposal. I recommend deletion of Schedule 33 and accordingly recommend this submission be rejected.

A Purpose of the ESMP

136. I acknowledge the submissions from Yvonne Weeber<sup>114</sup>, Guardians of the Bays<sup>115</sup>, EDS<sup>116</sup> and Forest & Bird<sup>117</sup> who generally support Section A. No relief is sought by these submitters and therefore I provide no recommendation.

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<sup>108</sup> Mangaroa Farms [S194.020]

<sup>109</sup> PF Olsen [S18.070]

<sup>110</sup> WFF [S193.170] (opposed by Forest & Bird [FS23.1126])

<sup>111</sup> CFG [S288.121] (opposed by Forest & Bird [FS23.145])

<sup>112</sup> UHCC [S225.122] (opposed by Forest & Bird [FS23.950])

<sup>113</sup> NZTA [S275.049] (opposed by Forest & Bird [FS23.743])

<sup>114</sup> Yvonne Weeber [S183.378] (supported by MPHRCI [FS27.378])

<sup>115</sup> Guardians of the Bays [S186.174] (supported by MPHRCI [FS27.597]) and [S186.178] (supported by MPHRCI [FS27.601])

<sup>116</sup> EDS [S222.138] (supported by Forest & Bird [FS23.294], MPHRCI [FS27.1030], opposed by NZFFA [FS9.319])

<sup>117</sup> Forest & Bird [S261.234] (supported by MPHRCI [FS27.853], opposed by NZFFA [FS9.561])

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137. WFF<sup>118</sup> oppose Section A and seek its deletion with no reasons given. I recommend deletion of Schedule 33 and therefore recommend this submission be accepted.

B Management Objectives

138. I acknowledge the submissions from Yvonne Weeber<sup>119</sup>, EDS<sup>120</sup> and Forest & Bird<sup>121</sup> who generally support Section B. No relief is sought by these submitters and therefore I provide no recommendation.

139. WFF<sup>122</sup> oppose Section B and seek its deletion but no reasons are given. I recommend deletion of Schedule 33 and therefore recommend this submission be accepted.

140. Donald Love<sup>123</sup> and NZFFA Wellington<sup>124</sup> raise concerns about Management Objective (b) and seek clarification of the term "natural state" with NZFFA Wellington seeking its deletion. Donald Love, Horokiwi Quarries<sup>125</sup>, Winstone Aggregates<sup>126</sup> and NZTA<sup>127</sup> seek amendments to recognise revegetation is not always practicable. Similarly, Transpower<sup>128</sup> seek amendments to prevent revegetation under national grid lines and structures. I recommend deletion of Schedule 33 and therefore I recommend the submission from NZFFA Wellington be accepted and the remaining submissions be rejected.

C Requirements of the ESMP

141. I acknowledge the submissions from Yvonne Weeber<sup>129</sup>, Guardians of the Bays<sup>130</sup>, EDS<sup>131</sup> and Forest & Bird<sup>132</sup> who generally support Section C. No relief is sought by these submitters and therefore I provide no recommendation.

142. Transpower<sup>133</sup> seeks amendments to make it clear that rehabilitation or revegetation is inappropriate under national grid lines and structures and Willowbank<sup>134</sup> seek amendments to add "where practicable" to clause (c)(v) to recognise it will not always be possible to rehabilitate or revegetate land after clearance. Ara Poutama<sup>135</sup> and Transpower seek clarification about the meaning of the terms "critical source areas" and "hotspots for

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<sup>118</sup> WFF [S193.171] (opposed by Forest & Bird [FS23.1127])

<sup>119</sup> Yvonne Weeber [S183.379] (supported by MPHRCI [FS27.379])

<sup>120</sup> EDS [S222.139] (supported by Forest & Bird [FS23.295], MPHRCI [FS27.1031], opposed by NZFFA [FS9.320])

<sup>121</sup> Forest & Bird [S261.235] (supported by MPHRCI [FS27.854], opposed by NZFFA [FS9.562])

<sup>122</sup> WFF [S193.172] (opposed by Forest & Bird [FS23.1128])

<sup>123</sup> Donald Love [S102.004]

<sup>124</sup> NZFFA Wellington [S36.048]

<sup>125</sup> Horokiwi Quarries [S2.042]

<sup>126</sup> Winstone Aggregates [S206.092]

<sup>127</sup> NZTA [S275.049] (opposed by Forest & Bird [FS23.743])

<sup>128</sup> Transpower [S177.077] (opposed by Forest & Bird [FS23.820])

<sup>129</sup> Yvonne Weeber [S183.380] (supported by MPHRCI [FS27.380]) and [S183.381] (supported by MPHRCI [FS27.381])

<sup>130</sup> Guardians of the Bays [S186.175] (supported by MPHRCI [FS27.598]) and [S186.176] (supported by MPHRCI [FS27.599])

<sup>131</sup> EDS [S222.140] (supported by Forest & Bird [FS23.296], MPHRCI [FS27.1032], opposed by NZFFA [FS9.321]) and [S222.141] (supported by Forest & Bird [FS23.297], MPHRCI [FS27.1033], opposed by NZFFA [FS9.322])

<sup>132</sup> Forest & Bird [S261.236] (supported by MPHRCI [FS27.855], opposed by NZFFA [FS9.563]) and [S261.237] (supported by MPHRCI [FS27.856], opposed by NZFFA [FS9.564])

<sup>133</sup> Transpower [S177.078] (opposed by Forest & Bird [FS23.821])

<sup>134</sup> Willowbank [S204.008]

<sup>135</sup> Ara Poutama [S248.076] and [S248.077]

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sediment loss to surface water". I am recommending deletion of Schedule 33 and therefore recommend these submissions be rejected.

143. WFF oppose Section C and seek its deletion, but no reasons are given. I recommend deletion of Schedule 33 and therefore recommend this submission be accepted.

D Amendment of the ESMP

144. Yvonne Weeber<sup>136</sup> and Guardians of the Bays<sup>137</sup> generally support Section D. No relief is sought by these submitters and therefore I provide no recommendation.

145. Forest & Bird<sup>138</sup> and EDS<sup>139</sup> consider Council need to retain the ability to approve changes to management plans to ensure they still meet requirements to adequately manage sediment risk but no specific relief is sought. I therefore make no recommendation on these submissions.

Overall analysis of submissions on Schedule 33

146. I have considered the submissions and the relief sought by the above submitters on Schedule 33 generally and the specific sections of Schedule 33. In my opinion, Schedule 33 is unnecessary as the effects intended to be managed through Schedule 33 appear more focused on soil disturbance rather than vegetation clearance. Relying on the Statement of Evidence of Dr Greer<sup>140</sup>, the effects of vegetation clearance activities not involving earthworks are expected to be limited to decay of roots over time and an increase in surficial erosion due to loss of canopy coverage. I do not consider Schedule 33 provides any relevant direction related to managing these effects, with the requirements of Schedule 33 focused on managing effects of sediment loss from land disturbance (earthworks). Soil disturbance and management of activities which disturb soil are more relevantly covered by earthworks provisions in PC1 and the Erosion and Sediment Control Guidelines for the Wellington Region (2021).

147. Following my recommended amendments, in the event permitted activity rules for vegetation clearance cannot be met the activity will become fully discretionary (unless the vegetation clearance is associated with a renewable energy generation activity) and Council will have the discretion to request any information they require to understand the actual and potential effects of the activity and therefore, in my opinion, Schedule 33 is unnecessary.

148. Additionally, for the reasons I have outlined in paragraphs 111 to 115, I am recommending significant amendments to the vegetation clearance rules, which include removal of the rules directing the need for an ESMP to be prepared in accordance with Schedule 33, being Rules WH.R19 and P.R18. My recommended amendments effectively result in the removal of these rules from PC1 and as a result there will be no need for Schedule 33 and therefore I recommend its deletion. Accordingly, I recommend submissions seeking deletion of Schedule 33 (and relevant sections of the Schedule) be accepted, and submissions requesting retention of, or amendments to, the Schedule be rejected.

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<sup>136</sup> Yvonne Weeber [S183.382] (supported by MPHRCI [FS27.382])

<sup>137</sup> Guardians of the Bays [S186.177] (supported by MPHRCI [FS27.600])

<sup>138</sup> Forest & Bird [S261.238] (supported by MPHRCI [FS27.857], opposed by NZFFA [FS9.565])

<sup>139</sup> EDS [S222.142] (supported by Forest & Bird [FS23.298], MPHRCI [FS27.1034], opposed by NZFFA [FS9.323])

<sup>140</sup> Paragraph 37 of Dr Greer's Statement of Evidence

### 3.7.2 Recommendations

149.I recommend that Schedule 33 is deleted as shown in Appendix 4.

150.I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

## Forestry provisions

151.A total of 177 submission points and 257 further submissions points have been received on the forestry provisions in PC1 (WH.P28, P.P26, WH.R20-WH.R22, P.R19-P.R21 and Schedule 34). While there are some submissions supporting these provisions as notified, the overall tenor of the submissions is one of opposition.

### 3.8 Issue 7: Scope of PC1 as it relates to forestry

#### 3.8.1 Analysis

##### Note above WH.R20 and P.R19

152.EDS<sup>141</sup> raises concerns about the uncertainty of the applicability of the vegetation clearance rules to forestry activities given the note under Rules WH.R19 and P.R18. As described in paragraph 80 and 307, the vegetation clearance rules in PC1 were intended to cover vegetation clearance outside of forestry only. The note provides direction about the relationship between the NES-PF (now NES-CF) regulations and PC1 for the forestry rules (WH.R20-WH.R22 and P.R19-P.R21).

153.NZFFA Wellington<sup>142</sup>, GWRC<sup>143</sup> and NZCF<sup>144</sup> seek the replacement of reference to the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FW) in this note with the NES-CF. I agree that the note should refer to the relevant national direction for forestry (which at that time was the NES-PF). I recommend amendments to this note to reference the NES-CF and recommend these submissions be accepted. I also recommend consequential amendments to improve the application of the note insofar as it relates to the relevant subparts of the NES-CF that PC1 rules WH.R20 and P.R19 will prevail over following recommended amendments and the inclusion of an explanatory note to provide clear guidance to plan users that the NES-CF prevails in pFMU's where the visual clarity TAS is met.

154.GWRC<sup>145</sup> notes replanting is an element of commercial forestry that is intended to be included in Rules WH.R20 and P.R19, WH.R21 and P.R20 and WH.R22 and P.R21 and seek

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<sup>141</sup> EDS [S222.059] (supported by Forest & Bird [FS23.215], MPHRCI [FS27.951], opposed by NZFFA [FS9.240]) and [S222.101] (supported by Forest & Bird [FS23.257], MPHRCI [FS27.993], opposed by NZFFA [FS9.282])

<sup>142</sup> NZFFA Wellington [S36.042] and [S36.044]

<sup>143</sup> GWRC [S238.014] (supported by Forest & Bird [FS23.317]) and [S238.026] (supported by Forest & Bird [FS23.329])

<sup>144</sup> NZCF [S263.021] (opposed by Forest & Bird [FS23.392]), [S263.022] (opposed by Forest & Bird [FS23.393]) and [S263.026] (opposed by Forest & Bird [FS23.397])

<sup>145</sup> GWRC [S238.015] (supported by Forest & Bird [FS23.318], NZCF [FS50.063]) and [S238.027] (supported by Forest & Bird [FS23.330], NZCF [FS50.066]), [S238.016] (supported by Forest & Bird

amendments to include replanting in these rules. Southern North Island Wood Council<sup>146</sup> seeks replanting not be regulated in PC1. Notwithstanding the incorrect reference to the relevant standard acknowledged above (NES-FW rather than NES-PF), I note that replanting was included as a definition and in the note as an activity in which the rules in PC1 would prevail over. I also consider the location of replanting post-harvest is one of the key factors that can influence future impacts of forestry activities on water quality. As replanting was included as a definition and referenced in the note, I am satisfied the omission of replanting in the rules was a drafting error and therefore recommend replanting be included as an activity regulated through PC1. Accordingly, I recommend the submissions from Southern North Island Wood Council on Rules WH.R20 and P.R19 be rejected and the submissions from GWRC on these rules be accepted. As I recommend that all other rules in PC1 related to forestry be deleted, I recommend submissions from Southern North Island Wood Council on Rules WH.R21 and WH.R22 and P.R20 and P.R21 be accepted and those from GWRC be rejected.

155. Woodridge<sup>147</sup> considers the rules for the TWT Waitua repeat those in the TAO P Waitua and the relevant rules should be combined into one relevant rule (as relevant for each specific set of rules) for both Waitua, I refer to my analysis in paragraph 71 and recommend these submissions be rejected for the same reason.

### **3.8.2 Recommendations**

156. I recommend that PC1 is amended as shown in Appendix 4.

157. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

## **3.9 Issue 8: Policies WH.P28 and P.P26 (Achieving reductions in sediment discharges from plantation forestry)**

### **3.9.1 Analysis**

158. A total of 29 submissions and 48 further submissions have been received on Policies WH.P28 and P.P26.

#### General opposition

159. Southern North Island Wood Council<sup>148</sup> and NZFFA<sup>149</sup> object to all policies as they relate to plantation forestry with Southern North Island Wood Council seeking they be removed from PC1. The only other policies that have a direct link to plantation forestry outside of WH.P28

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[FS23.319], NZCF [FS50.064]), [S238.028] (supported by Forest & Bird [FS23.331], NZCF [FS50.067]), [S238.017] (supported by Forest & Bird [FS23.320], NZCF [FS50.065]) and [S238.029] (supported by Forest & Bird [FS23.332], NZCF [FS50.068])

<sup>146</sup> Southern North Island Wood Council [S262.015] (supported by NZCF [FS50.141]), [S262.020] (supported by NZCF [FS50.144]), [S262.016] (supported by NZCF [FS50.142]), [S262.017] (supported by NZCF [FS50.143]), [S262.022] (supported by NZCF [FS50.146]) and [S262.021] (supported by NZCF [FS50.145])

<sup>147</sup> Woodridge [S255.069], [S255.070] and [S255.071]

<sup>148</sup> Southern North Island Wood Council [S262.014] and [S262.019]

<sup>149</sup> NZFFA [S195.037] (opposed by Forest & Bird [FS23.440]) and [S195.038] (opposed by Forest & Bird [FS23.441])

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and P.P26 in PC1 are WH.P2 and P.P2 which Ms O'Callahan has recommended be deleted in her section 42A report for the 'Ecosystem Health Policies' topic in Hearing Stream 2<sup>150</sup>. Having reviewed the NES-CF, I note it does not contain any specific policy direction that would apply in circumstances where permitted activity standards are not met and a consent is required, with this being left to regional and district plans (as relevant). Therefore, I consider a policy directing how forestry should be managed is required in PC1 so that resource consent applicants and decision makers have some policy direction in situations where the permitted activity standards of the NES-CF cannot be met or consent is required under PC1. I note that Policies WH.P28 and P.P26 are focused on water quality and sediment impacts but the relevant objectives and policies of the NRP related to protection of indigenous biodiversity will continue to apply and will provide direction on management of effects for activities that have broader effects than generation of sediment (i.e. river crossing structures) when the NES-CF cannot be met. On this basis, I recommend retaining Policies WH.P28 and P.P26 subject to my recommended amendments, and I recommend these submissions be rejected.

160. NZCF<sup>151</sup> and CFG<sup>152</sup> also oppose WH.P28 and P.P26 with NZCF seeking amendments to clause (b) to remove the requirement for an ESMP and that clause (a) and (c) be deleted, and CFG seeking the policies be removed in their entirety. WFF<sup>153</sup> also seek deletion of WH.P28 and P.26 and UHCC<sup>154</sup> seek deletion of WH.P28 because it conflicts with the NES-CF.

161. In relation to clause (a) which relates to identifying highest erosion risk (plantation forestry) land, NZCF and CFG are concerned about the rationale for the highest erosion risk (plantation forestry) mapping in PC1 and the departure from the ESC used in the NES-CF. Relying on the Statement of Evidence of Mr Nation, I understand that PC1 erosion risk mapping was intended to be used to assist land management officers at Council to work with landowners to identify rural land that requires further assessment at a farm scale (i.e. ground truthing) of erosion risk as part of the development of a farm environment plan and was later broadened in its application to include land in 'woody vegetation' and 'plantation forestry'. Furthermore, PC1 erosion risk mapping was not intended to map the RPS Change 1 definition of highly erodible land (as assessed below) or as a replacement for the ESC upon which the NES-CF relies. In my opinion, as discussed throughout this report, the 'relative' erosion risk approach to mapping in PC1 is too uncertain for a policy (or rule) which seeks to restrict or prevent a specified land use. Accordingly, I recommend removing the link between PC1 highest erosion risk (plantation forestry) and WH.P28 and P.P26 and that clause (a) be deleted.

162. In relation to clause (b) which requires an ESMP to be provided for forestry activities, I have evaluated the merits of the ESMP (prepared in accordance with Schedule 34) in my analysis of Schedule 34 in paragraphs 251 and 270. In summary, I recommend deletion of the ESMP required by Schedule 34 and recommend it be replaced in PC1 with the requirements

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<sup>150</sup> [S42A ecosystem health policies - Appendix 4 - Recommended Amendments and S32AA.docx](#)

<sup>151</sup> NZCF [S263.020] (opposed by Forest & Bird [FS23.391]) and [S263.025] (opposed by Forest & Bird [FS23.396])

<sup>152</sup> CFG [S288.056] (supported by NZCF [FS50.020], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.109], opposed by Forest & Bird [FS23.080]) and [S288.099] (supported by NZCF [FS50.024], opposed by Forest & Bird [FS23.123])

<sup>153</sup> WFF [S193.088] (supported by NZCF [FS50.151], opposed by Forest & Bird [FS23.1044]) and [S193.137] (supported by NZCF [FS50.155], opposed by Forest & Bird [FS23.1093])

<sup>154</sup> UHCC [S225.090] (supported by NZCF [FS50.147], opposed by Forest & Bird [FS23.918])

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outlined in Schedule 33A (Afforestation and Replanting Management Plan), 33B (Earthworks Management Plan) and 33C (Harvest Management Plan), referred to as forest management plans, which mirror the requirements of Schedules, 3, 4 and 6 of the NES-CF insofar as they relate to water quality, subject to amendments which require the contour mapping to be presented at a 5 metre rather than 20 metre scale. I recommend clause (b) be retained subject to amendments to reference forestry management plans

163. In relation to clause (c), which prevents establishment of plantation forestry, and seeks to prevent continuation of it beyond the current harvest cycle, NZCF and CFG are concerned that these provisions will lead to larger areas of land than expected being unable to be used (written-off) for forestry purposes, suggesting this is not supported by evidence and is inconsistent with WIP recommendations. NZCF further state this is not required by any higher order planning instrument and is contrary to national climate change legislation and objectives, including the Emissions Reduction Plan and National Adaptation Plan.

164. In relation to the submitters' concerns that the policies are not supported by evidence, I consider this concern is primarily related to the need for an ESMP which goes beyond the requirements of the NES-CF and the directive nature of clause (c) which provides the basis for prohibited activity rules WH.R22 and P.R21. The appropriateness of provisions in PC1 which go beyond the requirements of the NES-CF (the stringency test) is assessed in detail in my analysis of Rules WH.R20 and P.R19 in relation to the PC1 forestry rules and I do not repeat that analysis here.

165. In relation to higher order direction, I note that there is a difference between the main erosion risks in these Whaitua and the mass movement erosion delivery of sediment that is Council's main concern for the region and which is the focus of Policy CC.6(b) and the definition of highly erodible land in RPS Change 1. The outcome Council is seeking through RPS Change 1 is continuous land cover of woody vegetation on highly erodible land prone to mass movement to avoid long-term erosion and sedimentation issues. This can be achieved through continuous cover forestry management or ideally through regeneration or restoration of native vegetation. Based on the evidence of Mr Blyth, permanent forests provide the best results in terms of sediment loss and therefore are the most appropriate land cover for long term protection from erosion and sediment risks. Whereas, relying on the Statement of Evidence of Mr Nation, PC1 erosion risk mapping includes consideration of surficial erosion risk (the loss of soil from the surface of the land) and streambank erosion risks, going beyond the definition of highly erodible land in RPS Change 1.

166. I consider that a requirement to avoid shorter rotation plantation forests on highly erodible land would be appropriate in areas with a high risk of mass movement erosion discharging into waterways. However, in my opinion the erosion risk mapping undertaken for PC1 to date is not refined enough to support provisions to give effect to Policy CC.6 as the mapped areas of highest erosion risk land notified in PC1 do not correlate with the RPS definition of highly erodible land as described by Mr Nation.

