

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED PLAN
CHANGE 1 TO THE NATURAL RESOURCES PLAN FOR THE WELLINGTON REGION**

UNDER the Resource Management Act 1991 (the
Act)

AND

IN THE MATTER of Hearing of Submissions and Further
Submissions on Proposed Plan Change 1 to
the Natural Resources Plan for the
Wellington Region under Schedule 1 of the
Act

**REPORTING OFFICER RIGHT OF REPLY OF GERARD WILLIS
ON BEHALF OF GREATER WELLINGTON REGIONAL COUNCIL**

HEARING STREAM 4 – RURAL LAND USE

2 JULY 2025

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INTRODUCTION

- 1 My full name is Gerard Willis. I am a consultant planner, contracted by Greater Wellington Regional Council (**GWRC**) to prepare the 42A report on the rural land use provisions.
- 2 I have prepared this reply in respect of the matters raised during the hearing of matters in Hearing Stream 3 – Rural Land Use.
- 3 I listened to submitters in Hearing Stream 3, read their tabled statements, written submissions and further submissions relevant to the Hearing Stream 3 topic.

QUALIFICATIONS AND EXPERIENCE

- 4 My qualifications and experience are set out in paragraphs 17-23 of my section 42A report for this topic, dated 15 April 2025. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

SCOPE OF REPLY

- 5 This reply follows Hearing Stream 3 of Plan Change 1 to the Natural Resources Plan (**NRP**) for the Wellington Region (**PC1**) held on 19 May to 23 May 2025.
- 6 Minute 12 requested the Council and/or its experts submit a written Right of Reply in response to matters raised in the Minute by 2 July 2025.
- 7 This reply covers:
 - 7.1 responses to questions raised directly by the Panels in Minute 7; and
 - 7.2 responses and further comments in response to questions asked by the Panels during the hearing.

RESPONSES TO MATTERS RAISED IN MINUTE 12

Categorisation of provisions where they cross reference a 'P1S1 provision'

- 8 The Panel has asked for the appropriate categorisation of provisions where they cross-reference a Part 1 Schedule 1 (**P1S1**) provision.
- 9 Policies WH.P21 and P.P20 both cross reference the NRP's existing Policy P108 in clause (d) of those policies.

10 Both Policy WH.P21 and Policy P.P20 have been identified in the section 42A report as being within a freshwater planning instrument (**FPI**) notwithstanding the references to Policy 108, which applies (in part) to the coast marine area and hence is regarded a coastal plan provision.

11 The reference to Policy P108 is made as follows:

(d) excluding stock from water bodies in accordance with Policy P108 as a limit on land use

12 At the request of the Panel, I have considered the matter further. In my opinion, Policies WH.P21 and P.P20, are correctly identified as part of the FPI. The reason why I hold that to be correct is that the reference to Policy 108 is made in the context of “water bodies”. The term “water bodies” is defined by the NRP in such a way as to exclude the coastal marine area.

13 Hence under PC1, the reference to P108 is limited to its application to freshwater. Or to put it another way, only that part of P108 that applies to freshwater, applies under PC1. Anyone with an interest in P108 not applying, could only promote that interest in terms of that policy’s application to freshwater. The application of Policy P108 to the coastal marine area is unaffected by PC1.

14 Policies WH.P25 and P.P24 both reference P75. P75 is also identified as a coastal provision in the NRP (although the reason for this is not clear to me). Again, WH.P25 and P.P24 have been identified in the section 42A report as FPI provisions and I continue to consider that to be correct. There is nothing in the cross reference to P75 that effects the application of that policy in the coastal environment.

15 Policies WH.P25 and P.P24 are about land use change and about the diffuse discharge of nitrogen, phosphorus, sediment and *E.coli* from that changed land use. That activity is being controlled to manage the effects on the attributes listed in Tables 8.4 and 9.2 in freshwater. To the extent that freshwater ultimately discharges to coastal water, there maybe a connection between discharges targeted by these policies and the effects that occur in the Coastal Marine Area but any discharges are not, in my opinion, a discharge to the CMA. If this policy was to be regarded as a coastal provision, then all provisions that seek to control discharges to land and freshwater must be coastal provisions. In my opinion that is not the intent.

Schedule 36 and Schedule Z.