167. Therefore, while these policies as notified would have given effect to Policy CC.6 of RPS Change 1 (as will be required by the Act if and when Policy CC.6 becomes operative), the policies I am now recommending would not give effect to Policy CC.6. Policy CC.6 is under appeal, but is still part of a proposed regional policy statement so I must 'have regard' to it. However, because the RPS Change 1 definition of highly erodible land has not been interpreted for these Whaitua, and because there is uncertainty as to the highly erodible land definition and the form Policy CC.6 may take in future, given the current appeal, I consider it

too early to include provisions in PC1 which would give effect to Policy CC.6. This will mean that the provisions in PC1 regarding forestry will need to be changed to give effect to Policy CC.6 in the future (unless Policy CC.6 is amended or deleted through the appeals process).

168. In contrast to the necessary land cover management on highly erodible land, being permanent woody vegetation, given the main erosion risks in these Whaitua are surficial erosion, I consider that erosion risks associated with forestry in the PC1 Whaitua can be adequately managed through implementation of good management practice and effective monitoring and enforcement of forestry activities and this is the basis of my recommendations in PC1.
169. NZCF suggests not establishing new forest and preventing replanting and harvest beyond current harvest would be contrary to New Zealand's climate change policy, including the Emissions Reduction Plan<sup>155</sup>. I have reviewed the Emissions Reduction Plan and have had regard to it as required by section 66(2) of the RMA and note the plan seeks in some places to increase afforestation and to increase the area of forestry for carbon sequestration, including on some erodible land, as evidenced by reference to Hill Country Erosion Programmes and Erosion Control Funding Programmes (Action 14.1.2). However, I note that replacement of plantation or production forest with native or permanent forest post-harvest would also be consistent with the Emissions Reduction Plan which seeks to encourage permanent and native forests as long-term carbon sinks (Action 14.2.3). I do not believe PC1 as notified would be contrary to the National Adaptation Plan<sup>156</sup> as there is nothing in this plan which directs a certain approach to forestry with the plan focused on supporting planning and advisory services for forestry, in my opinion.
170. As I am not recommending deletion of the policies, as policy direction needs to be retained where a consent is required (as set out in paragraph 159) I recommend submissions from CFG and UHCC be rejected. I recommend substantive amendments, removing reference to 'highest erosion risk (plantation forestry) and the removal of the implied prevention of new forestry and continuation of existing forestry' from policies WH.P28 and P.26. While not specifically linked to these policies, I note I also recommend deletion of Schedule 34 and the implied requirement to retire harvested land with permanent vegetation post-harvest in Management Objective 4 of this schedule. These amendments, in my opinion, at least partially achieve the relief sought by NZCF and therefore I recommend the submissions from NZCF be accepted in part.
171. NZFFA Wellington<sup>157</sup> also opposes and seeks deletion of Policy WH.P28, which they see as misguided because Wellington, Hutt Valley and Porirua hills are greywacke with low risk of shallow landslide and note no evidence has been provided which suggests steepest slopes are a significant source of sediment after forest harvest. The submitter considers earthworks before and during harvest are a more likely source of sediment and withdrawing plantation forestry from steepest slopes could have unintended consequences and increase risk of sediment loss.

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<sup>155</sup> <https://environment.govt.nz/assets/publications/Aotearoa-New-Zealands-first-emissions-reduction-plan.pdf>

<sup>156</sup> <https://environment.govt.nz/assets/publications/climate-change/MFE-AoG-20664-GF-National-Adaptation-Plan-2022-WEB.pdf> (I note there is an ERP version 2 because the first ERP ends and second one comes into effect on 1 Jan 2026)

<sup>157</sup> NZFFA Wellington [S36.040] (supported by NZCF [FS50.174])

172. As the main erosion risks in these Whaitua are surficial, based on the Statements of Evidence of Mr Blyth and Mr Peryer, there is a potential risk that preventing forestry on highest erosion risk (plantation forestry) land could result in perverse outcomes for water quality and lead to other unintended consequences. Taking account of the evidence of Mr Blyth and Mr Peryer, sediment loads could increase if plantation forestry on highest erosion risk land is prevented moving forward and is left to natural processes or is converted to pasture for the following reasons:

- Relying on the Statement of Evidence of Mr Blyth for Hearing Stream 3, I understand sediment loads from land replanted in exotic forest species are likely to be less than those of pasture over the life cycle of a forest (approximately 30 years) and that given the main form of erosion in these Whaitua is surficial erosion, it would take approximately two harvest cycles for retirement of the land (reversion to natives) to achieve sediment benefits that would outweigh replanting the land in forest species. In my opinion, given the visual clarity TAS and environmental outcome objectives in PC1 are set at a 2040 timeframe this would not provide any benefit to achieving the relevant environmental outcome objectives of PC1.
- After harvesting, if the prevention of replanting is retained, there would be less economic incentive for landowners to maintain or revegetate the land. Regeneration of lower quality pine with the potential for large scale wilding pines, gorse and other weeds is expected to be the likely result. The Statement of Evidence of Mr Peryer describes that planting and regeneration (reversion) of native vegetation in some areas in these Whaitua has been challenging from his observations<sup>158</sup>. As such, relying on the Statement of Evidence of Mr Blyth, sediment loads from affected land have the potential to be higher in the short term (for a period of up to 20 years) while this vegetation is trying to establish than if the land had been replanted with forest species (i.e. exotics).
- Preventing forest harvest beyond the current harvest cycle could also lead to perverse outcomes because forest owners may not have the economic incentive to maintain or enhance land subject to forestry activity in the longer term. There is a risk of lower cost environmental controls, adoption of more temporary forestry infrastructure (such as forest tracks built for expediency at least cost) and less optimal (but cheaper) harvest methods, and a risk of increasing sediment loads, as landowners would be looking to minimise costs to maximise returns since they will be aware they may not be able to generate a return from that land in future. In the same way, landowners would likely be minimising costs associated with managing and maintaining that land, leaving harvested forests to natural processes, which in addition to increasing sediment loads while vegetation tries to establish, I understand from submissions could include wilding pine, unmanaged forest (weak trees toppling and potentially blocking waterways) and weed and pest problems.

173. For the above reasons, I am recommending clause (c) be deleted; however, the policies will be retained and therefore I recommend the submission from NZFFA Wellington be accepted in part.

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<sup>158</sup> Paragraph 64 of Mr Peryer's Statement of Evidence

Clause (c)

174. In addition to the submissions above, a number of other submitters specifically oppose clause (c) insofar as it directs (through Rules WH.R22 and P.R21) a prohibition on identified forestry activities on highest erosion risk (plantation forestry) land. Guildford Timber, Silverstream Forest and Goodwin Estate<sup>159</sup> do not consider PC1 objectives justify a prohibited activity approach and seek forestry activities be managed through the NES-CF, deletion or amendments to the mapping or deletion of clause (c).

175. Donald Love<sup>160</sup> considers risks should be able to be assessed as the impacts of another rotation of forest could be worse than other options and seeks that there be no new forestry, but additional rotations of plantation forestry should be able to be considered in terms of their impact. I have assessed the concerns surrounding a prohibited activity approach and the potential unintended consequences and risks of increasing sediment loads if replanting on highest erosion risk land is prohibited in paragraph 172.

176. PF Olsen<sup>161</sup> considers the prohibition is too restrictive and seeks deletion of the policies and greater alignment with the NES-CF and cites concerns about economic implications and implications under the Emissions Trading Scheme (**ETS**). Ara Poutama<sup>162</sup> and WFF<sup>163</sup> cites similar concerns and note the practicalities of planting natives and the benefits pine provides for erosion-prone land. WFF seek amendments to enable replanting of production forests on highest erosion risk land provided landowners can identify through a consent how management and harvest of the forest can be achieved without adverse effects on waterbodies.

177. In relation to ETS implications, I understand from reviewing the material available through the Ministry for Primary Industries (MPI) website<sup>164</sup> and discussions with Mr Reardon during the preparation of this report, that forest land is classified differently in the ETS depending on when it was first established. Forests established before 1 January 1990 (and that were in exotic forest on 31 December 1989) are called 'pre-1990 forests' and are considered part of New Zealand's baseline emissions. These forests were automatically registered by the Government in the ETS and can be harvested and replanted without penalty. However, if the forest is converted to another land use or the forest is not re-established, a deforestation liability may be incurred. This can come at a substantial cost to the landowner, depending on the carbon price at the time of deforestation.

178. Forests established (planted or regenerated) after 31 December 1989, or 'post-1989 forests', are considered new carbon sinks and can be registered with the ETS to earn carbon credits. Any credits claimed must be paid back if the forest is converted to another land use or removed from the ETS. Unless a forest was planted recently (post 2019), most forests in the scheme will be registered under the "stock change" method and will carry carbon credit surrender liabilities if the forest is not replanted after harvest. The liabilities equal the accumulated carbon credits at time of harvest based on the unit price at the time and rest with the landowner. My understanding is these liabilities can be mitigated if the harvest site

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<sup>159</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.034] (supported by NZCF [FS50.071])

<sup>160</sup> Donald Love [S102.002] (supported in part by NZCF [FS50.031])

<sup>161</sup> PF Olsen [S18.028] (supported by NZCF [FS50.125]) and [S18.054] (supported by NZCF [FS50.129])

<sup>162</sup> Ara Poutama [S248.025] (supported by NZCF [FS50.006]) and [S248.049] (supported by NZCF [FS50.009])

<sup>163</sup>

<sup>164</sup> [Forestry in the Emissions Trading Scheme | NZ Government](#)

is replanted or an equivalent area of land somewhere else is afforested (in either exotic or natives). In both situations the land needs to achieve specified criteria at 4, 10 and 20 years after harvest<sup>165</sup>. If the new forest cannot meet these criteria the area is considered 'deforested'. If pre-1990 forest land is deforested, the landowner will incur a deforestation liability for the resulting greenhouse gas emissions, unless the land is exempt. If a landowner deforests ETS registered post-1989 forest land, the liability equates to the net balance of carbon credits that were received previously for the land and the land may no longer be eligible for the ETS. The same applies to permanent forest, with additional penalties if the deforestation occurs while the land is still registered as permanent forest.

179. Relying on the Statement of Evidence of Mr Peryer, I understand there have been challenges establishing native plant species in some areas within these Whaitua. If PC1 was retained as notified, this may affect the ability of landowners to meet the criteria at 4, 10 and 20 years to avoid land being considered deforested and the consequential financial penalty. These economic implications for landowners could lead to the unintended consequences described in paragraph 172 and potential loss of productive forest estate. I also note submitters suggest pastoral farmers have been encouraged to use plantation forestry (as well as permanent forestry and native revegetation) for Government sponsored Hill Country Erosion programmes, other subsidised planting schemes (e.g. Billion Trees) and to offset livestock greenhouse gas (GHG) emissions. The prevention of new forestry and continuation of existing forestry on steeper slopes will reduce the options available to landowners and these costs and the general economic implications of this require further evaluation in my opinion.

180. My recommended amendments remove the prohibition on new forestry and continuation of existing forestry post current harvest cycle which I consider achieves the relief sought by PF Olsen, Guildford Timber, Silverstream Forest and Goodwin Estate, Donald Love, Ara Poutama and WFF therefore I recommend these submissions be accepted in part.

181. Forest & Bird<sup>166</sup> seek retention of clause (c) as notified and both Forest & Bird and EDS<sup>167</sup> seek the policies include larger setbacks, alternative harvesting methods and limits on harvesting. For the above reasons, I recommend amendments that remove the implied prohibition on forestry on highest erosion risk land and to provide that forestry activities (regardless of the erosion risk) be able to be undertaken, provided an applicant can demonstrate that adverse effects from the management and harvest of the forest can appropriately protect water quality. In my opinion, the appropriateness of the relevant forestry activity and any additional restrictions that should apply based on potential adverse effects should be evaluated as part of a consent application. Accordingly, I recommend the submissions from Forest & Bird and EDS be rejected.

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<sup>165</sup> [How the ETS defines deforestation | NZ Government](#)

<sup>166</sup> Forest & Bird [S261.089] (supported by MPHRCI [FS27.708], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.036], NZCF [FS50.052], NZFFA [FS9.416]) and [S261.168] (supported by MPHRCI [FS27.787], opposed by NZCF [FS50.055], NZFFA [FS9.495])

<sup>167</sup> EDS [S222.048] (supported by Forest & Bird [FS23.204], MPHRCI [FS27.940], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.065], NZCF [FS50.046], NZFFA [FS9.229]) and [S222.091] (supported by Forest & Bird [FS23.247], MPHRCI [FS27.983], opposed by NZCF [FS50.049], NZFFA [FS9.272])

### General support

182. Yvonne Weeber<sup>168</sup> and Fish & Game<sup>169</sup> support these policies but provide no reasons and seek no relief and therefore I make no recommendation on these submissions. I acknowledge the submissions from Taranaki Whānui<sup>170</sup> on WH.P28, and PCC<sup>171</sup> on P.P26, who seek to retain these policies as notified. As I am recommending substantive amendments which materially change the direction included within the policies, I recommend these submissions be rejected.

### Neutral stance

183. Mangaroa Farms<sup>172</sup> are neutral on Policy WH.P28, and seek retention of notified provisions or active involvement in any changes that would result in a more restrictive framework. I recommend accepting this submission in part on the basis that I am recommending amendments to PC1 but they will not be more restrictive than PC1 as notified.

## **3.9.2 Recommendations**

184. I recommend that Policies WH.P28 and P.P26 be amended as shown in Appendix 4.

185. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

## **3.10 Issue 9: WH.R20 and P.R19 (Plantation forestry – controlled activity)**

186. A total of 43 submissions and 67 further submissions were received on Rules WH.R20 and P.R19.

187. As notified, Rules WH.R20 and P.R19 provide for afforestation, harvesting, earthworks, vegetation clearance (for forestry) or mechanical land preparation for plantation forestry, and any associated discharge of sediment to a surface water body as a controlled activity in pFMUs where visual clarity TAS are met. In pFMUs where visual clarity TAS are not met a discretionary activity is required under Rules WH.R21 and P.R20. As notified, PC1 requires all listed forestry activities to obtain at a minimum a controlled activity consent.

### **3.10.1 Analysis**

#### General opposition

188. Dougal Morrison<sup>173</sup> considers rules need to be appropriate to the type of forest being managed and suggests commercial forests using a continuous cover approach should be a permitted activity. The submitter also suggests that if highly erodible land is unable to be replanted post-harvest it will result in unmanaged forests and associated problems and seeks deletion of Rule P.R19. I disagree that afforestation for continuous cover forestry

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<sup>168</sup> Yvonne Weeber [S183.218] (supported by MPHRCI [FS27.218]) and [S183.301] (supported by MPHRCI [FS27.301])

<sup>169</sup> Fish and Game [S188.063] (supported by Forest & Bird [FS23.1219], Manor Park Golf Club (Incorporated) (MPGC) [FS21.068], MPHRCI [FS27.1152], opposed by NZFFA [FS9.063])

<sup>170</sup> Taranaki Whānui [S286.059] (supported by Rangitāne [FS24.059])

<sup>171</sup> PCC [S240.057] (opposed by NZFFA [FS9.154])

<sup>172</sup> Mangaroa Farms [S194.012]

<sup>173</sup> Dougal Morrison [S3.016]

should be permitted in all situations as the location of this forestry may have impacts on water quality in the event it is harvested in future. The ability for Council to retain some discretion over the location of these forests is therefore important. I note that PC1 will only control harvesting activities, and in this way if the continuous cover approach is consistent with the definition of low-intensity harvesting in the NES-CF this activity will continue to be managed by the NES-CF. If harvesting of permanent forest is proposed this will be a discretionary activity under the NES-CF by virtue of the note above Rule WH.R20 and P.R19 which identifies regulations of the NES-CF over which PC1 prevail. I also note Rules WH.R20 and P.R19 do not direct the prohibition of afforestation or replanting. As the submitter seeks deletion of P.R19 and I am recommending retaining Rule P.R19 subject to my recommended amendments, I recommend this submission be rejected.

189.WFF<sup>174</sup> oppose Rules WH.R20 and P.R19, seeking retention of the NRP rules and that PC1 rules be deleted. Outside of general conditions on the wetland rules which prescribe requirements for setbacks from wetlands and activities in the beds of lakes and rivers during indigenous bird nesting, roosting and foraging critical periods, which in some instances would be more stringent than the NES-PF/CF, the NRP does not have any rules related to forestry, with the NES-PF/CF being the primary mechanism for regulating forestry activities under the current NRP regulatory framework. In this regard, the notes in the NRP describe the land use rules do not control any earthworks, soil disturbances, vegetation clearance or vegetation disturbances covered by the NES-PF 2017. As I am recommending amendments to these rules but ultimately they will be retained, I recommend these submissions be rejected.

190.PF Olsen<sup>175</sup>, Forest Enterprises<sup>176</sup>, Guildford Timber, Silverstream Forest and Goodwin Estate<sup>177</sup>, UHCC<sup>178</sup>, NZFFA<sup>179</sup>, Southern North Island Wood Council<sup>180</sup> and CFG<sup>181</sup> oppose Rules WH.R20 and P.R19 due to inconsistency with the NES-CF and concerns regarding robustness of the evidence provided justifying the need for PC1 rules related to forestry. Amongst the matters of concern, PF Olsen note PC1 is inconsistent with the WIP recommendations and PF Olsen and CFG suggest the efficacy of the existing regulatory framework under the NES-PF/CF has not been adequately identified in section 32 analysis and therefore there is insufficient justification for overriding the NES-CF. Similarly, Peter Kiernan<sup>182</sup> considers that without local scientific data, changes to the forestry rules are not justified. Other than Forest Enterprises and Peter Kiernan who seek no relief, these submitters seek substantive amendments to align with the requirements of the NES-CF or deletion of the rules such that the NES-CF prevails.

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<sup>174</sup> WFF [S193.097] (supported in part by NZCF [FS50.152], opposed by Forest & Bird [FS23.1053]) and [S193.146] (supported in part by NZCF [FS50.156], opposed by Forest & Bird [FS23.1102])

<sup>175</sup> PF Olsen [S18.034] (supported by NZCF [FS50.126]) and [S18.061] (supported by NZCF [FS50.130])

<sup>176</sup> Forest Enterprises [S111.013 and [S111.019]

<sup>177</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.048] (supported by NZCF [FS50.072])

<sup>178</sup> UHCC [S225.105] (supported by NZCF [FS50.148], opposed by Forest & Bird [FS23.933])

<sup>179</sup> NZFFA [S195.029] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.078], NZCF [FS50.096], opposed by Forest & Bird [FS23.432])

<sup>180</sup> Southern North Island Wood Council [S262.015] (supported by NZCF [FS50.141]) and [S262.020] (supported by NZCF [FS50.144])

<sup>181</sup> CFG [S288.070] (supported by NZCF [FS50.022], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.115], opposed by Forest & Bird [FS23.094]) and [S288.114] (supported by NZCF [FS50.026], opposed by Forest & Bird [FS23.138])

<sup>182</sup> Peter Kiernan [S54.003] (supported by NZCF [FS50.119])

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191. In response to concerns about inconsistency with the recommendations of the respective WIP's, both the Whaitua committees considered whether rules more stringent than the NES-PF were required to achieve sediment objectives and both concluded that the NES-PF should be given time to be implemented (i.e. 'bed in'). The recommendations of the Whaitua committees focused on improving resourcing and capability for monitoring and enforcement and sought that forestry operations be carried out in compliance with good practice. As notified, PC1 by contrast provides a mandatory consent requirement for all forestry activities listed in the rules.
192. While not specifically mentioned in these submissions, in my opinion the submitters' concerns regarding the robustness of evidence relates to the ability of Rules WH.R20 and P.R19 to meet the 'stringency test' in Regulation 6 of the NES-CF. As described in paragraph 41, the NES-CF allows regional plans to have rules more stringent than the NES-CF in certain circumstances, including to give effect to an objective developed to give effect to the NPS-FM.
193. Relying on the Statement of Evidence of Dr Greer<sup>183</sup>, I understand sediment loads from forestry were not assessed as part of the modelling work for the WIPs nor have they been assessed for the technical work supporting PC1 to date. The contribution of forestry to achieving the visual clarity TAS is therefore unknown. However, visual clarity improvements are required in some pFMUs to achieve objectives WH.O2 and WH.O9 for TWT and objectives P.O2 and P.O6 for TAoP and visual clarity TAS need to be maintained at or above current state in all other pFMUs. Ms O'Callahan's recommended inclusion of new objectives P.O7 and WH.10 in her rebuttal evidence for Hearing Stream 2<sup>184</sup> also require no further degradation of water quality in these Whaitua. Despite a lack of scientific evidence about the influence of forestry on achievability of the TAS, Dr Greer confirms from a scientific perspective forestry activities generate sediment and can be said to be contributing to visual clarity TAS not being met in pFMU's where improvement is required.
194. Regarding the efficacy of the NES-CF, I have considered the best available information in accordance with clause 1.6 of the NPS-FM, this included seeking advice from Council officers and independent advice about the performance of the forestry sector in these Whaitua and its impacts on water quality from Mr Reardon. Relying on the Statement of Evidence of Mr Reardon, and based on discussions with Council officers (both regulatory and non-regulatory) during the development of this report, I understand that the NES-CF has its limitations and adverse effects from sediment on water quality are (on occasion) occurring in these Whaitua because good management practice is not always being followed. After reviewing the NES-CF and the permitted activity standards prescribed within it, I consider the NES-CF does not include clear and specific thresholds for all activities which have the potential to impact water quality, and some regulations are open to interpretation, which can make compliance and enforcement challenging. For example, statements such as 'wherever practicable'<sup>185</sup> and 'except where it is unsafe to do so'<sup>186</sup> or 'to do so would be unsafe'<sup>187</sup> and 'disturbance to the water body from machinery is

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<sup>183</sup> Paragraph 35 of Dr Greer's Statement of Evidence

<sup>184</sup> [HS2 Appendix 2 - further recommended amendments.docx](#)

<sup>185</sup> Regulation 67(1)

<sup>186</sup> Regulation 68(1)

<sup>187</sup> Regulation 69(4) and (5)

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minimised<sup>188</sup> are difficult to measure and enforce. This is supported by Mr Pepperell in his Statement of Evidence<sup>189</sup>. Mr Reardon also states the NES-CF requirements are vague<sup>190</sup> and that some regulations, such as regulation 24(3) related to earthworks exceeding 5,000m<sup>3</sup> in a three month period are not widely adhered to.

195. My understanding from the Statement of Evidence of Mr Reardon<sup>191</sup> and discussions with him throughout the preparation of this report is that the level of planning detail required under the NES-CF is not suitable to obtain an informed understanding of the potential environmental risks during some forestry activities. Mr Reardon has observed many locations in these Whaitua with forestry that are highly susceptible to erosion, despite the ESC and management plans submitted under the NES-CF not identifying the corresponding level of risk. This is largely because the mapping required to support management plans under the NES-CF is not at an appropriate scale. The digital terrain mapping (contour mapping) required by the NES-CF relies on a 20 metre scale whereas Mr Reardon considers mapping at a 5 metre scale is required to appropriately understand site specific erosion risk to evaluate whether proposed activities, such as earthworks and harvest methods, are suitable for the location and the terrain.

196. Mr Reardon also highlights concerns about the lack of a requirement to follow best practice under the NES-CF. Mr Reardon states the resources provided by the NZ Forest Owners Association (NZFOA) suitably describe the controls most effective for reducing sediment<sup>192</sup>; however, there is currently nothing that requires these to be followed. This concern was also acknowledged by the Joint Forestry Project in their submission on the Ministerial Inquiry into Forestry Slash<sup>193</sup> where they note a common theme raised by the Courts' in the prosecutions of the forestry companies in Gisborne was a failure to comply with the New Zealand Forest Owners Association Code of Practice and Forest Practice Guides. These documents are not (other than where they are incorporated into management plans<sup>194</sup> or consent conditions) enforceable under the RMA and while there are provisions in the Code of Practice which are expressed as being "compulsory", this document does not have the effect of legislative regulation.

197. The concerns of Mr Reardon align with the concerns raised in discussions with Council officers during the preparation of this report. Council's biggest concerns with the NES-CF are the lack of ability for Council to require improvements to the quality of information provided in the management plans prepared to satisfy the requirements of Schedules 3, 4 and 6 of the NES-CF and the challenges with enforcement, given the lack of clear limits and thresholds in the NES-CF as outlined in the Statement of Evidence of Mr Pepperell<sup>195</sup>.

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<sup>188</sup> Regulation 68(5)(a)

<sup>189</sup> Paragraph 79-83 of Mr Pepperell's Statement of Evidence

<sup>190</sup> Paragraph 55 of Mr Reardon's Statement of Evidence

<sup>191</sup> Paragraphs 42 and 56 of Mr Reardon's Statement of Evidence

<sup>192</sup> Paragraph 58 of Mr Reardon's Statement of Evidence

<sup>193</sup> [Final-Submission-Joint-Forestry-Project-Submission-on-Land-Use-Inquiry-1\\_EWJTVpS.pdf](#)

<sup>194</sup> The Guides generally include a disclaimer that: "The guides are not statutory documents however, care must be taken to references to a guide. If a Management Plan states that a certain guide or part of a guide is going to be followed then those provisions of that guide will form part of compliance with the NES-PF regulations. In other words, the provisions will form part of your regulatory obligation under the RMA."

<sup>195</sup> Paragraphs 66-69 and 79- 83 of Mr Pepperell's Statement of Evidence

198. The Statement of Evidence of Mr Pepperell outlines the limitations of Council's monitoring and enforcement of forestry within these Whaitua with Council acknowledging there are improvements still to be made in how it monitors permitted activities and enforces the NES-CF; this makes it difficult to assess the effectiveness and efficacy of the NES-CF in these Whaitua. I also acknowledge Mr Reardon suggests the 10 metre setbacks required in the NES-CF are not always sufficient and greater setbacks from waterbodies and ephemeral watercourses and specific timeframes for replanting could lead to better future environmental outcomes. However, I have concerns about setting blanket restrictions, such as setbacks or area limits on harvest as suggested by some submitters, in rules, as these may not be appropriate, or indeed necessary, in all cases and may unduly penalise some landowners and forest managers. I have also not been provided any evidence as to what an appropriate setback distance or other restrictions might be.
199. Based on the Statement of Evidence of Mr Pepperell, while some work has been undertaken to increase monitoring and enforcement of the NES-CF in accordance with the respective WIP recommendations, this has been limited in its application. It is therefore difficult to get an understanding of whether some of the issues raised by Mr Reardon are because of limitations in the NES-CF or, rather, are a failure to implement the NES-CF as it was designed. I consider it likely that if Council were undertaking more regular monitoring and enforcement that the instances of non-compliance with NES-CF standards, and consequently, the number of consents required for forestry activities in these Whaitua, would increase. I also consider if Council were undertaking more regular and pro-active monitoring it would incentivise landowners and forest managers to improve environmental performance which would further support improvements to water quality in these Whaitua.
200. While recognising the monitoring and capability limitations of Council as outlined in the Statement of Evidence of Mr Pepperell, I do not consider these limitations address the material issues raised by Mr Reardon, related to the level of information required to understand the risks of sediment from forestry activity at a property scale and the lack of any statutory requirement to comply with best practice, both of which are the key shortcomings of the NES-CF and risks to water quality observed by Mr Reardon. Relying on the Statement of Evidence of Mr Blyth and the potential for significant increases in sediment loads post-harvest, I am also concerned about the expected 40% increase in harvest area in these Whaitua over the next 5 year period, particularly given that most of this harvesting will occur within smaller woodlots where Mr Reardon has observed poorer environmental performance. Relying on the Statement of Evidence of Dr Greer, there is evidence to suggest that forestry will be contributing to fine suspended sediment not meeting TAS in pFMU's where TAS is not being met, I consider the inherent risk in this increase in harvest activity and its ability to generate sediment which could impact visual clarity TAS, exacerbated by the potential risk of more frequent and intense rainfall events due to climate change, justifies more stringent regulation than the current NES-CF to give effect to PC1 objectives in those pFMUs where visual clarity TAS is not met and therefore I am satisfied the stringency test of Regulation 6 of the NES-CF is met in these situations.
201. Accordingly, I recommend restricted discretionary activity consent be required for all afforestation, earthworks, harvesting, mechanical land preparation, replanting and vegetation clearance (in the forestry context) in pFMUs where visual clarity TAS are not met. This ensures PC1 objectives are given effect to, while Council progresses further work to understand the scale of the impacts of forestry and their influence on achievement of the

TAS in these Whaitua (refer to recommended non-regulatory methods in paragraph 213). I note that vegetation clearance (in the forestry context) was not included as an activity in Rule P.R19. I consider this to be a drafting error as it is included in Rule WH.R20 and referenced in the note above the rule. I therefore recommend a consequential amendment to Rule P.R19 to include vegetation clearance (forestry).

202. While I considered the merits of a controlled activity status, I consider restricted discretionary activity to be the most appropriate as Council retains the ability to decline consent in situations where the effects of the activity may not protect water quality. I consider a restricted discretionary activity, with matters of discretion restricted to the content of recommended forestry management plans (which align with the requirements of Schedule 3, 4 and 6 of the NES-CF insofar as they relate to water quality, subject to amendments to require more detailed contour mapping as described in paragraph 250), adverse effects on receiving environments and monitoring, reporting and review requirements to ensure measures to manage adverse effects on water quality remain appropriate for the duration of the activity, provides a degree of certainty to the forestry sector that forestry activities can continue, provided the consent application includes a suitable level of detail to allow evaluation of the risks of the forestry activity on water quality. I also consider this approach minimises costs for the forestry sector as the expected information requirements align with those already enshrined in the NES-CF and therefore if landowners and forest managers are preparing management plans in accordance with the requirements of the NES-CF and the relevant forestry practice guides, the only additional cost should be the consent application and processing fees. It is up to Council to work out what these might be in accordance with their fees and charges policies.

203. As the objective of requiring consent is protecting water quality (i.e. improving visual clarity), the key benefits of requiring consent (in this situation) include the ability to withhold approval until Council has an appropriate level of information to determine whether or not the forestry activity can be undertaken while protecting water quality and the ability to impose conditions such as as-built requirements, which will require the consent holder to demonstrate controls are in place and have been appropriately installed before activities can occur. Under the current framework, Council has no ability to *require* amendments to management plans or proposed environmental controls, or specific responses to address environmental effects, until after the forestry activity has commenced. By this stage adverse effects may have already occurred.

204. I recommend the NES-CF continues to prevail in pFMUs where visual clarity TAS are met as I consider there is no scientific justification for more stringency in this situation, and in my opinion, this acts as an incentive for the forestry sector to improve environmental performance to avoid the risk of those pFMUs not meeting TAS and forestry activities in those catchments being subject to consent. This is largely consistent with Mr Willis' recommended approach to requirements for erosion risk treatment plans in his section 42A report for the Rural Land Use topic and the approach of Ms Vivian to have more stringent requirements for earthworks in pFMU's where TAS are not met. Ideally, the incentive of avoiding resource consent and to avoid erosion risk treatment plan requirements will encourage both of these land use activities (rural land use and forestry) to improve management practice which will see improvements in visual clarity in pFMUs where these are the dominant modified land uses.

205. I consider any specific blanket restrictions on areas of land, setbacks, or the scale or type of forestry activities would be premature, with more information required to identify the types of land or the specific areas or activities within these Whaitua that require a more targeted regulatory intervention. Restricted activity status enables Council to refuse consent in situations where the adverse effects would be significant and otherwise withhold approval for proposed activities until they are satisfied there is sufficient information to assess the effects. Council can then evaluate whether any specific restrictions on the proposed forestry activities are required to manage adverse effects on water quality and consent conditions can be imposed to manage those effects if necessary.
206. As I am recommending amendments to Rules WH.R20 and P.R19 but they will be retained, I recommend submissions from NZFFA, Guildford Timber, Silverstream Forest and Goodwin Estate, UHCC and CFG seeking deletion of Rules WH.R20 and P.R19 be rejected. I recommend submissions from PF Olsen and Southern North Island Wood Council seeking amendments to align with the NES-CF be accepted in part as the NES-CF will prevail in pFMU's where TAS are met. I make no recommendation on the submissions of Forest Enterprises or Peter Kiernan, who seek no specific relief.
207. I acknowledge the submission points from NZFFA<sup>196</sup>, NZCF<sup>197</sup> and NZFFA Wellington<sup>198</sup> opposing Rules WH.R20 and P.R19 and the various relief sought, which includes deletion of the rules and substantive amendments to the standards in the rules, and the submission from Louise Askin<sup>199</sup> about concerns with the classification and mapping of erosion risk land in PC1.
208. In relation to concerns about clause (b), I recommend deletion of Schedule 34 and amendments which include re-writing the requirements of Schedule 3, 4 and 6 of the NES-CF into PC1 as Schedule 34A (Afforestation), Schedule 34B (Earthworks) and Schedule 34C (Harvest) insofar as they relate to water quality, subject to minor additional amendments related to the scale of contour maps to reflect 5 metre rather than 20 metre contours. These management plans will be reflected as a matter of discretion rather than a condition within the rule. I do not consider this an unreasonable requirement as landowners and forest managers are required to prepare these management plans as part of permitted activity standards of the NES-CF so there will be no additional obligation other than the requirement to show the relevant information on a more detailed contour map. Most forestry companies will have access to the tools required to prepare the more detailed mapping, there may however be a need for Council to provide support for landowners and smaller operators in accessing the required digital terrain mapping required to satisfy these requirements.
209. I disagree with NZFFA Wellington who suggest that the discharge limit for forestry (condition (c)) is more rigid than that for earthworks as notified. The same discharge standard, being 100g/m<sup>3</sup>, applies to both the earthworks and forestry rules in PC1. However, I understand

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<sup>196</sup> NZFFA [S195.040] (supported by NZCF [FS50.104], opposed by Forest & Bird [FS23.443]), [S195.041] (supported by NZCF [FS50.105], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.079], opposed by Forest & Bird [FS23.444]), [S195.042] (supported by NZCF [FS50.106], opposed by Forest & Bird [FS23.445]), [S195.043] (opposed by Forest & Bird [FS23.446]), [S195.044] (opposed by Forest & Bird [FS23.447]) and [S195.046] (supported by NZCF [FS50.108], opposed by Forest & Bird [FS23.449])

<sup>197</sup> NZCF [S263.022] (opposed by Forest & Bird [FS23.393]) and [S263.027] (opposed by Forest & Bird [FS23.398])

<sup>198</sup> NZFFA Wellington [S36.043] (supported by NZCF [FS50.175])

<sup>199</sup> Louise Askin [S9.025] (supported by NZCF [FS50.089])

forestry discharges are largely diffuse whereas suspended sediment limits are generally applied to structural controls which have a fixed discharge point (i.e. Sediment Retention Ponds, Decanting Earth Bunds, sediment tanks etc) which I understand can be, but are not generally, used in the forestry context. On this basis, and relying on the Statement of Evidence of Mr Reardon, I recommend that any conditions or standards requiring a numeric limit on discharges from forestry activities be deleted. If Council consider a specific sediment discharge limit is necessary for management of adverse effects, this can be imposed through conditions of consent.

210. In response to NZFFA Wellington, who seek review of the visual clarity TAS to take into account natural brown water inputs, I refer to the section 42A report of Ms O'Callahan<sup>200</sup> and the Statements of Evidence of Dr Greer<sup>201</sup>, Mr Blyth<sup>202</sup> and Ms Valois<sup>203</sup> in support of Hearing Stream 2, related to amendments to the visual clarity TAS in the Mangaroa catchment. This evidence has resulted in a reduction in the expected sediment load reduction required to meet the visual clarity target and a revised colour adjusted TAS in the Te Awa Kairangi rural mainstems pFMU. Regarding concerns about the ability of monitoring data in one catchment being able to restrict other activities in other areas of a FMU, I rely on the evidence of Dr Greer<sup>204</sup> who explains the rationale for the TAS monitoring sites. In my observations, all activities upstream of a monitoring point being restricted or controlled in some way to manage an actual or potential adverse effect downstream is standard practice in the RMA context. From a planning perspective, I agree with Dr Greer's assessment that it is appropriate to regard properties upstream of a monitoring site as contributing to the water quality at the monitoring site, even if the monitoring site is at the bottom of the catchment. While some properties or land uses will contribute more sediment than others, to the extent that maintenance or improvement of water quality (in this case visual clarity) is the target, all properties which generate sediment that influence the monitoring site need to be subject to provisions that seek to limit contaminant losses (even if water quality within specific properties or pFMU's are in good condition or meeting targets). The proportion of sediment generated from respective land use activities is unknown and so reliance is placed on land management or practice improvement to reduce sediment loads. To this end, I acknowledge that because the Te Awa Kairangi lower mainstem (Hutt River at Boulcott) TAS site is 'nested', this will mean those pFMUs upstream of this site will be considered to be not meeting TAS and will require consent, even though the relevant pFMUs might be meeting or exceeding TAS. This includes activities within the Ōrongorongo, Te Awa Kairangi and Wainuiomata small forested and Te Awa Kairangi forested mainstems, Te Awa Kairangi rural streams and rural mainstems and Te Awa Kairangi urban streams pFMUs.

211. I acknowledge the concerns from NZFFA about the ability and expertise of GWRC staff to exercise prescribed matters of control, which subject to my recommended amendments will now largely be reflected as matters of discretion. In my opinion, Council's internal resourcing and expertise is irrelevant in the context of PC1, as section 36 of the RMA allows

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<sup>200</sup> [S42A Report - Ecosystem Health and Water Quality.docx](#) (paragraph 75) and [Final S42A Report - Objectives.docx](#) (paragraph 348)

<sup>201</sup> [HS2-GWRC-Technical-Evidence-of-Dr-Michael-Greer-280225-Freshwater.pdf](#) (paras 150 and 151)

<sup>202</sup> [HS2-GWRC-Technical-Evidence-of-Mr-James-Blyth-280225-Load-reductions-to-meet-visual-clarity-TAS-3.pdf](#)

<sup>203</sup> [22-HS2-GWRC-Technical-Evidence-of-Dr-Amanda-Valois-280225-Impacts-of-natural-colour-on-visual-clarity-TAS.pdf](#)

<sup>204</sup> Paragraphs 25-28 of Dr Greer's Statement of Evidence

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Councils to engage external consultants or advisors as required and recoup costs associated with assessing both the merits of granting a resource consent and compliance with a resource consent. With the exception of monitoring for replanting, the costs would be expected to be no different to those already able to be recovered by Council for monitoring under section 106 of the NES-CF.

212. In relation to concerns about the capability and expertise of Council, I note Mr Reardon highlights the importance of non-regulatory methods<sup>205</sup>, including environmental management training, education and promoting awareness of what good practice looks like and that he is in the process of setting up an Environmental Working Group on behalf of Council. The key drivers of this are shared knowledge, better communication and understanding of issues and building relationships between Council and the forestry sector to deliver better environmental outcomes. These sorts of non-regulatory methods are consistent with the WIP recommendations for TWT and TAO and I consider Council can achieve further improvements to water quality through initiatives which educate and promote what good management practice looks like, in partnership with the forestry sector.

213. I consider these non-regulatory methods are important and should be encouraged but they need to be supported by effective regulation from Council. To this end, I recommend the addition of two new forestry specific non-regulatory methods (M44A and M44B) and amendments to Schedule 27, which covers Freshwater Action Plans. This suite of non-regulatory measures will require Council to:

- Work with the forestry sector and landowners to identify areas at greatest risk of effects from forestry and investigate the best ways to manage risks in those locations, promote education and good management practice in forestry with a focus on awareness and adherence to the requirements of the NZFOA Forest Practice Guides and Road Engineering Manual, and develop standard consent conditions to manage effects and to enable Council to collect information about the performance of forestry activities and their impact on the receiving environment, and
- Develop a programme to increase the capability of Council officers and a charging policy to ensure effective regulation of forestry. To ensure this occurs in a timely manner to reduce the risk of adverse effects moving forward, I have put a deadline on this method (August 2026) and Council have confirmed the appropriateness of that deadline.

214. In my opinion these non-regulatory methods are consistent with the respective WIP reports and the direction of RPS Change 1, including Objectives CC.5, Policy CC.6, Policy CC.18 and Method C.4 and will support maintenance of TAS and meeting of TAS in pFMUs where improvement is required. I have also spoken to Council officers about updating Council's forestry webpage<sup>206</sup> to provide more guidance around expectations with specific reference to the relevant NZFOA best practice guidance documents and supporting resources related to forestry activities to assist landowners and those less familiar with the regulatory requirements for forestry.