- 16 The Panel asked whether Schedule 36 and Schedule Z could be streamlined or somehow amalgamated.
- 17 As I understand the concern expressed by the submitter who raised this issue (Ms Dianne Strugnell), there are two concerns in relation to Schedule 36 and Schedule Z. The first is simply that having the requirements for certified Farm Environment Plans (**FEPs**) spread across two schedules and in different parts of the NRP is not 'user' friendly. I agree with that opinion. Early in the PC1 development process it was decided not to amend existing provisions of the NRP unless amendment was unavoidable. That was to avoid attracting submissions on matters that had only recently been settled by a very protracted mediation process. It was also considered that any 'architectural anomalies' created could be largely resolved by moving the NRP to a 'ePlan' format where the written structure of the Plan becomes less important (since the search function of ePlans organises, groups and links the relevant provisions for the plan user). I acknowledge, however, that some members of the public will prefer to access the NRP in its traditional format.
- 18 It is difficult at this point in the process to resolve the issue identified. One option would be to bring the existing content of Schedule Z into Schedule 36 but that would seem inappropriate since it would then become part of PC1 but submitters will have been denied the ability to submit on it. The other option is to not have Schedule Z apply in either TAoP or TWT. That would leave a 'hole' in the FEP tool since it would be limited to addressing erosion loss risk only (and stock exclusion in Makara).
- 19 That brings us to the second issue raised by Ms Strugnell. This is that sediment is the major issue in the PC1 Whaitua and the need, or ability, to respond to risk of nutrient loss is minimal. Hence, the nutrient-focused provisions of Schedule Z are largely redundant or not applicable. Significant cost could be incurred in assessing nutrient loss risk in what could be a "box ticking' exercise.
- 20 I agree in part with that opinion. However, there is a requirement under the NPSFM and the objectives of PC1 to ensure that nutrient (and *E.coli*) discharges do not increase. There is no other mechanism in PC1 to provide assurance of that other than the FEP. For that reason, I do not think it is tenable for FEPs in TWT and TAoP to be silent on those other rural contaminant discharge risks (which would occur if Schedule Z did not apply).

- 21 While I agree that the solution I propose is not ideal, given the limited options that are available, I consider that retaining the two Schedules as shown Attachment 1 is the most appropriate solution. The one improvement I consider could be made is to include an introductory explanation at the beginning of Schedule 36 that:
- 21.1 Better explains the application of, and relationship, between Schedule Z and Schedule 36; and
 - 21.2 Records that, for farms in the TWT and TAoP Whaitua:
 - 21.2.1 the priority is managing sediment loss,
 - 21.2.2 that the provisions of Schedule Z relating to nutrients, though applicable, should be applied to the extent commensurate with the risk of nutrient loss from the farm system.
 - 21.2.3 that nutrient losses from sheep and beef farms is expected to be low
 - 21.2.4 any actions imposed in the FEP in relation to nutrients should be limited to those necessary to ensure that increases in nutrient losses will not occur.
 - 21.3 A note to that effect is included in the version attached at Appendix 1.

Stock exclusion and horses

- 22 The issue of managing horses was raised in the presentation from Mākara and Ohariu Residents. The Panel has asked whether the PC1 provisions on ‘managing livestock’ (e.g. Policy WH.P26) apply to horses.
- 23 Policy WH.P26 uses the term ‘livestock’. That is a defined term meaning:
- Farm animals.** For the purpose of Rule R98, Rule R99, and Rule R100 of the Plan livestock does not include horses while they are being used for transportation, or bird species.*
- 24 Accordingly, except when they are being ridden, horses are included in the definition of livestock. However, the NRP’s Rules R98, R99 and R100 of the NRP, only restrict ‘livestock’ from Category 1 surface water bodies (a specific list of very high value water bodies). Otherwise, stock exclusion applies only to ‘cattle (including dairy cows) farmed deer and farmed pigs’. (Note, there is an important qualifier to this as discussed in paragraph 34 below).

25 The term 'livestock' is used by the existing stock exclusion policy of the NRP(P108), however, it is qualified in places by reference to 'some' livestock because in most rivers it is only cattle (including dairy cattle) and farmed deer and pigs that require exclusion by the implementing rules.

26 For consistency with Policy P108 the term 'livestock' is used in Policy WH.P26 (but without the qualifier "some"). Technically, therefore, that does include horses. The rules, however, were drafted to be consistent with the approach applying to most rivers in the region. That is, they are limited to excluding "*cattle (including dairy cows) farmed deer and farmed pigs*".

27 There is, accordingly, an inconsistency between the stock exclusion policy and implementing rules on the question of horses. This brings into question whether there is scope to now amend the rules to require exclusion of horses.

28 It is worth recalling that Rule WH.R28 permits access of cattle (including dairy cows) farmed deer and farmed pigs to a surface water body if that access is in accordance with Part F of Schedule 36. Because they are not mentioned, horses are permitted without conditions¹.

29 The availability of evidence on the adverse effect of horses on surface water bodies in Mākara is limited to the Te Whanganui-a-Tara WIP and submitters' presentations. The WIP did not conclude that horses were a significant risk to freshwater in the Whaitua but did recommend (recommendation 34):

Investigating the specific impacts of horses on water quality and considering further stock exclusion regulations if they are identified as a significant source of contaminants.