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<sup>205</sup> Paragraphs 28-35 of Mr Reardon's Statement of Evidence

<sup>206</sup> [Greater Wellington — Forestry](#)

215. Mr Reardon's Statement of Evidence includes maps and information on the areas and scale of forestry in these Whaitua likely to be subject to harvest over the next five years<sup>207</sup>. To get a more detailed understanding of the impact of forestry activities in these Whaitua, Council could work with the forestry sector to identify those pFMUs with the highest risk of effects to water quality and share funding and resources to implement a targeted programme (or programmes) to collectively obtain information about the performance of forestry activities and their contribution to sediment loads, and forestry's influence on meeting the TAS in those pFMUs, on a more holistic basis. I note that Mr Blyth's Statement of Evidence suggests some monitoring approaches Council could adopt to get a better understanding of the effects of forestry on visual clarity in surface water bodies<sup>208</sup>. Such a programme would support my recommended non-regulatory methods and Council and the forestry sector could use the information collected to design a regulatory approach to manage the adverse effects of forestry. If the forestry industry is involved in the work to understand the scale of the problem and information and results are shared with the community and stakeholders, this approach could minimise conflict at the plan review stage if the information collected requires a more heavy-handed regulatory response. In the interim, in addition to imposing conditions of consent to protect water quality, if degradation of water quality (visual clarity) is observed that can be directly linked back to forestry activities, Council can undertake a plan change or develop an action plan to respond in accordance with Clause 3.20 of the NPS-FM.
216. I acknowledge submissions from NZFFA who seek afforestation be excluded from the rules and NZFFA Wellington<sup>209</sup> who seek an exclusion for forestry under 20 hectares where not in a red zone. In response to the request for exclusion of afforestation from the rules, I disagree. Setbacks from waterbodies when planting new forest (afforestation) are important for minimising sediment entering surface water during future earthworks and harvest phases and I consider that the appropriateness of afforestation, specifically the location of any afforestation, should be evaluated as part of a consent application where it is proposed in a pFMU that is not meeting TAS. Regarding exemptions for forests under 20 hectares, relying on the Statement of Evidence of Mr Reardon, who has observed a noticeable difference in the operating standards between small forest landowners and forest managers and larger operators, I consider the risks associated with these smaller woodlots are higher. Noting that a 40% increase in harvest is expected over the next 5 years and that most of this harvest is expected to come from smaller woodlots, I disagree that forests under 20 hectares should be excluded from the PC1 rules.
217. I note that while I am recommending retaining WH.R20 and P.R19, my recommended amendments at least partially achieve the relief sought by NZFFA and NZCF as the NES-CF will continue to prevail where TAS are met and therefore I recommend these submissions be accepted in part.
218. Louise Askin and NZFFA Wellington express concerns about reference to highest erosion risk land (pasture) in the rule with NZFFA Wellington seeking deletion of clause (a). Based on the Statement of Evidence of Mr Blyth, forestry is likely to generate less sediment over the life of a forest than pasture and therefore converting pasture into forestry will be expected to result in improvements for water quality in the medium-long term. I therefore recommend

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<sup>207</sup> Paragraphs 13-20 of Mr Reardon's Statement of Evidence

<sup>208</sup> Paragraphs 44-46 of Mr Blyth's Statement of Evidence

<sup>209</sup> NZFFA Wellington [S36.031]

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clause (a) be deleted and recommend the submission from Louise Askin be accepted in part. Noting the various concerns and substantive amendments sought by NZFFA Wellington, my recommended amendments at least partially achieve the relief sought by this submitter and therefore I recommend this submission be accepted in part.

219. In response to EDS<sup>210</sup> and Forest & Bird<sup>211</sup> who are concerned an inability to refuse consent may mean higher order policy direction is not achieved and seek a higher activity status, for the reasons outlined in paragraph 205 above, I consider restricted discretionary activity is the most appropriate policy response and recommend these submissions be accepted.

220. Yvonne Weeber<sup>212</sup> considers Rules WH.R20 and P.R19 require amendment to address slash and debris causing flooding in storm events. However, no relief is sought and therefore I make no recommendation.

#### General support

221. Taranaki Whānui<sup>213</sup> support WH.R20 in principle and seek it is retained as notified. Similarly, PCC<sup>214</sup> support reductions of sediment from forestry and that P.R19 be retained as notified. As I am recommending substantive amendments to WH.R20 and P.R19, including changing the activity status, I recommend these submissions be rejected.

#### Neutral stance

222. Mangaroa Farms<sup>215</sup> is neutral on Rule WH.R20 and seeks retention of the notified provisions, or active involvement in relation to any changes that would result in a more restrictive framework. Ara Poutama<sup>216</sup> is neutral on Rule WH.R20, subject to their relief on Schedule 34 being granted. I recommend accepting the submission from Mangaroa Farms in part on the basis that I am recommending amendments to PC1 but they will not be more restrictive than PC1 as notified. I consider my recommended deletion of Schedule 34 at least partially responds to the relief sought by Ara Poutama and therefore I recommend accepting this submission in part.

### **3.10.2 Recommendations**

223. I recommend that Rules WH.R20 and P.R19 be amended and the inclusion of two new non-regulatory methods be included in PC1 alongside amendments to Schedule 27 as shown in Appendix 4.

224. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

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<sup>210</sup> EDS [S222.060] (supported by Forest & Bird [FS23.216], MPHRCI [FS27.952], opposed in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.067], opposed by NZCF [FS50.047], NZFFA [FS9.241]) and [S222.102] (supported by Forest & Bird [FS23.258], MPHRCI [FS27.994], opposed by NZCF [FS50.050], NZFFA [FS9.283])

<sup>211</sup> Forest & Bird [S261.113] (supported by MPHRCI [FS27.732], opposed by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.042], NZCF [FS50.053], NZFFA [FS9.440]) and [S261.190] (supported by MPHRCI [FS27.809], opposed by NZCF [FS50.056], NZFFA [FS9.517])

<sup>212</sup> Yvonne Weeber [S183.243] (supported by MPHRCI [FS27.243], opposed by NZCF [FS50.184]) and [S183.325] (supported by MPHRCI [FS27.325], opposed by NZCF [FS50.187])

<sup>213</sup> Taranaki Whānui [S286.084] (supported by Rangitāne [FS24.084])

<sup>214</sup> PCC [S240.077] (opposed by NZFFA [FS9.174])

<sup>215</sup> Mangaroa Farms [S194.017]

<sup>216</sup> Ara Poutama [S248.038]

### 3.11 Issue 10: WH.R21 and P.R20 (Plantation forestry – discretionary activity)

225. A total of 30 submissions and 55 further submissions were received on Rules WH.R21 and P.R20.

#### 3.11.1 Analysis

226. WFF<sup>217</sup> seek to retain the operative NRP rule and that Rules WH.R21 and P.R20 are deleted. I refer to my analysis in paragraph 189 and make the same recommendation for the same reasons.

227. Dougal Morrison<sup>218</sup> Forest Enterprises<sup>219</sup>, NZFFA<sup>220</sup>, Guildford Timber, Silverstream Forest and Goodwin Estate<sup>221</sup>, UHCC<sup>222</sup>, Southern North Island Wood Council, CFG<sup>223</sup> and Peter Kiernan<sup>224</sup> oppose rules WH.R21 and/or P.R20. The reasons and relief sought by these submitters are the same as those provided for WH.R20 and P.R19.

228. Guildford Timber, Silverstream Forest and Goodwin Estate seek deletion of WH.R20, but should the rule be retained seek the activity status be changed to restricted discretionary with matters of discretion reflecting those matters in the conditions of WH.R20 that cannot be met. NZCF<sup>225</sup> and PF Olsen<sup>226</sup> express concern with the scientific basis for the rules and also seek a more permissive activity status, both seeking restricted discretionary activity status for Rule WH.R21 and PF Olsen seeking controlled activity status for P.R20.

229. I acknowledge the submissions from EDS<sup>227</sup> seeking amendments as a consequence of their relief sought on Rules WH.R20 and P.R19.

230. I also acknowledge the submissions of Yvonne Weeber<sup>228</sup>, who considers Rules WH.R21 and P.R20 require amendment to address slash and debris causing flooding in storm events. I make no recommendation for the same reasons discussed in paragraph 220.

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<sup>217</sup> WFF [S193.097] (supported in part by NZCF [FS50.152], opposed by Forest & Bird [FS23.1053]) and [S193.146] (supported in part by NZCF [FS50.156], opposed by Forest & Bird [FS23.1102])

<sup>218</sup> Dougal Morrison [S3.017]

<sup>219</sup> Forest Enterprises [S111.014] and [S111.020]

<sup>220</sup> NZFFA [S195.030] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.080], NZCF [FS50.097], opposed by Forest & Bird [FS23.433]) and [S195.033] (supported by NZCF [FS50.100], opposed by Forest & Bird [FS23.436])

<sup>221</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.049] (supported by NZCF [FS50.073])

<sup>222</sup> UHCC [S225.106] (supported by NZCF [FS50.149], opposed by Forest & Bird [FS23.934])

<sup>223</sup> CFG [S288.070] (supported by NZCF [FS50.022], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.115], opposed by Forest & Bird [FS23.094]) and [S288.114] (supported by NZCF [FS50.026], opposed by Forest & Bird [FS23.138])

<sup>224</sup> Peter Kiernan [S54.004] (supported by NZCF [FS50.120])

<sup>225</sup> NZCF [S263.023] (opposed by Forest & Bird [FS23.394]) and [S263.028] (opposed by Forest & Bird [FS23.399])

<sup>226</sup> PF Olsen [S18.035] (supported by NZCF [FS50.127]) and [S18.062] (supported by NZCF [FS50.131])

<sup>227</sup> EDS [S222.060] (supported by Forest & Bird [FS23.216], MPHRCI [FS27.952], opposed in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.067], opposed by NZCF [FS50.047], NZFFA [FS9.241]) and [S222.102] (supported by Forest & Bird [FS23.258], MPHRCI [FS27.994], opposed by NZCF [FS50.050], NZFFA [FS9.283])

<sup>228</sup> Yvonne Weeber [S183.243] (supported by MPHRCI [FS27.243], opposed by NZCF [FS50.184]) and [S183.325] (supported by MPHRCI [FS27.325], opposed by NZCF [FS50.187])

231. I refer to my analysis in paragraphs 200 to 205, above where I recommend retaining Rules WH.R20 and P.R19 subject to recommended amendments. The same analysis applies here. Accordingly, I recommend submissions from Southern North Island Wood Council and NZFFA be accepted in part, accepting submissions requesting deletion of WH.R21 and/or P.R20, and rejecting submissions seeking amendments for the same reasons. I make no recommendation on the submissions from Forest Enterprises or Peter Kiernan.

232. I acknowledge submissions<sup>229</sup> with a neutral stance or in general support of Rules WH.R21 and/or P.R20 and seeking they be retained as notified, or seeking amendments. However, as outlined above I am recommending the deletion of these rules and on this basis I recommend rejecting these submissions requesting retention or amendments. I recommend the submissions from Mangaroa Farms and Ara Poutama be accepted in part for the same reasons discussed in paragraph 222.

### **3.11.2 Recommendations**

233. I recommend that Rules WH.R21 and P.R20 be deleted as shown in Appendix 4.

234. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.12 Issue 11: Rules WH.R22 and P.R21 (prohibited activity rules)**

235. A total of 34 submissions and 51 further submissions have been received on Rules WH.R22 and P.R21.

#### **3.12.1 Analysis**

236. Rules WH.R22 and P.R21 prohibit afforestation, earthworks or mechanical land preparation for plantation forestry on highest erosion risk land (plantation forestry). While harvesting is not included in these activities, Policies WH.P28/P.P26 (as notified) require that on highest erosion risk land (plantation forestry), plantation forestry is not established or continued beyond the harvest of existing plantation forest. As described in paragraph 154 the Council has made submissions seeking replanting be included in the list of activities captured by this rule which would effectively prohibit the replanting of forestry after current harvest, which would give effect to those policies. Management Objective 4 of Schedule 34 also implies that land on highest erosion risk land (plantation forestry) must be revegetated with appropriate woody species post-harvest.

#### General opposition

237. I note the submissions<sup>230</sup> opposing Rules WH.R22 and/or P.R21 seeking these rules be deleted or substantively amended to align with the NES-CF. Many of these submissions are

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<sup>229</sup> Taranaki Whānui [S286.085] (supported by Rangitāne [FS24.085]); PCC [S240.078] (opposed by NZFFA [FS9.175]); Forest & Bird [S261.114] (supported by MPHRCI [FS27.733], opposed by NZFFA [FS9.441]) and [S261.191] (supported by MPHRCI [FS27.810], opposed by NZFFA [FS9.518]); Mangaroa Farms [S194.018]; Ara Poutama [S248.039] and [S248.062]

<sup>230</sup> Forest Enterprises [S111.015] and [S111.021]; PF Olsen [S18.036] (supported by NZCF [FS50.128]) and [S18.063] (supported by NZCF [FS50.132]); NZFFA [S195.031] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.081], supported by NZCF [FS50.098], opposed by Forest &

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identical to those on WH.R20 and P.R19 and WH.R21 and P.R20. These submitters oppose these rules because of concerns about the robustness of evidence, the potential for unintended consequences, lack of alignment with WIP recommendations, inadequate consultation with the forestry sector and the lack of consideration of the costs and economic implications of forced retirement of forestry on highest erosion risk (plantation forestry) land. I acknowledge that if the rules are retained, NZFFA Wellington seek the rules exclude afforestation, the activity status is changed from prohibited and changes to the application of the mapping are made such that the rules only apply to land with contiguous areas of high erosion risk land greater than 1,000 m<sup>2</sup>.

238. I also acknowledge the submissions from NZCF<sup>231</sup> opposing Rules WH.R22 and P.R21. In addition to the concerns of the above submitters, NZCF note objectives and policies (including those in the RPS, the NRP and PC1) do not justify applying the most extreme stringent approach to plantation forestry in particular locations, the rules restrict an activity rather than the effects of an activity with no direct causal relationship established, the rules could result in discharges of sediment to rivers because forestry is likely to reduce discharges to a greater extent than other uses of the land and that prohibited activity status is inconsistent with national climate change policy.

239. Ara Poutama<sup>232</sup> seek clarification on the types and ages of forest that the prohibition applies to and that if intended to capture recently harvested forests consider that a prohibited activity is unnecessarily onerous and a consent pathway for re-establishing forests after harvest should be provided. I also recognise the submission from Mangaroa Farms<sup>233</sup> who similarly suggest that prohibited activity status is too restrictive and seek a non-complying activity.

240. Yvonne Weeber<sup>234</sup> considers Rules WH.R22 and P.R21 require amendment to address slash and debris causing flooding in storm events. I refer to my analysis in paragraph 220 and make the same recommendation for the same reason.

241. WFF<sup>235</sup> seeks to retain the operative NRP rule and seeks deletion of Rules WH.R22 and P.R21. I refer to my analysis in paragraph 189 and make the same recommendation for the same reasons.

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Bird [FS23.434], [S195.034] (supported by NZCF [FS50.101], opposed by Forest & Bird [FS23.437]), [S195.047] (supported by NZCF [FS50.109], opposed by Forest & Bird [FS23.450]) and [S195.050] (supported by NZCF [FS50.112], opposed by Forest & Bird [FS23.453]); Guildford Timber, Silverstream Forest and Goodwin Estate [S210.050] (supported by NZCF [FS50.074]); Southern North Island Wood Council [S262.017] (supported by NZCF [FS50.143]) and [S262.022] (supported by NZCF [FS50.146]); CFG [S288.071] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.116], supported by NZCF [FS50.023], opposed by Forest & Bird [FS23.095]) and [S288.115] (supported by NZCF [FS50.027], opposed by Forest & Bird [FS23.139]); Dougal Morrison [S3.018]; NZFFA Wellington [S36.045] (supported by NZCF [FS50.176]); and Peter Kiernan [S54.005] (supported by NZCF [FS50.121])

<sup>231</sup> NZCF [S263.024] (opposed by Forest & Bird [FS23.395]) and [S263.029] (opposed by Forest & Bird [FS23.400])

<sup>232</sup> Ara Poutama [S248.040] (supported by WMNZ [FS46.045], supported in part by NZCF [FS50.008]) and [S248.063] (supported in part by NZCF [FS50.011])

<sup>233</sup> Mangaroa Farms [S194.019]

<sup>234</sup> Yvonne Weeber [S183.245] (supported by MPHRCI [FS27.245], opposed by NZCF [FS50.186]) and [S183.327] (supported by MPHRCI [FS27.327], opposed by NZCF [FS50.189])

<sup>235</sup> WFF [S193.099] (supported in part by NZCF [FS50.154], opposed by Forest & Bird [FS23.1055]) and [S193.148] (supported in part by NZCF [FS50.158], opposed by Forest & Bird [FS23.1104])

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242. As I have set out in relation to Rules WH.R20, WH.R21, P.R19, and P.R20, while I am satisfied there is an ability for rules in PC1 to be more stringent than the NES-CF where visual clarity TAS are not met, I do not consider that anything more restrictive than a restricted discretionary activity status, where matters of discretion are restricted to impacts on water quality, is justified. This same rationale applies to the prohibited activity rules, noting the appropriateness of prevention or prohibition of forestry activities on highest erosion risk land is also addressed in my analysis on Policies WH.P28 and P.P26. Accordingly, I recommend deletion of Rules WH.R22 and P.R21 and that submissions seeking deletion of Rules WH.R22 and P.R21 be accepted and those seeking amendments be rejected. I recommend submissions from Southern North Island Wood Council, NZFFA and Wellington NZFFA be accepted in part on the basis their submissions cover more than just these rules. I make no recommendation on the submissions from Forest Enterprises or Peter Kiernan who seek no relief.

#### General support

243. I acknowledge the submissions in support of Rule WH.R22 and/or P.R21 and those seeking the rules be retained as notified<sup>236</sup>. However, for the reasons outlined above, I recommend deletion of these rules and therefore recommend the submissions from Taranaki Whānui, PCC and Forest & Bird be rejected. As no relief is sought by EDS I make no recommendation on these submissions.

### **3.12.2 Recommendations**

244. I recommend that Rules WH.R22 and P.R21 be deleted as shown in Appendix 4.

245. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.13 Issue 12: Schedule 34: Forestry Erosion and Sediment Management Plan**

246. A total of 37 submissions and 42 further submissions have been received on Schedule 34.

247. While there is some support for Schedule 34, the overall nature of these submissions is one of opposition due to concern Schedule 34 is inconsistent with the requirements of the NES-CF and will result in unnecessary delays and costs for landowners.

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<sup>236</sup> Taranaki Whānui [S286.086] (supported by Rangitāne [FS24.086]); PCC [S240.079] (opposed by NZFFA [FS9.176]); Forest & Bird [S261.115] (supported by MPHRCI [FS27.734], opposed by NZCF [FS50.054], NZFFA [FS9.442]); [S261.192] (supported by MPHRCI [FS27.811], opposed by NZFFA [FS9.519]); Forest & Bird [S261.115] (supported by MPHRCI [FS27.734], opposed by NZCF [FS50.054], NZFFA [FS9.442]); [S261.192] (supported by MPHRCI [FS27.811], opposed by NZFFA [FS9.519]); EDS [S222.062] (supported by Forest & Bird [FS23.218], MPHRCI [FS27.954], opposed by NZFFA [FS9.243]); [S222.104] (supported by Forest & Bird [FS23.260], MPHRCI [FS27.996], opposed by NZFFA [FS9.285])

### 3.13.1 Analysis

#### General support

248. I note the general support for Schedule 34 from Yvonne Weeber<sup>237</sup>, EDS<sup>238</sup> and Forest & Bird<sup>239</sup>. As these submitters seek no relief I provide no recommendation.

#### Neutral submissions

249. I acknowledge the neutral submission from Mangaroa Farms<sup>240</sup> who seek retention of notified provisions, or active involvement in relation to any changes that would result in a more restrictive framework. I note I am recommending amendments to PC1 however amendments will not be more restrictive than notified and therefore I recommend the submission from Mangaroa Farms be accepted in part.

#### General opposition

250. PF Olsen<sup>241</sup> consider an ESMP for forestry activities is redundant as these are already managed under the NES-CF and request deletion of Schedule 34 and reference to the NES-CF management plans. David and Carolyn Gratton<sup>242</sup> and Guildford Timber, Silverstream Forest and Goodwin Estate<sup>243</sup> are concerned Schedule 34 requirements will add unnecessary delays and costs and CFG<sup>244</sup> consider there is overlap with the NES-CF which will create confusion. These submitters seek alignment with the requirements of the NES-CF.

251. I acknowledge the concerns of these submitters and agree that Schedule 34 as notified is unnecessary. The level of detail required in Schedule 34 is notably less than that required in Schedules 3, 4 and 6 of the NES-CF. I therefore recommend deletion of Schedule 34 and its replacement in PC1 with the requirements of Schedules, 3, 4 and 6 of the NES-CF (re-written into PC1 as Schedules 34A, 34B and 34C) insofar as they relate to water quality and subject to amendments which require the contour mapping to be presented at a 5 metre rather than a 20 metre scale. Based on the Statement of Evidence of Mr Reardon<sup>245</sup>, as described in paragraph 195, the level of detail required by the NES-CF is not appropriate for understanding risk at a property scale and a higher level of detail in the contour mapping is required. I consider my recommended amendments at least partially respond to the relief sought by these submitters and recommend these submissions be accepted in part.

252. WFF<sup>246</sup> oppose Schedule 34 and seek its deletion however no reasoning is provided. As I recommend deleting Schedule 34 I recommend this submission be accepted.

253. Alan Bell & Associates<sup>247</sup> is concerned Schedule 34 will have detrimental effects on forestry operations, produce negligible water quality improvements and lead to poor environmental

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<sup>237</sup> Yvonne Weeber [S183.383] (supported by MPHRCI [FS27.383])

<sup>238</sup> EDS [S222.143] (supported by Forest & Bird [FS23.299], MPHRCI [FS27.1035], NZFFA [FS9.324])

<sup>239</sup> Forest & Bird [S261.239] (supported by MPHRCI [FS27.858], opposed by NZFFA [FS9.566])

<sup>240</sup> Mangaroa Farms [S194.021]

<sup>241</sup> PF Olsen [S18.071] (supported by NZCF [FS50.133])

<sup>242</sup> David and Carolyn Gratton [S58.004] (supported by NZCF [FS50.030])

<sup>243</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.054] (supported by NZCF [FS50.075])

<sup>244</sup> CFG [S288.122] (supported by NZCF [FS50.028], opposed by Forest & Bird [FS23.146])

<sup>245</sup> Paragraph 56 of the Statement of Evidence of Mr Reardon

<sup>246</sup> WFF [S193.176] (opposed by Forest & Bird [FS23.1132])

<sup>247</sup> Alan Bell & Associates [S48.003] (supported by NZCF [FS50.001])

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outcomes and that not all registered forestry advisers will have the expertise to develop suitable ESMPs. The submitter is also concerned about the lack of compensation and financial assistance for losses of workable land and broader economic impacts related to ETS obligations. This submitter does not seek any specific relief and therefore I make no recommendation however I note that I consider my recommended amendments respond to the concerns of this submitter.

#### Mapping and classification of highest erosion risk land

254. David and Carolyn Gratton, Alan Bell & Associates and NZFFA<sup>248</sup> cite concerns with the mapping of erosion prone land which inform the need for or underpins the Schedule. David and Carolyn Gratton and NZFFA seek the replacement of the erosion risk classification used in PC1 with the ESC used in the NES-CF. I recommend amendments which remove reference to highest erosion risk (plantation forestry) land, however my recommended amendments will require more detail than the NES-CF and therefore I recommend the submissions of David & Carolyn Gratton and NZFFA be accepted in part noting their submissions cover more than this matter. Alan Bell & Associates seeks no relief and I make no recommendation.

#### A Purpose

255. I note the general support for Section A from Yvonne Weeber<sup>249</sup> but no relief is sought and therefore I make no recommendation.

256. WFF<sup>250</sup> oppose Section A and seek its deletion, however no reasoning is provided. I have addressed the relief sought by WFF in paragraph 252 and make the same recommendation for the same reason.

257. NZCF<sup>251</sup> seek an amendment to specifically refer to risks to waterbodies in clause (a). As I am recommending deletion of Schedule 34 no amendments will be required and I recommend this submission be accepted in part on the basis the relief sought by NZCF is broader than this matter.

#### B Management Objectives

258. I note the support for Section B from Yvonne Weeber<sup>252</sup> and Guardians of the Bays<sup>253</sup> however no relief is sought and therefore I make no recommendation.

259. WFF<sup>254</sup> oppose Section B and seek its deletion, however no reasoning is provided. I have addressed the relief sought by WFF in paragraph 252 and make the same recommendation for the same reason.

260. Donald Love<sup>255</sup> seeks retention of Management Objective B(1). As I am recommending deletion of Schedule 34 I recommend this submission be rejected.

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<sup>248</sup> NZFFA [S195.048] (supported by NZCF [FS50.110], opposed by Forest & Bird [FS23.451])

<sup>249</sup> Yvonne Weeber [S183.384] (supported by MPHRCI [FS27.384])

<sup>250</sup> WFF [S193.177] (opposed by Forest & Bird [FS23.1133])

<sup>251</sup> NZCF [S263.030] (opposed by Forest & Bird [FS23.401])

<sup>252</sup> Yvonne Weeber [S183.385] (supported by MPHRCI [FS27.385])

<sup>253</sup> Guardians of the Bays [S186.179] (supported by MPHRCI [FS27.602])

<sup>254</sup> WFF [S193.178] (opposed by Forest & Bird [FS23.1134])

<sup>255</sup> Donald Love [S102.005]

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261. I acknowledge the submissions from NZFFA<sup>256</sup>, Ara Poutama<sup>257</sup>, Alan Bell & Associates<sup>258</sup> and NZFFA Wellington<sup>259</sup>, Guildford Timber, Silverstream Forest and Goodwin Estate<sup>260</sup>, and NZCF<sup>261</sup> who seek substantive amendments or deletion of the Management Objectives. Specifically, these submitters raise the following matters:

- In relation to Clause B(2), NZFFA seek deletion of this clause and Ara Poutama note concerns with the term “avoid” and seek it be replaced with “minimise”
- NZFFA, Ara Poutama and Alan Bell & Associates seek clarification on the term “natural state” and NZFFA Wellington note natural state is not measurable at all scales.
- NZFFA Wellington consider the management objectives unrealistic and unreasonable and cite concerns about the ability to meet the discharge standards. NZFFA Wellington seek deletion of Management Objectives B(2) and B(3)
- In relation to clause B(3), Ara Poutama is neutral on this clause as this aligns with its position on rules WH.R20 and P.R19 and seeks it is retained. NZFFA seek deletion of clause B3 or amendments to raise the peak discharge standard to 1000g/m<sup>3</sup> and averaged over the life cycle of the forest.
- NZFFA, Guildford Timber, Silverstream Forest and Goodwin Estate and Ara Poutama seek deletion of Management Objective B(4). NZCF also seek deletion of Management Objective 4 because of concerns it limits future use of subject land and implies that woody vegetation is the only means to reduce sediment discharges to water.

262. I acknowledge the concerns of these submitters and agree that Management Objectives (2) through (4) are problematic and in some instances if retained would conflict with my recommended amendments to Rules WH.R20 and P.R19. In relation to Management Objective (2), my understanding is that reference to ‘natural state’ in PC1 reflects the natural reference conditions or natural state terminology in the NPS-FM<sup>262</sup>. In my opinion, requiring activities that generate sediment (i.e. sediment loss cannot be avoided regardless of the management practices used) to achieve the same sediment levels as those expected if the land was in its natural state is unrealistic.

263. In response to concerns about the discharge standards, relying on the Statement of Evidence of Mr Reardon, I consider that discharge standards with numeric limits are not practicable in the forestry context and recommend deletion of Management Objective (3) noting that I have also recommended deletion of the discharge standard in the relevant rules referenced in Schedule 34 (WH.R20 and P.R19).

264. I address concerns about the unintended consequences of requiring retirement of highest erosion risk land (regeneration or reversion with natives) and preventing forestry beyond the current harvest cycle in my analysis on Policies WH.P28 and P.P26 and Rules WH.R22 and

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<sup>256</sup> NZFFA [S195.051] (supported by NZCF [FS50.113], opposed by Forest & Bird [FS23.454])

<sup>257</sup> Ara Poutama [S248.079]

<sup>258</sup> Alan Bell & Associates [S48.003] (supported by NZCF [FS50.001])

<sup>259</sup> NZFFA Wellington [S36.049]

<sup>260</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.054] (supported by NZCF [FS50.075])

<sup>261</sup> NZCF [S263.030] (opposed by Forest & Bird [FS23.401])

<sup>262</sup> [NOF-Guidance-ME1753-Final-Oct2023.pdf](#)

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P.R21. I recommend deletion of Management Objective 4, which implies retirement or revegetation with permanent forest is required post-harvest, for these same reasons.

265. Overall, I recommend deletion of Schedule 34 and recommend that these submissions be accepted or accepted in part. Alan Bell & Associates seeks no specific relief and therefore I make no recommendation on this submission.

C Requirements of the ESMP

266. Yvonne Weeber<sup>263</sup> and Guardians of the Bays<sup>264</sup> support Section C but do not seek any specific relief and therefore I make no recommendation. Similarly, Forest & Bird<sup>265</sup> have submitted on Section C but have not stated a position or sought any relief and therefore I make no recommendation on this submission.

267. WFF<sup>266</sup>, oppose Section C and seek its deletion however no reasoning is provided. I have addressed the relief sought by WFF in paragraph 252 and make the same recommendation for the same reason.

268. UHCC<sup>267</sup> seek reference to Greater Wellington Regional Council Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Wellington Region (2021) be included in the Schedule for consistency across the plans. As I recommend deletion of Schedule 34 I recommend this submission be rejected.

269. NZFFA<sup>268</sup>, NZFFA Wellington<sup>269</sup> and Ara Poutama<sup>270</sup> generally oppose Section C and seek its deletion or substantive amendments. The main reasons for opposition include costs of preparing the ESMP to meet Schedule 34 requirements and duplication of the requirements of the NES-CF and ESC Guidelines for the Wellington Region. NZFFA seeks deletion of Clause C1(iii) and C2 because of concerns about the discharge standard and the ability to obtain certification. NZFFA Wellington notes the NES-CF requires an erosion and sediment control plan to be available on request and expresses concern about the costs of certification disincentivising pastoral farms looking to plantation forestry to offset greenhouse gas emissions. NZFFA seeks deletion of Schedule 34 but alternatively seeks amendments to not exclude afforestation and plantation forestry from steep land, that woodlots less than 20 ha and not in red zone land be exempt or default to the NES-CF and exemptions from registering a full cycle plan and certified erosion control plan where small remnants of forest remain to be harvested, but where replanting is not intended.

270. As outlined in paragraph 251, I agree that Schedule 34, including the specific requirements in Section C is unnecessary and recommend its deletion and that it be replaced with Schedules 34A, 34B and 34C which mirror the requirements of Schedules, 3, 4 and 6 of the NES-CF subject to my recommended amendments requiring the contour mapping to be done at a 5 metre scale rather than a 20 metre scale. I do not consider these additional

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<sup>263</sup> Yvonne Weeber [S183.386] (supported by MPHRCI [FS27.386]), [S183.387] (supported by MPHRCI [FS27.387]) and [S183.388] (supported by MPHRCI [FS27.388])

<sup>264</sup> Guardians of the Bays [S186.180] (supported by MPHRCI [FS27.603]), [S186.181] (supported by MPHRCI [FS27.604]) and [S186.182] (supported by MPHRCI [FS27.605])

<sup>265</sup> Forest & Bird [S261.240] (supported by MPHRCI [FS27.859], opposed by NZFFA [FS9.567])

<sup>266</sup> WFF [S193.179] (opposed by Forest & Bird [FS23.1135]), [S193.180] (opposed by Forest & Bird [FS23.1136]) and [S193.181] (opposed by Forest & Bird [FS23.1137])

<sup>267</sup> UHCC [S225.123] (opposed by Forest & Bird [FS23.951])

<sup>268</sup> NZFFA [S195.048] (supported by NZCF [FS50.110], opposed by Forest & Bird [FS23.451])

<sup>269</sup> NZFFA Wellington [S36.050]

<sup>270</sup> Ara Poutama [S248.079]

information requirements are unreasonable as other than a more detailed contour map, the requirements are the same as those necessary to satisfy the information requirements of Schedules 3, 4 and 6 of the NES-CF and the associated permitted activity standards related to these management plans in the NES-CF. I do however acknowledge that some landowners and smaller operators may require support with accessing the mapping tools required to obtain a more detailed contour map. Noting that landowners will not be able to undertake forestry activity until consent is obtained, I consider Council will be able to educate and support landowners and operators in satisfying these expected information requirements.

271. In response to concerns about Schedule C2, as described in paragraph 303, the legislation that prescribed the criteria or requirements to be met to be considered a registered forestry adviser has been repealed and this section is no longer required.

272. As I am recommending deletion of Schedule 34, I recommend submissions from NZFFA, and Ara Poutama be accepted in part and the submission from NZFFA Wellington be accepted.

#### Section D

273. WFF<sup>271</sup> oppose section D and seek its deletion but no reasoning is given. I recommend deleting section D and recommend this submission be accepted.

274. Yvonne Weeber<sup>272</sup> and Guardians of the Bays<sup>273</sup> support Section D with no reasons given or relief sought. EDS<sup>274</sup> and Forest & Bird<sup>275</sup> consider GWRC should have jurisdiction to approve changes to management plans to ensure they still meet requirements to adequately manage sediment risk. As there is no specific relief sought by these submitters I make no recommendation.

275. NZCF<sup>276</sup> supports Section D and seeks it be retained. I recommend deletion of Schedule 34 and recommend the submission from NZCF be accepted in part noting this submission is broader than just Section D.

### **3.13.2 Recommendations**

276. I recommend that Schedule 34 be deleted and replaced with Schedule 34A, 34B and 34C as shown in Appendix 4.

277. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.14 Issue 13: Definitions**

278. A total of 64 submissions and 76 submissions were received on the definitions in this topic.

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<sup>271</sup> WFF [S193.182] (opposed by Forest & Bird [FS23.1138])

<sup>272</sup> Yvonne Weeber [S183.389] (supported by MPHRCI [FS27.389])

<sup>273</sup> Guardians of the Bays [S186.183] (supported by MPHRCI [FS27.606])

<sup>274</sup> EDS [S222.144] (supported by Forest & Bird [FS23.300], MPHRCI [FS27.1036], opposed by NZFFA [FS9.325])

<sup>275</sup> Forest & Bird [S261.241] (supported by MPHRCI [FS27.860], opposed by NZFFA [FS9.568])

<sup>276</sup> NZCF [S263.030] (opposed by Forest & Bird [FS23.401])

### 3.14.1 Analysis

#### Definitions for terms in the NES-CF

279. I acknowledge the submissions on the definitions in PC1 for activities that are defined in the NES-CF. This includes 'Afforestation', 'Harvesting', 'Mechanical land preparation' and 'Replanting'.

280. Yvonne Weeber<sup>277</sup> supports these definitions but no reasons are provided or relief sought and therefore I make no recommendation.

281. I acknowledge the submissions of PF Olsen<sup>278</sup>, NZCF<sup>279</sup>, EDS<sup>280</sup> and CFG<sup>281</sup> who support consistency with the NES-CF. PF Olsen and NZCF seek to retain these definitions as notified and EDS and CFG seek amendments to reflect the NES-CF. These submissions are consistent across all of these definitions. NZCF support the definitions which come from the NES-PF and seek they are retained as notified on the basis they refer to the definitions in the NES-PF and therefore do not cover exotic continuous cover/permanent forestry, which was not regulated under the NES-PF.

282. UHCC<sup>282</sup> seek to retain the definition of 'afforestation' as notified.

283. NZFFA<sup>283</sup> have submitted that PC1 does not define 'harvesting', however in the same submission point the submitter seeks exclusion of 'continuous cover' and 'small coupe harvesting' from the harvesting definition. I note that 'harvesting' is defined in PC1, but it refers to the definition of harvesting in the NES-PF.

284. Apart from 'Mechanical land preparation', Forest & Bird<sup>284</sup> made submissions on the definitions listed in paragraph 279 seeking the full text of the definitions be referenced.

285. To the extent a definition that relies on a higher order document is required in this topic, to assist with plan interpretation, I consider that definitions relating to higher order documents should reflect the definitions of the most up to date version of that higher order document. I note that the general approach in the NRP (but not in all cases) is that definitions relating to

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<sup>277</sup> Yvonne Weeber [S183.005] (supported by MPHRCI [FS27.005]), [S183.020] (supported by MPHRCI [FS27.020]), [S183.030] (supported by MPHRCI [FS27.030]) and [S183.039] (supported by MPHRCI [FS27.039])

<sup>278</sup> PF Olsen [S18.001], [S18.003], [S18.007] and [S18.008]

<sup>279</sup> NZCF [S263.011] (opposed by Forest & Bird [FS23.382]), [S263.014] (opposed by Forest & Bird [FS23.385]), [S263.016] (opposed by Forest & Bird [FS23.387]) and [S263.018] (opposed by Forest & Bird [FS23.389])

<sup>280</sup> EDS [S222.001] (supported by Forest & Bird [FS23.157], MPHRCI [FS27.893]), opposed by NZCF [FS50.040], NZFFA [FS9.182]), [S222.003] (supported by Forest & Bird [FS23.159], MPHRCI [FS27.895]), opposed by NZCF [FS50.042], NZFFA [FS9.184]), [S222.004] (supported by Forest & Bird [FS23.160], MPHRCI [FS27.896]), opposed by NZCF [FS50.043], NZFFA [FS9.185]) and [S222.006] (supported by Forest & Bird [FS23.162], MPHRCI [FS27.898]), opposed by NZCF [FS50.044], NZFFA [FS9.187])

<sup>281</sup> CFG [S288.021] (opposed by Forest & Bird [FS23.045]), [S288.024] (opposed by Forest & Bird [FS23.048]), [S288.026] (opposed by Forest & Bird [FS23.050]) and [S288.029] (opposed by Forest & Bird [FS23.053])

<sup>282</sup> UHCC [S225.028] (opposed by Forest & Bird [FS23.856])

<sup>283</sup> NZFFA [S195.024] (opposed by Forest & Bird [FS23.427])

<sup>284</sup> Forest & Bird [S261.012] (supported by MPHRCI [FS27.631], opposed by NZFFA [FS9.339]), [S261.016] (supported by MPHRCI [FS27.635], opposed by NZFFA [FS9.343]) and [S261.021] (supported by MPHRCI [FS27.640], opposed by NZFFA [FS9.348])

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higher order documents generally cross-reference to the relevant section of the higher order document. For example in the case of the definition of commercial forestry:

*Commercial forestry: Has the same meaning as given in section 3 of the Resource Management (National Environmental Standards for Commercial Forestry) Regulations 2023*

286. For consistency, to the extent that definitions from a higher order document may be required, I recommend that the definitions in PC1 should adopt this same approach.

287. I recommend PC1 retain the definitions for 'Afforestation', 'Harvesting', 'Mechanical land preparation' and 'Replanting'. I note amendments to these definitions are required to recognise the NES-CF rather than the NES-PF. I therefore recommend the submissions from EDS and CFG be accepted and the submissions from PF Olsen, UHCC, NZCF and Forest & Bird be accepted in part.

288. Woodridge<sup>285</sup> seek consistency in the way definitions are referenced in PC1, with this submission made on the 'Mechanical land preparation' definition. I agree there should be consistency in the way definitions are referenced in PC1 and have outlined my recommended approach in paragraphs 285 and 286 and therefore I recommend this submission be accepted in part.

#### Erosion and sediment management plan

289. I acknowledge the submissions of Yvonne Weeber<sup>286</sup> and Guardians of the Bays<sup>287</sup> supporting the definition however no relief is sought and therefore I make no recommendation.

290. NZCF<sup>288</sup> is not sure a definition for 'erosion and sediment management plan' is required but seek the definition is retained as notified if necessary to support implementation of PC1. CFG<sup>289</sup> raise concerns about overlap between PC1 and the NES-CF in relation to different erosion management plan requirements and seek the NES-CF requirements prevail. The definition of erosion and sediment management plan references both Schedule 33 (Vegetation Clearance Plan) and Schedule 34 (Forestry Plan) of PC1.

291. As I am recommending deletion of the vegetation clearance rules (WH.R18 and P.R17) in PC1 which refer to Schedule 33 there will be no need for Schedule 33 in PC1. I am also recommending deletion of Schedule 34 and therefore recommend the submissions from NZCF and CFG be rejected.