30 This investigation had not been undertaken at the time PC1 was drafted and the 'evidence' since available is best described as anecdotal. While I agree that horses could be a significant source of contaminants in the Mākara catchment I do not consider that the evidence currently available warrants a change to the rule at this point.

31 I note also that the revised approach to stock exclusion recommended in the section 42A report was designed to fill the 'gap' left by the amendment to the national stock exclusion regulations. Those regulations do not cover horses. As noted above, the question of scope is also relevant.

¹ As a further complicating factor, Part F of Schedule 36 as notified referred to 'stock', an error that was correctly in the s42A report and does not affect rule interpretation.

32 I do consider that submitters have raised a legitimate concern and that the issue should be investigated as per the WIP recommendation. I propose a further amendment to Method M44 so that the investigation of the effects of small blocks include specific reference to effects of horses accessing surface water bodies, and that the potential responses to any issues identified include the introduction of rules (and not just landowner “engagement and education” as had been proposed).

33 Clause (d) of Method M44 would then read:

(d) Investigate the contribution of small (<20 ha) landholdings to water quality issues (including the effect of horses accessing surface water bodies), and, to the extent warranted:

- develop and deliver a specific programme of engagement and education with small (<20ha) landowners; and/or
- taking such other action (including introducing further rules to this plan) as may be necessary to address risks to freshwater arising from those landholdings and associated activities.

34 Finally, it is also worth noting that Rule R98 includes a performance-based standard that applies to all permitted stock access. Clause (d) of that rule applies at all livestock (including horses). It states that access to surface water bodies shall not result in conspicuous change in colour or visual clarity or more than minor damage to water bodies’ bed and banks. This means that to the extent that horse access to rivers causes conspicuous change in visual clarity or more than minor damage to banks or beds it already requires consent under the existing provisions of the NRP. I accept, however, that in practice this becomes a question of monitoring and enforcement.

Earthworks within riparian margins

35 Under the Rural Land use heading, the Panels’ Minute 12 asks for advice on whether the operative plan or PC1 require consent for earthworks within riparian margins and how a riparian margin is defined.

36 That is a matter best directed to the Earthworks subtopic and is, accordingly, addressed by Ms Vivian.

RESPONSES TO POINTS RAISED DURING HEARING STREAM 3 IN RELATION TO RURAL LAND USE

Compliance status of pFMUs with TASs

- 37 Rules WH.R30 and P.R27 provide for the consent status (either discretionary or non-complying) to be determined by what the current state of the 'catchment' is relative to the TAS at the monitoring site set out in Tables 8.4 and 9.2 respectively.
- 38 This rule aims to recognise, in part, the issue raised by various submitters, namely that they did not want to be judged according to a part FMU monitoring site/records that reflected inputs from variously contributing sources/catchments) (or, in some cases, did not reflect 'their' river at all).
- 39 The reference to 'catchment' in the rules is intended to allow reference to a spatial scale smaller than the part FMU or to the immediate catchment rather than downstream Part FMU sites (provided that spatial scale is monitored by council and a sufficient monitoring record exists). For example, it could refer to the Akatarawa catchment which has its own Council monitoring site/record but is not one specifically applied in the Table 8.4 structure.
- 40 On reflection, the rule may give rise to a number of uncertainties. This includes what the term "Wellington Regional Council monitoring record" means in the context used. For the avoidance of doubt, it was never intended to mean the latest laboratory result from monthly sampling. That would clearly not be a robust way of determining the status of a catchment relative to TAS. In that context, "monitoring record" was intended to mean the record kept and reported by Council to determine the state of the attribute relative to TAS. The NPSFM specifies the monitoring regime and record required for 'grading' a site. My understanding is that monitoring and reporting is undertaken by Council on the same basis. For example, rivers are graded for suspended fine sediment on the basis of monthly monitoring and a record length of 5 years is required. The NPSFM also requires 5 years of monthly records for phosphorus and *E.coli*. That is the 'monitoring record' I had anticipated would be applied (as a rolling average).
- 41 I agree, however, that such an approach is not clear on the face of the rules as drafted and clarification is required.
- 42 This matter is further addressed by Mr Watson in relation to forestry and I understand may need to be revisited as part of HS4.

Maps 90 and 93

43 The section 42A report version of Maps 90 and 93 titled those maps “Potential erosion risk land”. The Panel questioned whether that title may be misleading since there may well be other land that is at risk of erosion that is not shown on the maps. A question was asked as to whether amendment of the title and a notation on that map would assist to clarify that the maps should be read as indicating a particular level of relative risk and did not exclusively depict all land of erosion risk, or all levels of risk.