292. Woodridge<sup>290</sup> and UHCC<sup>291</sup> seek the addition of a definition for 'erosion and sediment control plan for general earthworks' and reference to "Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region" respectively. I do not consider this is required because the Erosion and Sediment Control Guidelines for the Wellington Region 2021 are the standard practice for general earthworks in the Wellington Region and resource users in the region generally know these guidelines apply to earthworks activities. I also note the

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<sup>285</sup> Woodridge [S255.013]

<sup>286</sup> Yvonne Weeber [S183.016] (supported by MPHRCI [FS27.016])

<sup>287</sup> Guardians of the Bays [S186.010] (supported by MPHRCI [FS27.433])

<sup>288</sup> NZCF [S263.014] (opposed by Forest & Bird [FS23.385])

<sup>289</sup> CFG [S288.024] (opposed by Forest & Bird [FS23.048])

<sup>290</sup> Woodridge [S255.010] (supported by Kāinga Ora [FS45.096])

<sup>291</sup> UHCC [S225.033] (opposed by Forest & Bird [FS23.861], with a neutral/not stated stance from Woodridge [FS16.048])

guidelines are referenced in the relevant PC1 earthworks rules and it is therefore clear, in my opinion, what sort of erosion and sediment control plan is expected to apply to general earthworks activities without the need for a definition. I therefore recommend these submissions be rejected.

Highest erosion risk land (plantation forestry)

293. Yvonne Weeber<sup>292</sup> has submitted in support of this definition but has provided no reasons and seeks no relief and therefore I make no recommendation.

294. I acknowledge the submissions<sup>293</sup> generally opposing the definition of 'highest erosion risk land (plantation forestry)' because of concerns about Maps 92 and 95 being tied to the definition. As notified, the definition states that highest erosion risk land (plantation forestry) is as shown on Maps 92 and 95. Concerns about Maps 92 and 95 and the definition of highest erosion risk land (plantation forestry) are therefore interrelated. A number of submitters have raised concerns about these maps as set out in various sections of this report.

295. Based on the Statement of Evidence of Mr Nation, I understand highest erosion risk land mapping in PC1 has been based on the top 10th percentile of erosion risk land per land use (e.g. pasture, woody vegetation, plantation forestry) in each Whaitua. As described in paragraph 76, this means, as land uses change, land that is not currently identified as being in that top 10th percentile could be if the mapping was redone after the land use change even though the actual risk of erosion of that land will not have changed. I do not consider the lack of certainty in this 'relative' approach is suitable for making policy decisions which control or restrict land use activities. In my opinion, the approach to identifying land at risk of erosion, which requires or directs a specific action or restricts the use of land (or is a trigger for consent), should be directed by a consistent erosion risk identification framework that is informed by the underlying characteristics of the land and its risk of erosion.

296. To this end I acknowledge the Decisions version of RPS Change 1 (issued after PC1 was notified) introduced the defined term "Highly erodible land" and Policy CC.6 of RPS Change 1 directs avoidance of plantation forestry on highly erodible land, particularly where water quality targets for sediment are not reached. As described earlier in this report, the definition of highly erodible land and Policy CC.6 are both subject to appeal. I consider that for simplicity any erosion risk mapping in PC1 should, ideally, be consistent with RPS Change 1. However, as explained by Mr Nation, there are differences between the definition of highly erodible land in RPS Change 1 and the mapping that has been undertaken to identify erosion risk in PC1. The definition in RPS Change 1 focuses on mass movement erosion risk whereas PC1 erosion risk mapping includes consideration of surficial erosion risk (the loss of soil from the surface of the land) and streambank erosion risks, going beyond the definition of highly erodible land in RPS Change 1.

297. For these reasons, I agree with the relief sought by PF Olsen, WFF and CFG to delete the definition of "highest erosion risk land (plantation forestry)". I therefore recommend accepting submissions seeking deletion of the definition and rejecting submissions seeking

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<sup>292</sup> Yvonne Weeber [S183.022] (supported by MPHRCI [FS27.022])

<sup>293</sup> John Easther [S17.001], PF Olsen [S18.004] (supported by NZCF [FS50.124]), Guildford Timber, Silverstream Forest and Goodwin Estate [S210.007], Winstone Aggregates [S206.025] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.019]), CFG [S288.028] (opposed by Forest & Bird [FS23.052]), WFF [S193.022] (opposed by Forest & Bird [FS23.978]) and NZCF [S263.015] (opposed by Forest & Bird [FS23.386])

amendments or retention of the definition and recommend the submission from Winstone Aggregates be accepted in part. While I recommend deletion of the definition I consider the mapping should be retained as I agree with Mr Willis that it is suitable for guiding plan users to areas where erosion risks are expected to be higher and further site-specific assessment should be undertaken, as proposed by Mr Willis, to support erosion risk treatment plans in his Section 42A report in the Rural Land Use topic<sup>294</sup>. This requires a consequential amendment to include a new definition for 'potential erosion risk land' as discussed in paragraph 317.

Highest erosion risk land (woody vegetation)

298. Yvonne Weeber<sup>295</sup> has submitted in support of this definition but has provided no reasons and seeks no relief and therefore I make no recommendation.

299. A number of submissions<sup>296</sup> express similar (in some cases identical) concerns about the classification and mapping of highest erosion risk land (woody vegetation) as those expressed related to the highest erosion risk land (plantation forestry) definition. While the implications of the mapping for woody vegetation and forestry are different, as there is no policy directive related to avoidance of vegetation clearance on highest erosion risk land (woody vegetation), PC1 vegetation clearance rules only apply to highest erosion risk land 'woody vegetation'. As land being identified as highest erosion risk land 'woody vegetation' could result in a consent being required my concerns regarding the mapping being informed by relative erosion risk, set out in paragraphs 76 to 78 and 295 and 296 above, also apply to this definition. I do not consider the lack of certainty in this approach is appropriate for making policy decisions which restrict land use through a rule or for use as a consent trigger, although such an approach would be suitable for guiding plan users to areas where risks are expected to be higher and trigger the need for a site-specific assessment as proposed by Mr Willis for erosion risk treatment plans.

300. I therefore recommend that the definition be deleted and submissions from PF Olsen, WFF, and CFG be accepted and the submission from Winstone Aggregates be accepted in part. As John Easter's submission refers to Map 92 I make no recommendation. As discussed in paragraph 78, I recommend that erosion prone land be used as the classification of erosion risk related to vegetation clearance rules in PC1 and recommend retaining the mapping layer, as a simplified single map to be renamed 'potential erosion risk' supported by a new definition of 'potential erosion risk land', as outlined in paragraph 297,.

301. UHCC<sup>297</sup> supports the definition of 'highest erosion risk land (woody vegetation)' as it is consistent with UHCCs Proposed Plan Change 47. As I recommend deletion of this definition, I recommend this submission be rejected.

302. Transpower<sup>298</sup> and Ara Poutama<sup>299</sup> seek to retain the definition as notified, subject to amendments responding to their concerns about the mapping being tied to the definition.

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<sup>294</sup> Paragraphs 313-316 of the Hearing Stream 3 Rural Land Use s42A report

<sup>295</sup> Yvonne Weeber [S183.025] (supported by MPHRCI [FS27.025])

<sup>296</sup> John Easter [S17.004] (supported by Meridian [FS47.121]), PF Olsen [S18.006]; CFG [S288.025] (opposed by Forest & Bird [FS23.049]), WFF [S193.025] (supported by Meridian [FS47.122], opposed by Forest & Bird [FS23.981]), Winstone Aggregates [S206.027] (supported by Meridian [FS47.123]), Guildford Timber, Silverstream Forest and Goodwin Estate [S210.007] (supported in part by NZCF [FS50.070])

<sup>297</sup> UHCC [S225.038] (opposed by Forest & Bird [FS23.866])

<sup>298</sup> Transpower [S177.011] (opposed by Forest & Bird [FS23.754])

<sup>299</sup> Ara Poutama [S248.015]

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The concerns of these submitters (and others) relating to Maps 91 and 94 are addressed in paragraph 323. As I am recommending deletion of the definition, I recommend these submissions be rejected.

Registered forestry adviser

303. This definition links to the Forests (Regulation of Log Traders and Forestry Advisors) Amendment Act 2020 and sets out what advice registered forestry advisers are authorised to provide. However, since PC1 was notified, that legislation has been repealed along with many sections of the Forests Act 1949, including those which outlined the criteria/requirements to be met to be considered a registered forestry adviser. The Forests (Regulation of Log Traders and Forestry Advisors) Amendment Act 2020 is in the process of being replaced with the Forests (Legal Harvest Assurance) Amendment Act 2023 however this has not been ratified into legislation at the time of writing this report.

304. Yvonne Weeber<sup>300</sup> has submitted in support of this definition but has provided no reasons and does not seek any specific relief, therefore I make no recommendation.

305. CFG<sup>301</sup> seek amendments to recognise that members of the NZ Institute of Forestry are automatically registered forestry advisers. NZCF<sup>302</sup> and GWRC<sup>303</sup> seek amendments to the definition to update the references to the legislation.

306. As I am recommending deletion of WH.R20 and P.R19, and deletion of Section C2 of Schedule 34, which are the only places within PC1 where this definition is referenced, there is no need for the definition and therefore I recommend deleting the definition and rejecting these submissions.

Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R19, P.R20)

307. This definition refers specifically to the rules in which the definition applies (WH.R20, WH.R21, P.R19, and PR20) and is intended to highlight the difference between vegetation clearance associated with forestry (which reflected the definition of vegetation clearance in the NES-PF) and all other vegetation clearance, which retains the NRP definition. In short, vegetation clearance associated with forestry was intended to be covered by the PC1 forestry rules (WH.R20, WH.R21 and P.R19, P.R20) and all other vegetation clearance was to be covered by separate vegetation clearance rules (WH.R17-WH.R19 and P.R16-P.R18).

308. Yvonne Weeber<sup>304</sup> has submitted in support of this definition but has provided no reasons and seeks no relief and therefore I make no recommendation.

309. PF Olsen<sup>305</sup>, EDS<sup>306</sup>, NZCF<sup>307</sup> and CFG<sup>308</sup> seek alignment with the NES-CF. PF Olsen and NZCF seek the definition is retained as notified and EDS seek amendments so that the definition references the definition in the current NES-CF (as opposed to the NES-PF). Forest & Bird

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<sup>300</sup> Yvonne Weeber [S183.038] (supported by MPHRCI [FS27.038])

<sup>301</sup> CFG [S288.027]

<sup>302</sup> NZCF [S263.017] (opposed by Forest & Bird [FS23.388])

<sup>303</sup> GWRC [S238.007] (supported by Forest & Bird [FS23.310])

<sup>304</sup> Yvonne Weeber [S183.051] (supported by MPHRCI [FS27.051])

<sup>305</sup> PF Olsen [S18.010]

<sup>306</sup> EDS [S222.007] (supported by Forest & Bird [FS23.163], MPHRCI [FS27.899], opposed by NZCF [FS50.045], NZFFA [FS9.188])

<sup>307</sup> NZCF [S263.019] (opposed by Forest & Bird [FS23.390])

<sup>308</sup> CFG [S288.031] (opposed by Forest & Bird [FS23.055])

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seek the full text of the definition in the NES-CF is included rather than a cross-reference to the NES-CF, while Woodridge<sup>309</sup> seek consistency in the way definitions are referenced.

310. WFF<sup>310</sup> oppose the definition and seek the NRP definition for vegetation clearance is retained.

311. I recommend an amendment to this definition to reflect “vegetation clearance (commercial forestry)” to make it clear the vegetation clearance activity referenced is that reflected in Section 3 of the NES-CF. I therefore recommend rejecting the submissions from WFF and accepting in part the relief sought by PF Olsen, EDS, NZCF, CFG and Forest & Bird. I also recommend the submission from Woodridge be accepted in part for the same reasons described in paragraph 288.

New definitions

312. I acknowledge submissions seeking new definitions to support implementation of the plan. These submissions include NZFFA Wellington<sup>311</sup> who note FMU is included in a number of places in PC1 but is not defined, Hannah Bridget Gray (No2) Trust<sup>312</sup> who seek a definition for ‘woody vegetation’ given it is a target state, and GWRC<sup>313</sup> who seek a definition for ‘commercial forestry’ for consistency between PC1 and the terminology used in the NES-CF.

313. In response to the submission from NZFFA, I note that FMU is not a defined term but rather an acronym of Freshwater Management Unit, derived from the NPS-FM 2020. I agree it would be useful to have FMU defined in PC1. I therefore recommend a definition for ‘Freshwater Management Unit or FMU’: *has the same meaning as given in section 1.4 of the National Policy Statement for Freshwater Management 2020 and in the context of this plan means Te Awarua-o-Porirua Whaitua and Te Whanganui-a-Tara Whaitua.*

314. In response to Hannah Bridget Gray (No2) Trust, I agree that the PC1 provisions (as notified) could be interpreted to imply that woody vegetation is a target state in the context of retirement. However, based on the amendments I am recommending, and those recommended by Mr Willis in his section 42A report on the Rural Land Use topic, I consider a definition for woody vegetation is not required. This is because I am recommending deletion of Management Objective 4 of Schedule 34 which implies retirement through revegetation (land is retired with woody vegetation) is required on highest erosion risk land (plantation forestry) after the next harvest and Mr Willis is recommending removing requirements for woody vegetation in the rural land use provisions on the basis revegetation and new woody vegetation is not always practicable and there may be other more suitable erosion treatment methods available to landowners<sup>314</sup>. In my opinion, with these amendments PC1 will no longer imply woody vegetation is a target state and therefore I recommend this submission be rejected.

315. I agree with the submission from GWRC seeking a definition of ‘commercial forestry’ consistent with the NES-CF and recommend this definition is added to PC1. While noting I am recommending that most PC1 provisions as they relate to forestry be deleted, I am

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<sup>309</sup> Woodridge [S255.013] and [S255.016]

<sup>310</sup> WFF [S193.028] (opposed by Forest & Bird [FS23.984])

<sup>311</sup> NZFFA [S195.024] (opposed by Forest & Bird [FS23.427])

<sup>312</sup> Hannah Bridget Gray (No2) Trust [S105.001]

<sup>313</sup> GWRC [S238.003] (supported by Forest & Bird [FS23.306])

<sup>314</sup> Paragraph 319-329 of the s42A report for Rural Land Use

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recommending retention of one policy in each Whaitua to provide policy direction in the event the NES-CF permitted activity standards cannot be met and a consent is required. I consider that reference to commercial forestry in these policies is necessary to support implementation. I therefore recommend these submissions be accepted. I also recommend the inclusion of a new definition for 'commercial forestry' and 'commercial forestry activity or activities' consistent with the definitions in section 3 of the NES-CF, to support implementation of Rules WH.R20, P.R19 and Policies WH.P28 and P.P26 and my recommended explanatory text about the relationship between PC1 and the NES-CF. I also recommend a new definition for 'forestry management plan' to reflect the new management plans in Schedule 34A, 34B and 34C.

316. I acknowledge there are no submissions related to these definitions but my recommended amendments are within the scope of the plan change and in my opinion are consequential amendments that are necessary to support implementation.

317. As I am recommending deletion of the 'highest erosion risk land (plantation forestry)' and 'highest erosion risk land (woody vegetation)' definitions but the mapping will be retained as part of a simplified map for each Whaitua, a consequential amendment is required, being a new definition to support or guide plan users to the revised mapping. Therefore, I recommend a new definition for "potential erosion risk land" be added to PC1 as shown in Appendix 4. While I note submitters have not specifically requested this definition, I consider this definition is necessary for plan clarity and implementation. Mr Willis has recommended these amendments be made to Maps 90 and 93 and these provisions were notified as part of the FPP and therefore the Panel is not bound by the scope of submissions and may recommend such an amendment as it remains within the scope of the plan change.

### **3.14.2 Recommendations**

318. I recommend:

- Amending the definitions for Afforestation, Harvesting, Mechanical land preparation, Replanting and Vegetation clearance (for the purposes of Rules WH.R20, WH.R21 and P.R20, P.R19); and
- Deleting the definitions for Registered forestry adviser, Highest erosion risk land (plantation forestry) and Highest erosion risk land (woody vegetation); and
- Adding new definitions for Commercial forest, Commercial forestry, Commercial forestry activity or activities, Freshwater Management Unit, Forest management plan and Potential erosion risk land

as shown in Appendix 4.

319. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.15 Issue 14: Maps 91 and 94 (highest erosion risk (woody vegetation) and Maps 92 and 95 (highest erosion risk (plantation forestry))**

320. A total of 35 submissions and 40 further submissions have been received on Maps 91 and 94 (Highest erosion risk land (woody vegetation)) and Maps 92 and 95 (highest erosion risk land (plantation forestry)) in PC1.

### 3.15.1 Analysis

#### Map 91 (TAoP) and 94 (TWT) (highest erosion risk land (woody vegetation))

321. I acknowledge the submissions from Yvonne Weeber<sup>315</sup> and Forest & Bird<sup>316</sup> supporting Maps 91 and 94. The submissions from Yvonne Weeber do not seek any specific relief and therefore I make no recommendation on these submissions. While I am recommending changes to the application of Maps 91 and 94, ultimately the maps will be retained with amendments and therefore I recommend the submissions from Forest & Bird be accepted in part.

322. UHCC<sup>317</sup> oppose Map 94 however no reasons have been provided, and no relief has been sought. Therefore, I make no recommendation.

323. The majority of submissions<sup>318</sup> on Maps 91 and 94 either seek substantial revision or deletion. This is based on two factors; the accuracy of the mapping and the evidence base and approach that informed the mapping. I agree with submissions, including those from Transpower, Kāinga Ora and Ara Poutama that suggest the identification of highest erosion risk land and the supporting mapping is problematic. Mr Nation discusses the development of the maps in his Statement of Evidence where he acknowledges that there are limitations to the maps and describes some of the improvements that could be made to reduce those limitations. Additionally, in relation to erosion risk land mapping, I note Mr Willis is making recommendations that change the way in which the mapping is used in the rural land use topic, with the maps now to be used as a guide to help land management and landowners identify areas of a farm which require further assessment of the need for erosion treatment as part of the farm plan development process. I agree with Mr Willis' recommendations for the maps in PC1 to be simplified so that the highest erosion risk land (pasture, woody vegetation and plantation forestry) maps be brought together as a single map.

324. These changes necessitate re-labelling the respective land use cover layers to make it clear they show potential erosion risk land (which would show the top ten percentile of land in each land cover/land use category that is at potential risk of erosion). In this way, there will be only one 'potential erosion risk map' per Whaitua. Additionally, I agree with the submissions from Winstone Aggregates<sup>319</sup> who seek evidence-based mapping or the mapping and supporting definitions for erosion risk land be deleted and the NRP definition of erosion prone land be reinstated in PC1, and Kāinga Ora<sup>320</sup> who suggest a definition for 'High and Highest Erosion Risk Land' is more appropriate to capture those areas of land

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<sup>315</sup> Yvonne Weeber [S183.417] (supported by MPHRCI [FS27.417]) and [S183.420] (supported by MPHRCI [FS27.420])

<sup>316</sup> Forest & Bird [S261.268] (supported by MPHRCI [FS27.887], opposed by NZFFA [FS9.595]), [S261.271] (supported by MPHRCI [FS27.890], opposed by Meridian [FS47.457], NZFFA [FS9.598])

<sup>317</sup> UHCC [S225.128] (supported by Gillies [FS11.028], opposed by Forest & Bird [FS23.956])

<sup>318</sup> Transpower [S177.084] (opposed by Forest & Bird [FS23.827]) and [S177.085] (opposed by Forest & Bird [FS23.828]); PF Olsen [S18.074] and [S18.076] (supported in part by Meridian [FS47.454]); WFF [S193.196] (opposed by Forest & Bird [FS23.1152]) and [S193.199] (supported in part by Meridian [FS47.455], opposed by Forest & Bird [FS23.1155]); Ara Poutama [S248.085] and Cannon Point [S260.019] (opposed by Forest & Bird [FS23.022])

<sup>319</sup> Winstone Aggregates [S206.094]

<sup>320</sup> Kāinga Ora [S257.073] (supported by NZTA [FS28.105], opposed by Transpower [FS20.075]) and [S257.076] (supported by NZTA [FS28.108], supported in part by Meridian [FS47.456], opposed by Transpower [FS20.076]);

subject to the corresponding rules rather than high level maps. I consider my recommended amendments to the vegetation clearance rules will address the concerns raised by these submitters as my recommended amendments mean these rules will apply to land which meets the NRP definition of erosion prone land rather than the PC1 highest erosion risk (woody vegetation) mapping. In my opinion, this approach will largely alleviate the concerns of submitters related to the mapping accuracy, pixelation and the methodology for classifying erosion risk. I consider my recommended amendments at least partially achieve the relief sought by these submitters and therefore recommend submissions seeking deletion or amendments to Maps 91 and/or 94 be accepted or accepted in part.

325. I note the submissions from Pikarere Farm<sup>321</sup> who consider their farm, although identified on Maps 91 and 94, does not include any significant erosion risk. The submitter has not provided any evidence to support their assertion that their farm does not present any significant erosion risk however seeks no relief and therefore I make no recommendation.

326. In response to the submissions from Woodridge<sup>322</sup> seeking the Council provide district plan style online maps, I note this matter was addressed in Ms O'Callahan's section 42A report for 'Overarching Matters' in Hearing Stream 1<sup>323</sup>. I agree with the recommendation of Ms O'Callahan and make no further comment on this submission.

Maps 92 (TAoP) and 95 (TWT) (highest erosion risk land (plantation forestry))

327. Yvonne Weeber<sup>324</sup> and Forest & Bird<sup>325</sup> support Maps 92 and 95, however Yvonne Weeber provides no reasons and seeks no relief and therefore I make no recommendation on these submissions. As I am recommending Maps 92 and 95 be retained, albeit as part of a combined map labelled as 'potential erosion risk' for each Whaitua in PC1, I recommend the submissions from Forest & Bird be accepted in part.

328. Kāinga Ora<sup>326</sup> generally supports the identification of land where it is subject to a proposed planning framework that seeks to manage land-uses upon identified High and Highest Erosion Risk Land, but considers the maps are not readily understood at the site-based level and a definition for 'High and Highest Erosion Risk Land' is more appropriate to capture those areas of land subject to the corresponding rules rather than high level maps.

329. Remaining submissions<sup>327</sup> generally oppose Maps 92 and/or 95 and seek deletion or substantive amendments for similar reasons to those expressed for Maps 91 and 94, namely concerns about the mapping accuracy and the evidence base behind the mapping. NZCF<sup>328</sup> express concern the mapping methodology/identification of areas of highest erosion risk

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<sup>321</sup> Pikarere Farm [S199.004] and [S199.005]

<sup>322</sup> Woodridge [S255.117] and [S255.120]

<sup>323</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#), paragraph 183.

<sup>324</sup> Yvonne Weeber [S183.418] (supported by MPHRCI [FS27.418]) and [S183.421] (supported by MPHRCI [FS27.421])

<sup>325</sup> Forest & Bird [S261.269] (supported by MPHRCI [FS27.888], opposed by NZFFA [FS9.596]) and [S261.272] (supported by MPHRCI [FS27.891], opposed by NZFFA [FS9.599])

<sup>326</sup> Kāinga Ora [S257.074] (supported by NZCF [FS50.087], NZTA [FS28.106])

<sup>327</sup> PF Olsen [S18.077] (supported by NZCF [FS50.134]); WFF [S193.197] (supported by NZCF [FS50.159], opposed by Forest & Bird [FS23.1153]) and [S193.200] (supported by NZCF [FS50.160], opposed by Forest & Bird [FS23.1156]); Ara Poutama [S248.083] and [S248.086] and NZCF [S263.031] (opposed by Forest & Bird [FS23.402])

NZCF [S263.032] (opposed by Forest & Bird [FS23.403])

<sup>328</sup> NZCF [S263.031] (opposed by Forest & Bird [FS23.402]) and [S263.032] (opposed by Forest & Bird [FS23.403])

land may result in greater loss of land than anticipated due to scale, ownership and topography-based factors which could affect feasibility of forestry in or around mapped areas and seek that the ESC used in the NES-CF should be the classification for defining erosion risk in PC1.

330. As described throughout this report and the Statement of Evidence of Mr Nation, the purpose of the highest erosion risk mapping used in PC1 was to help land management staff and property owners identify areas of farms that required further assessment of erosion risk as part of the farm environment plan process. Whereas, from my understanding, the ESC<sup>329</sup> was developed over many years and included field visits with professional soil conservators and forestry experts specifically to evaluate erosion risk for forestry activities. Because of the limitations in PC1 erosion risk mapping as described by Mr Nation and that the application of highest erosion risk land (plantation forestry) in PC1 restricts or prevents land use, I recommend removal of any connection between the forestry provisions in PC1 and highest erosion risk (plantation forestry) maps.

331. As I am recommending deletion of any link between the forestry rules and policies in PC1 and the highest erosion risk land (plantation forestry) definition and mapping, but Maps 92 and 95 will be retained in a simplified form to support Schedule 36 and reframed to reflect 'potential erosion risk', I consider the relief sought by these submitters is at least partially achieved. I therefore recommend submissions seeking deletion or amendments to Map 92 and/or 95 be accepted in part.

332. In response to the submissions from Woodridge<sup>330</sup> this is addressed in paragraph 326 and I make the same recommendation for the same reasons.

#### General comments

333. NZFFA<sup>331</sup> and Ara Poutama<sup>332</sup> express concerns about the pixelation and effectiveness of regulating and managing land use at the mapped scale (across all of the maps/land use categories). Both these submitters suggest amendments, so the mapping only identifies contiguous areas, with NZFFA suggesting contiguous areas of 0.5 ha are required for the mapping to be credible. Southern North Island Wood Council<sup>333</sup> similarly express concerns with the resolution of the mapping in more general terms. I discuss the limitations of the mapping and my recommended amendments to address the concerns of submitters above. As I am recommending changes to the application of the maps, but they will ultimately be retained in a simplified form, I consider the concerns of NZFFA and Ara Poutama will be at least partially addressed and recommend these submissions be accepted in part. Southern North Island Wood Council seek no relief and therefore I make no recommendation.

### **3.15.2 Recommendations**

334. I recommend that Maps 91 and 94 (highest erosion risk land (woody vegetation)) and 92 and 95 (highest erosion risk land (plantation forestry)) be amalgamated into a simplified map

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<sup>329</sup> Plantation Forestry Erosion Susceptibility Classification Risk assessment for the National Environmental Standards for Plantation Forestry MPI Technical – Paper No: 2017/47  
<https://www.mpi.govt.nz/dmsdocument/19340/direct>

<sup>330</sup> Woodridge [S255.118] (supported by NZCF [FS50.182])

<sup>331</sup> NZFFA [S195.025] (supported by NZCF [FS50.095], opposed by Forest & Bird [FS23.428])

<sup>332</sup> Ara Poutama [S248.004] (supported by NZCF [FS50.005])

<sup>333</sup> Southern North Island Wood Council (S262) [S262.004] (supported by NZCF [FS50.137])

showing the top 10<sup>th</sup> percentile erosion risk land for all land use categories replacing Maps 90 and 93 as shown in Appendix 4.

335. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### 3.16 Issue 15: Not applicable to Whaitua

#### 3.16.1 Analysis

336. There are several region-wide provisions within the operative NRP which, as proposed through PC1, will no longer be applicable to TWT and TAoP. PC1 indicates which provisions will no longer apply to the Whaitua through two mechanisms:

- the application of the  icon for TWT and the  icon for TAoP
- the addition of a 'note' within a provision explaining which parts of a provision no longer apply to one or both of these Whaitua

337. This section addresses submissions on the 'not applicable to Whaitua' icons inserted on Rules R104, R105, R106 and R107.

338. I have set out the submissions for this topic along with my recommendations and reasons in Table 1 below.

Table 1: Submissions and recommendations for 'not applicable to TWT and TAoP' icons and notes

Provision	Nature of PC1 change	Submission summary	Impact of requested change and recommendation
Rule R104	Rule will no longer apply to Whaitua-Te-Whanganui-a-Tara or Te Awarua-o-Porirua Whaitua.	Yvonne Weeber <sup>334</sup> is neutral on the change with no reasons provided or relief sought. Forest Enterprises <sup>335</sup> and WFF <sup>336</sup> oppose the rule being no longer applicable to the Whaitua-Te-Whanganui-a-Tara or Te Awarua-o-Porirua Whaitua. William Studd <sup>337</sup> and Heather Blisset <sup>338</sup> make no recommendation.  WFF seek the operative NRP rules be retained all other submitters seek no specific relief.	Rule R104 was replaced by Rules WH.R18 and P.R17 in PC1 as notified. These rules in PC1 introduce more stringent requirements for vegetation clearance to support reductions of suspended sediment to maintain TAS where TAS is currently being met and improve visual clarity where TAS are not being met.  I recommend the existing NRP rule R104 be retained through PC1, albeit it will need to be rewritten into WH.R17 and P.R16 of PC1 (and therefore the 'not applicable in the Whaitua icon will still remain on this rule) but will not change its

<sup>334</sup> Yvonne Weeber [S183.150] (supported by MPHRCI [FS27.150])

<sup>335</sup> Forest Enterprises [S111.022]

<sup>336</sup> WFF [S193.042] (supported by Meridian [FS47.149])

<sup>337</sup> William Studd [S21.001]

<sup>338</sup> Heather Blisset [S45.009]

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Provision	Nature of PC1 change	Submission summary	Impact of requested change and recommendation
			scope or application. I therefore recommend the submission from WFF be accepted in part.
Rule R105	Rule will no longer apply to Whaitua-Te-Whanganui-a-Tara or Te Awarua-o-Porirua Whaitua.	Yvonne Weeber <sup>339</sup> is neutral on the change with no reasons provided or relief sought. WFF <sup>340</sup> seek the operative NRP rule be retained.	Rule R105 has been replaced by Rules WH.R17 and P.R16 (which also covers other matters).  The scope of Rule R105 is reflected in WH.R17 and P.R16 of PC1 noting the terminology used in the rule has been amended in recognition of the terminology for farm plans used in PC1 and not s217G of the RMA but this has not changed its scope or application. As R105 is largely retained in PC1 (and therefore the 'not applicable to Whaitua icon will still remain on this rule) I recommend the submission from WFF be accepted in part.
Rule R106	Rule will no longer apply to Whaitua-Te-Whanganui-a-Tara or Te Awarua-o-Porirua Whaitua.	Yvonne Weeber <sup>341</sup> is neutral on the change with no reasons provided or relief sought.	As no relief is sought by Yvonne Weeber, I make no recommendation.  I am recommending significant amendments to the vegetation clearance rules in PC1 to mirror the NRP vegetation clearance rules. Rule R106 includes earthworks and Ms Vivian is recommending PC1 rules for earthworks be retained which means it is not possible to simply reinstate the operative NRP Rule R106 in PC1. I therefore recommend that NRP Rule R106 be re-written into Rules WH.R18 and P.R17 of PC1 insofar as it relates to vegetation clearance (i.e. rule R106 will be re-written to remove reference to earthworks and included in PC1). This will not change the

<sup>339</sup> Yvonne Weeber [S183.151] (supported by MPHRCI [FS27.151])

<sup>340</sup> WFF [S193.043] (supported by Meridian [FS47.150], opposed by Forest & Bird [FS23.999])

<sup>341</sup> Yvonne Weeber [S183.152] (supported by MPHRCI [FS27.152])

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Provision	Nature of PC1 change	Submission summary	Impact of requested change and recommendation
			scope or application of the rule insofar as it relates to vegetation clearance as an activity (and therefore the 'not applicable in the Whaitua icon will still remain on this rule).
Rule R107	Rule will no longer apply to Whaitua-Te-Whanganui-a-Tara or Te Awarua-o-Porirua Whaitua.	Yvonne Weeber <sup>342</sup> is neutral on the change with no reasons provided or relief sought.  WFF <sup>343</sup> oppose the change and seek the operative NRP rule be retained.	As no relief has been sought by Yvonne Weeber I make no recommendation on this submission.  I am recommending significant amendments to the vegetation clearance rules in PC1 (effectively to revert to the NRP vegetation clearance rules). Rule R107 includes earthworks and Ms Vivian is recommending PC1 rules for earthworks be retained which means it is not possible to simply reinstate the operative NRP rule R107 in PC1. I therefore recommend that NRP Rule R107 be re-written into rules WH.R19 and P.R18 of PC1 insofar as it relates to vegetation clearance (i.e. Rule R107 will be re-written to remove reference to earthworks and included in PC1). This will not change the scope or application of the rule insofar as it relates to vegetation clearance as an activity - the 'not applicable in the Whaitua icon will still remain on this rule.  As R107 will largely be retained through PC1 I recommend the submission from WFF be accepted in part.

**3.17 Issue 16: Forestry provisions general opposition**

339. In addition to submissions on specific provisions, there are a further 273 submissions and further submissions on the general approach related to forestry in PC1.

<sup>342</sup> Yvonne Weeber [S183.153] (supported by MPHRCI [FS27.153])

<sup>343</sup> WFF [S193.044] (supported by Meridian [FS47.153], opposed by Forest & Bird [FS23.1000])

340. I note the broad and overarching concerns raised by submitters in relation to PC1 as it relates to provisions for forestry activities. The overall tenor of these submissions is one of opposition. Many of these submission points are largely summary statements, that have been provided in cover letters or similar statements, either additional to, or in support of, submission points on specific provisions relevant to this topic. For 129 of the submission points I note no specific relief has been sought.

341. I have reviewed and considered all of these submission points. In my opinion, the matters raised in these submission points have been largely addressed in the issue and provision specific analysis in this report. General submissions where specific relief has been sought, or I consider the issue has not been considered elsewhere in this report are addressed in the following sections.

### **3.17.1 Analysis**

#### Proforma submissions/submissions supporting others

342. Several submitters<sup>344</sup> have provided proforma support for other submissions. These submissions have been noted in analysing the individual submissions. On this basis, I make no specific recommendation in relation to these submissions.

#### General opposition with relief sought

343. I have reviewed the submission from Guildford Timber, Silverstream Forest and Goodwin Estate<sup>345</sup> where the submitter cites a number of concerns with the plantation (commercial) forestry rules in PC1 as notified. This includes duplication of the NES-CF, inappropriate use of the plan making tools to manage resource management issues, lack of consideration of costs, benefits and property rights and inadequate consultation with the forestry sector. The submitter seeks the NES-CF is used as the basis for management of commercial forestry in the Wellington Region and the rules restricting plantation (commercial) forestry rules are deleted; and that the plan correctly reference the NES-CF and commercial forestry where required. I am recommending retaining rules more stringent than the NES-CF for the reasons outlined in paragraphs 200 to 205. However, I recommend substantive amendments to provisions in PC1 which respond to the submitters concerns about inappropriate use of plan making tools, lack of consideration of costs, benefits and property rights which in my opinion is related to PC1 provisions which sought to prevent or restrict land use (Policies WH.P28 and P.P26, Rules WH.R22 and P.R21 and the Management Objectives in Schedule 34). This removes any prohibition or prevention on the use of land for commercial forestry activities which in my view is consistent with the main concerns of this submitter. I therefore recommend this submission be accepted in part.

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<sup>344</sup> Julian Bateson [S100.001]; Chris and Gwen Bossley [S104.001]; Forest Enterprises [S111.001]; David Bennett & Jenni Lean [S184.001]; Juken NZ [S191.002]; NZFFA [S195.027] (opposed by Forest & Bird [FS23.430]); Wayne Bettjeman [S198.001]; JTL [S237.001]; Robin Chesterfield [S25.001]; Dougal Morrison [S3.019]; NZFFA Wellington [S36.001]; Richard Swan [S47.001]; Alan Bell & Associates [S48.001]; Hamish Levak [S49.001]; Jeremy Collyns [S52.001]; Peter Kiernan [S54.001]; Annette Cairns [S55.001]; David and Carolyn Gratton [S58.001]

<sup>345</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.003] (supported by NZCF [FS50.069])

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344. Peter Kiernan<sup>346</sup> and JTL<sup>347</sup> seek rules that are consistent with the NES-CF. Alternatively, JTL seeks Council should provide suitable evidence to utilise stringency ability under the NES-CF to develop more stringent rules for specific controls. Similarly, CFG<sup>348</sup> seek removal of the sections of PC1 related to forestry and alignment with the NES-CF and that Council work collaboratively with industry participants and landowners to implement good practice, and where needed, engage on how to refine and plan land management outcomes that will fulfil the objectives without excessive bureaucracy and cost. Noting I am recommending retaining WH.P28 and P.P26 so policy direction remains where the requirements of the NES-CF cannot be met and recommending a restricted discretionary activity for listed commercial forestry activities in pFMU's where visual clarity TAS are not met, the NES-CF will prevail in all other areas for all other activities and my recommended amendments, including new methods and recommended amendments to Schedule 27, are consistent with the relief sought by these submitters. Therefore, I consider my recommended amendments at least partially achieve the relief sought and I recommend these submissions be accepted in part.

345. I have reviewed the submissions from NZCF<sup>349</sup> who overall seek PC1 be withdrawn (or PC1 is not included in the NRP) until such time as:

- The efficiency and effectiveness of NES-CF has been monitored and results of such monitoring support the need for provisions in the NRP.
- The scope of PC1 has been clarified, including in respect of permanent forests, or commercial forests planted for carbon sequestration purposes;
- Decisions on the RPS Change 1 have been made;
- The recommendations in the Te Whaitua te Whanganui-a-Tara Implementation Programme 2021 are accurately and appropriately reflected in PC1;
- A fulsome evaluation of the provisions is undertaken in a manner consistent with section 32 of the RMA, with the outcome of that evaluation confirming the necessity of PC1; and
- An evaluation is completed under section 32(4) of the RMA, that explicitly evaluates the relevant provisions of PC1 relative to the NESPF, with the outcome of that evaluation confirming the necessity of provisions that prevail over the NESPF.

346. I acknowledge NZCF's alternative relief in the form of requested amendments to provisions should PC1 not be withdrawn. I have reviewed NZCF's proposed amendments and I am satisfied these have been included in my analysis of submissions on the relevant provisions/issues in this report. While I do not recommend PC1 be withdrawn, my

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<sup>346</sup> Peter Kiernan [S54.002] (supported by NZCF [FS50.118])

<sup>347</sup> JTL [S237.009] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.015], supported by NZCF [FS50.081]) and [S237.011] (supported by NZCF [FS50.083], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.016])

<sup>348</sup> CFG [S288.001] (supported by NZCF [FS50.012], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.107], opposed by Forest & Bird [FS23.025])

<sup>349</sup> NZCF [S263.001] (opposed by Forest & Bird [FS23.372]); [S263.003] (opposed by Forest & Bird [FS23.374]); [S263.004] (opposed by Forest & Bird [FS23.375]); [S263.005] (opposed by Forest & Bird [FS23.376]); [S263.007] (opposed by Forest & Bird [FS23.378]); [S263.008] (opposed by Forest & Bird [FS23.379]); [S263.009] (opposed by Forest & Bird [FS23.380]) and [S263.010] (opposed by Forest & Bird [FS23.381])

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recommended amendments to PC1 are at least in part consistent with the alternative relief sought by NZCF and I recommend these submissions be accepted in part.

347. Robert Pavis-Hall, Gaynor Rowswell, Katie Norman, Megan Norman<sup>350</sup> seek PC1 be withdrawn until the new government has decided the fate of PC1. I refer to the comments from Ms O'Callahan in her s42A report for Overarching Matters in Hearing Stream 1<sup>351</sup> where she addresses delaying PC1 due to regulatory uncertainty. I agree with the analysis of Ms O'Callahan and recommend this submission be rejected.

348. Dougal Morrison<sup>352</sup> seeks replanting be a permitted activity, subject to the permitted activity conditions in the NES-CF, that the recommendations from Te Awarua-o-Porirua WIP (Recommendations 54 and 55), and the recommendation from Te Whanganui-a-Tara WIP (Recommendation 37) be adopted and that greater resources are provided to monitor harvesting activities. My recommended amendments result in replanting being regulated by the NES-CF in pFMU's where visual clarity TAS are met, and I have recommended new methods which respond to the WIP recommendations. Accordingly, as my recommended amendments at least partially achieve the relief sought, I recommend this submission be accepted in part.

349. NZFFA Wellington<sup>353</sup> consider making all forestry operations require a consent is draconian and is not supported by evidence. NZFFA Wellington consider Council should allow the NES-CF to bed-in and actively monitor compliance and land performance (including from their own forests) and withdraw the prohibition on harvest in the meantime. Failing this, NZFFA request an exemption from the rules for forests under 20ha. Similarly, David and Carolyn Gratton<sup>354</sup> seek to retain the NES-CF and exempt forestry blocks of less than 100ha from the PC1 controlled activity requirements. As described in paragraph 200 to 205, based on the best available information available to me, including the Statements of Evidence of Mr Reardon, Mr Pepperell, Dr Greer and Mr Blyth, I consider there is justification for PC1 to go beyond the requirements of the NES-CF in pFMU's where visual clarity TAS are not being met. I do not agree that forests under 20ha (and therefore under 100ha) should be excluded from consent requirements as Mr Reardon has observed a difference in the operational standards of smaller woodlots which have been generally lower than larger operators<sup>355</sup>. As recommended amendments mean that only those listed forestry activities in pFMU's where visual clarity TAS are not met will require consent, I recommend these submissions be accepted in part.

350. Sue Hawkins<sup>356</sup> seeks review of the general conditions relating to forestry on erosion risk land. I am not clear what general conditions the submitter is referring to however I note that I anticipate my recommended amendments to remove reference to highest erosion risk land from the forestry rules and PC1 and to remove the prohibition of afforestation and replanting

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<sup>350</sup> Robert Pavis-Hall, Gaynor Rowswell, Katie Norman, Megan Norman [S273.007]

<sup>351</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#) (paragraphs 106-124)

<sup>352</sup> Dougal Morrison [S3.015]

<sup>353</sup> NZFFA Wellington [S36.010] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.001], NZCF [FS50.162]), [S36.012] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.003], supported by NZCF [FS50.164]) and [S36.023]

<sup>354</sup> David and Carolyn Gratton [S58.004] (supported by NZCF [FS50.030])

<sup>355</sup> Paragraph 74 of Mr Reardon's Statement of Evidence

<sup>356</sup> Sue Hawkins [S44.001]

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and harvest beyond the current harvest cycle in WH.P28 and P.P26 respond to the relief sought. Therefore, I recommend this submission be accepted in part.

#### Replacement of references to the NES-PF with the NES-CF

351. In response to the submissions from GWRC<sup>357</sup> and Dougal Morrison<sup>358</sup> seeking references to the NES-PF in PC1 be replaced with the NES-CF. I note that as notified the only place the NES-PF is referred to in this topic is the definitions, where definitions for identified plantation forestry activities from the NES-PF are reflected in PC1. This is because the note under Rule WH.R19 and P.R18 incorrectly refers to the NES-FW. I note concerns about references to the NES-PF needing to be changed to the NES-CF have been addressed by Mr O'Brien in his s42A report on the Region Wide Changes topic in Hearing Stream 1<sup>359</sup>. I agree with Mr O'Brien that any reference to the NES-PF in the NRP or PC1 is already required to be read as a reference to the NES-CF (unless the context provides otherwise) and therefore recommend these submissions be accepted in part.

#### Scope of PC1

352. I note the submissions<sup>360</sup> that suggest changes to the NES-PF since PC1 was notified, and GWRC submissions seeking amendments to the plantation forestry rules to include replanting, bring the scope of PC1 into question. NZCF considers that whilst submission and decision-making processes can address alignment of PC1 provisions with the NES-CF, submissions and decision-making cannot be used to expand the scope of PC1 to also address 'carbon forests' and considers management of discharges from 'carbon forests', or 'carbon forests' more generally, is outside the scope of PC1. NZCF also considers PC1 provisions cannot prevail over the NES-CF because the note about specific rules prevailing refers to the NES-PF and reference to the NES-CF was not included in PC1 as notified.

353. I agree that carbon forests were not included in the NES-PF however PC1 as notified did address vegetation clearance which by definition would capture carbon forests. Therefore I consider that carbon forests were included in the scope of PC1 and that reference to commercial forestry (including carbon forests) in PC1 is appropriate. As NZFFA, Juken NZ and CFG seek no relief I make no recommendation. I recommend the submissions from NZCF be accepted in part.

#### Engagement

354. I note submissions from CFG<sup>361</sup> and Guildford Timber, Silverstream Forest and Goodwin Estate<sup>362</sup> related to the lack of consultation with the forestry sector before PC1 was notified. I refer to the 'Overarching Matters' section 42A report in Hearing Stream 1<sup>363</sup> where Ms

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<sup>357</sup> GWRC [S238.001] (supported by Forest & Bird [FS23.304])

<sup>358</sup> Dougal Morrison [S3.015]

<sup>359</sup> [Section-42A-Hearing-Report-Region-Wide-Beds-of-Lakes-and-Rivers-Combined.pdf](#) (para 74)

<sup>360</sup> NZCF [S263.003] (opposed by Forest & Bird [FS23.374]); [S263.005] (opposed by Forest & Bird [FS23.376]); CFG [S288.002] (opposed by Forest & Bird [FS23.026]); Juken NZ [S191.004] (supported by NZCF [FS50.086]); NZFFA [S195.005] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.077], opposed by Forest & Bird [FS23.408]) and NZFFA [S195.007] (opposed by Forest & Bird [FS23.410])

<sup>361</sup> CFG [S288.001] (supported by NZCF [FS50.012], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.107], opposed by Forest & Bird [FS23.025]) and [S288.002] (opposed by Forest & Bird [FS23.026])

<sup>362</sup> Guildford Timber, Silverstream Forest and Goodwin Estate [S210.003] (supported by NZCF [FS50.069])

<sup>363</sup> [Section-42A-Hearing-Report-Overarching-Matters.pdf](#) (paras 106-109)

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O'Callahan discusses the consultation process for PC1 in response to other submissions. I agree with Ms O'Callahan's conclusions and while I generally agree with submitters that wider consultation prior to notification is always beneficial to provide landowners and stakeholders with an opportunity to provide feedback on the direction of the provisions before they were notified, I do not consider the PC1 process should be stopped until further consultation is undertaken. The formal submissions process is an opportunity for submitters to share their views and seek changes. However, I note that my recommended substantive amendments to PC1 will at least partially respond to the concerns of these submitters.

355. In response to the submission from NZFFA Wellington<sup>364</sup> who question why a soil conservator was not consulted regarding PC1 and seeking rather than prohibit forestry from the steepest slopes, Council explore other ways of mitigating the risk of erosion from steep slopes after harvesting. My recommended amendments remove the prohibition on forestry and therefore I recommend this submission be accepted. I understand from Council officers that Council no longer employs soil conservators but during the development of PC1, a team of land management officers were consulted on the drafts and notified versions of PC1. While it is acknowledged they did not field-test the provisions, Council's land management team provided advice and commentary related to the direction of PC1 prior to PC1 being notified.

#### Mapping and classification of erosion risk land

356. I note the submissions<sup>365</sup> highlighting concerns with the accuracy of the erosion risk mapping and classification of erosion risk land in PC1, including the mapping being difficult for implementation, and concerns that over time the relative risk approach could lead to the cumulative loss of land in forestry. These concerns are addressed in various sections throughout this report. As these submitters do not seek any specific relief I make no recommendation on these submissions.

#### Alignment with WIP recommendations

357. In addition to submission points related to specific provisions and their lack of alignment with the respective WIPs, a number of submitters oppose the forestry provisions in PC1 in more general terms, on the basis they are not consistent with the recommendations of the respective WIPs. At a high level the reasons for opposition include:

- Whaitua recommendations are consistent with the NES-CF and provide for site specific assessments
- The relevant WIPs did not recommend changes to the regulatory regime and suggested the NES-PF should be given time to 'bed in' whereas PC1 introduces more stringent provisions

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<sup>364</sup> NZFFA Wellington [S36.012] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.003], supported by NZCF [FS50.164])

<sup>365</sup> Juken NZ [S191.001] (supported by NZCF [FS50.084]) and [S191.004] (supported by NZCF [FS50.086]); NZFFA [S195.017] (opposed by Forest & Bird [FS23.420]) and [S195.013] (opposed by Forest & Bird [FS23.416]); Southern North Island Wood Council [S262.004] (supported by NZCF [FS50.137]); CFG [S288.013] (supported by NZCF [FS50.015], opposed by Forest & Bird [FS23.037]) and [S288.014] (supported by NZCF [FS50.016], opposed by Forest & Bird [FS23.038])

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- The benefits forestry provides for water quality acknowledged in the WIPs have not been acknowledged in PC1
- The WIPs recommended a focus on education, implementation, monitoring and enforcement and Council working with the forestry sector to achieve outcomes, and these recommendations have not carried through to PC1

358. In response to these submissions, I note the WIP recommendations are only one factor that need to be considered as part of the context of PC1, with the main regulatory driver being to give effect to the NPS-FM. Nevertheless, I am recommending PC1 be 'rolled back' to the requirements of the NES-CF in pFMU's where visual clarity TAS are met and two non-regulatory methods related to resourcing and upskilling and Council working alongside the forestry sector on education and training to promote best practice. In my opinion, these amendments are consistent with the recommendations of the respective WIP reports and respond in part to the concerns of these submitters.

#### Robustness of evidence

359. The main reasons for opposition to the forestry provisions of PC1 surround the robustness of evidence provided by Council justifying the need for PC1 provisions to be more stringent than the NES-CF and the inadequacy of the s32 report. Key concerns include the lack of evidence demonstrating that the NES-CF is not sufficient to achieve PC1 objectives and lack of evidence regarding the contribution of forestry activities to not meeting TAS in those pFMUs where sediment load reductions are required to meet TAS. Robustness of evidence and application of the stringency test is addressed in various sections throughout this report. In summary, using the best available information, I consider there is sufficient evidence that more stringency is required through rules in PC1 to ensure that PC1 objectives which give effect to the NPS-FM are achieved. To this end, I am recommending a restricted discretionary activity consent requirement for pFMU's where visual clarity TAS is not met while the impacts of forestry and their influence on TAS are more fulsomely investigated. The NES-CF will continue to prevail as the regulatory requirement for commercial forestry in pFMU's where visual clarity TAS are met. NZFFA Wellington<sup>366</sup> are the only submitters who seek specific relief, requesting Council commission research or obtain live data about shallow landslide incidence after harvest from their own forests to see if retiring out steepest slopes from forestry could actually make a significant difference to sediment in water bodies. I consider this is in line with my recommended amendments and suggestions related to Council doing more work to understand the impact of forestry on achievement of PC1 objectives. I therefore recommend this submission be accepted in part.

#### Economic impacts

360. While noting there is no specific relief sought, I acknowledge the submissions<sup>367</sup> related to potential economic impacts for landowners and the region's economy. This includes concern PC1 rules will render land uneconomic and may lead to claims under s85 of the

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<sup>366</sup> NZFFA Wellington [S36.023]

<sup>367</sup> David Bennett & Jenni Lean [S184.002]; Robin Chesterfield [S25.002]; [S25.003]; Richard Swan [S47.002] and [S47.003]; Hamish Levak [S49.002]; S49.003]; Jeremy Collyns [S52.002] and [S52.003]; Peter Kiernan [S54.002] (supported by NZCF [FS50.118]); Annette Cairns [S55.002] (supported by NZCF [FS50.002]); [S55.004] (supported by NZCF [FS50.004]); Southern North Island Wood Council [S262.008]; Dougal Morrison [S3.009] (supported by NZCF [FS50.037]) and [S3.014]; NZFFA [S195.006] (opposed by Forest & Bird [FS23.409]) and [S195.009] (opposed by Forest & Bird [FS23.412])

## Plan Change 1 to the Natural Resources Plan for the Wellington Region

### Hearing Stream: 3

#### Officer's Report: Vegetation clearance and forestry

RMA on the basis the provisions render land incapable of reasonable use and place an unfair and unreasonable burden on persons having an interest in the land and that Council could be liable for compensation. Submitters also consider PC1 is a disincentive for investment in forestry. It is clear from submitters there is a perception PC1 as notified will negatively impact opportunities to obtain an adequate return from their forests, will devalue their land and could prevent forest owners from obtaining an income from their land while compliance costs, maintenance costs and rates will continue, and will likely increase. Submitters suggest the costs of PC1 have been understated and the economic analysis does not appear to quantify the total impacts on forestry in the region.

361. Peter Kiernan seeks to ensure that if the NES-CF is followed that harvesting be a permitted activity. My recommended amendments will result in harvesting requiring a restricted discretionary activity consent in pFMU's where visual clarity TAS are not met but the NES-CF will prevail in all other pFMU's. I therefore recommend this submission be accepted in part. There is no specific relief sought in the other submissions, however I consider my recommended amendments will reduce the economic impacts of PC1, compared to the notified provisions and respond to the concerns of these submitters.

#### ETS impacts

362. I acknowledge the submissions<sup>368</sup> expressing concern about potential implications of PC1 and financial consequences under the ETS and inconsistency with national climate change policy. This includes the lack of compensation and financial assistance for losses of workable land and broader economic impacts for foresters related to their ETS obligations. These concerns have been addressed throughout this report, and I make no further comment here.

#### Unintended consequences

363. Several submitters<sup>369</sup> raise concerns about the potential for unintended consequences of PC1 requirements. These include:

- If land is unable to be re-planted post-harvest, landowners will leave the land to regenerate naturally which will likely lead to a wilding pine problem and unmanaged forests of poor-quality pine subject to breakage and disease which creates problems of trees falling into streams or causing shading of streams
- PC1 may lead to forest owners seeking a quick way out by harvesting and not continuing with another rotation resulting in the loss of significant areas of productive land.

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<sup>368</sup> Juken NZ [S191.001] (supported by NZCF [FS50.084]) and [S191.004] (supported by NZCF [FS50.086]); Southern North Island Wood Council [S262.003] (supported by NZCF [FS50.136]) and [S262.010] (supported by NZCF [FS50.138]); NZFFA [S195.006] (opposed by Forest & Bird [FS23.409]); NZCF [S263.009] (opposed by Forest & Bird [FS23.380]); CFG [S288.001] (supported by NZCF [FS50.012], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.107], opposed by Forest & Bird [FS23.025]) and [S288.017] (opposed by Forest & Bird [FS23.041]); NZFFA Wellington [S36.028] (supported by NZCF [FS50.170]); and Alan Bell & Associates [S48.003] (supported by NZCF [FS50.001])

<sup>369</sup> CFG [S288.015] (supported by NZCF [FS50.017], opposed by Forest & Bird [FS23.039]); Dougal Morrison [S3.010] and [S3.015]; Peter Handford [S280.004] (supported by NZCF [FS50.117]); NZFFA Wellington [S36.014], [S36.015], [S36.027] and [S36.028] (supported by NZCF [FS50.170]); and Alan Bell & Associates [S48.002]

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#### Officer's Report: Vegetation clearance and forestry

- Not allowing forestry in certain areas removes potential for forest management to provide ecosystem services including biodiversity, carbon sequestration, soil and water protection.
- PC1 will alter the forestry management approach as production forests may then be restricted to broad ridge lines and lower slopes/valley floors closer to waterways, wetlands and seepages and sediment discharges from forestry could increase
- Pastoral farmers have been encouraged to use plantation forestry (as well as permanent forestry and native forestry) for Government sponsored hill country erosion programmes, other subsidised planting schemes and to offset greenhouse gas emissions and prohibition of forestry on steep slopes would reduce their options.

364. These matters are addressed throughout this report, specifically my analysis of the appropriateness of provisions which prohibit or prevent plantation forestry activities on highest erosion risk (plantation forestry) land and therefore I make no further comment here.

#### Alignment with national direction

365. A number of submitters<sup>370</sup> are concerned in more general terms with the lack of alignment between PC1 and national direction. This falls into three main categories, duplication of the requirements of the NES-CF, lack of alignment with the NES-CF and concerns related to the implications of PC1 on climate change legislation.

366. While most of these submissions request no specific relief and I make no recommendation, UHCC seeks to delete or significantly amend provisions circumventing, and not giving effect to, higher order documents without clear reasoning or supporting evidence. UHCC specifically notes rules surrounding plantation forestry trying to provide a higher level of protection than is allowed under the NES-CF in their submission. This matter is addressed throughout this report. Accordingly, I recommend this submission be rejected.

367. Recognising that the NES-CF has recently been amended, submitters consider provisions which are more restrictive than the NES-CF should be withdrawn or amended to align with the NES-CF until such time as the NES-CF has had time to "bed-in" or Council is able to provide evidence that shows the NES-CF is not working. I acknowledge and agree with the sentiment of those submitters. However, I am concerned about the anticipated 40% increase in area subject to harvest within these Whaitua over the next 5 years and that the majority of harvest is expected to come from smaller woodlots where environmental performance has been poorer. I consider the potential impacts of this increase in harvest on TAS and PC1 environmental outcome objectives requires a more stringent approach than

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<sup>370</sup> UHCC [S225.017] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.008], opposed by Forest & Bird [FS23.845]); JTL [S237.003] (supported by NZCF [FS50.077]); [S237.005] (supported by NZCF [FS50.079]), [S237.006]; [S237.007], [S237.008] (supported by NZCF [FS50.080]), [S237.010] (supported by NZCF [FS50.082]) and [S237.011] (supported by NZCF [FS50.083], supported in part by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.016]); Juken NZ [S191.003] (supported by NZCF [FS50.085]); NZCF [S263.004] (opposed by Forest & Bird [FS23.375]); Dougal Morrison [S3.001], [S3.003] (supported by NZCF [FS50.033]) and [S3.012] (supported by NZCF [FS50.038]); Southern North Island Wood Council [S262.001]; NZFFA Wellington [S36.008] and [S36.010] (supported by Guildford Timber, Silverstream Forest and Goodwin Estate [FS25.001], NZCF [FS50.162]) and David and Carolyn Gratton [S58.004] (supported by NZCF [FS50.030])

the NES-CF. These regulatory measures will be supported by non-regulatory methods which require Council to increase their resourcing and capability for monitoring and enforcing the NES-CF and forestry activities in these Whaitua appropriately. The NES-CF will continue to prevail in pFMU's where visual clarity TAS are met and this will provide an incentive for the forestry sector to improve environmental performance to avoid the risk of pFMU's falling below TAS and activities in those catchments being subject to consent in future.

### **3.17.2 Recommendations**

368. Other than where I have specifically addressed the relief sought by submitters, most of the submissions set out above either do not seek specific relief or are addressed by more specific submission points throughout this report, I do not recommend any further amendments to the provisions as a result of these submissions.

369. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

### **3.18 Issue 17: Other matters**

370. There are two submissions that raise concerns about matters that sit outside the other issues identified in this report.

#### **3.18.1 Analysis**

371. CFG<sup>371</sup> seek an amendment to Method M44 to include "deliver a specific programme of engagement with forestry practitioners" to reflect the recommendations of the Whaitua committees. I note that Mr Willis is recommending deletion of reference to forestry activities in his revised Method 44 on the basis that I am recommending two new non-regulatory methods specifically related to forestry. In my opinion, my recommended new Method M44A is consistent with the relief sought by CFG and I recommend this submission be accepted in part.

372. Heather Phillips<sup>372</sup> expresses concern related to wildfires and the lack of consideration of risks related to wildfires in PC1. While I agree that mitigation for wildfire risks is important, in my opinion it is outside of the scope of PC1 with the focus of PC1 being water quality and giving effect to the NPS-FM. As no specific relief is sought, I make no recommendation.

#### **3.18.2 Recommendations**

373. I do not recommend any further amendments to the provisions as a result of these submissions.

374. I recommend that the submissions and further submissions be determined as detailed in Appendix 5.

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<sup>371</sup> CFG [S288.037] (opposed by Forest & Bird [FS23.061])

<sup>372</sup> Heather Phillips [S212.002] (supported in part by WFF [FS17.001])

## **4.0 Conclusions**

375. A range of submissions has been received in support of, and in opposition to the provisions relating to vegetation clearance and forestry in PC1.

376. After considering all the submissions and reviewing all relevant statutory and non-statutory documents, I recommend that PC1 should be amended as set out in Appendix 4 of this report.

377. I consider that the amended provisions will be the most appropriate in achieving the purpose of the RMA, the relevant objectives of PC1 and other relevant statutory documents, for the reasons set out in the Section 32AA evaluations undertaken.

### **Recommendations:**

I recommend that:

1. PC1 is amended in accordance with the changes recommended in Appendix 4 of this report; and
2. The Hearing Panels accept/accept in part, or reject submissions (and associated further submissions) as outlined in Appendix 5 of this report.

*These appendices can be found in the Greater Wellington Regional Council website along with the section 42A report.*

**Appendix 1: Table of Provisions within Vegetation Clearance and Forestry topic and supporting information**

**Appendix 2: Description of matters raised by Submitters**

**Appendix 3: Assessment of the categorisation of provisions in the Freshwater Planning Instrument component of PC1**

**Appendix 4: Recommended Amendments to Provisions and Section 32AA Evaluation**

**Appendix 5: Table of Recommendations on Submissions**