44 I agree with the suggestion that the maps as titled could be misread and misunderstood. Accordingly, I propose that the maps be retitled “Potential High Erosion Risk Land”. While the area noted accords with the are previously shown as “Highest” erosion risk that was only to distinguish from the term ‘High’ that was used to describe the most at risk 30% of land. Because I recommend that the 30% erosion risk threshold be deleted, there is no need to use the relative term “highest” (which in any case may itself be misleading since some of the identified land will be higher risk than other parts).

45 To help to minimise any confusion as to what the mapped area represents, I propose that a note be included on the face of the maps as follows:

Note: This map identifies land of potential high risk of erosion determined as the 10% of land modelled as the most at risk of surface and landslide erosion by land cover category. It is important to note that Map 90 is a guide only and should not be read as suggesting that only the land mapped will be at risk of erosion.

References to riparian planting

46 As notified, Policies WH.P27 and P.P25 related to the promotion of stream shading to manage periphyton risk. Some changes were recommended as part of HS2 to acknowledge that riparian planting had broader benefits for ecosystem health.

47 Further amendment is recommended to refer specifically to the planting of riparian *margins* for clarity and consistency with other provisions.

Primary production term in the land use change provisions

48 As notified, Policies WH.P25 and P.P24 referred to rural land use activities. Winstones Aggregates² submitted that the term could be read to include quarrying and similar non-agricultural activities undertaken in rural areas. That submission was accepted, and a

² S206.044

recommendation was made that the term be changed to “primary production land use”. In doing so, however, the fact that “primary production” is defined in the national planning standards was overlooked. That definition specifically includes quarrying, mining and aquaculture – all activities that the policies were not intended to address. In other words, the ‘solution’ offered did not solve the issue identified³.

49 I propose that this be rectified by deleting the words “primary production” and referring instead to “rural production land use” change. I propose a new definition of that term as follows:

Rural production land use - Pastoral land use, arable land use, horticultural land use or plantation forestry.

Stock exclusion timeframes

50 At the rural land use hearing Commissioner Nightingale questioned how the timing of the required FEPs in Makara worked with the timing of the required stock exclusion in the Mākara catchment.

51 The key points are as follows:

- 51.1 Rule WH.R27 (a) states (by reference to Table 8.6) that farming >20ha in Mākara will require an FEP to be supplied to GWRC by 30 December 2027.
- 51.2 Rule WH.R27 (c) states that the FEP will need to be certified within 6 months of being supplied (for Mākara that would be 30 June 2028).
- 51.3 Rule WH.R28 applies from 30 December 2028. It says that from that date, stock access must either be limited to stock crossing a river at a specific point or, the farm must have an FEP that has been certified as being consistent with Schedule 36 (Part F).
- 51.4 Because all 20ha + hectare farms in Mākara will have certified FEPs by 30 June 2028, they will all be able to be compliant with Rule WH.R28 (ie. continued stock access will be allowed if the FEP provides for that). They will have until 2030 to stock exclude (or potentially have an exemption in respect of streams on land that is not ‘low slope land’).

³ Winstone Aggregates had requested that the term “primary production rural land use” be used but is not clear to me that that would fully resolve the issue.

- 51.5 To comply with Part E of Schedule 36, the FEP will need to include a committed action to achieve the stock exclusion requirement by 2030. (That is, the FEP does not itself need to show the stock exclusion has been achieved when the FEP is supplied, or when it is certified, it simply needs to include an action to do so by 2030.
- 51.6 The stock exclusion requirement will be known from the date the provision becomes operative so the 'lead time' to complete the stock exclusion for the >20ha farmed blocks could be around 4 years (early 2026 - end of 2029).
- 51.7 Farms that do not need an FEP (properties with <20ha in pasture or crop) will need to stock exclude from 1m+ wide streams from the end of 2028. They will have less time to comply – perhaps only 2 years (depending on when PC1 becomes operative).
- 52 In my opinion, the rule and associated dates 'work' as drafted. However, I agree there is an inconsistency in that farms that do not need an FEP will need to stock exclude by 30 December 2028, whereas farms that do need an FEP will have until 30 December 2029 (or have a perpetual waiver from the stock exclusion requirement in the case of streams on steep land).
- 53 That staggered date was intentional as the smaller blocks were considered to have an easier task given the extent of streams from which stock must be excluded was thought to be less. That assumption may not, on reflection, be a sound one. Smaller blocks tend to occupy the valley floors where the mainstems of streams (generally >1m wide) are found.
- 54 In any event, it is clear from the questioning that, as drafted, the provisions are difficult to interpret even for experienced practitioners. For those reasons, I propose that the date of 30 December 2028 set out in Rule WH.R28 be changed to 30 December 2029. I also propose that the reference to "by 2030" in Schedule 36 Part F be changed to "by 30 December 2029". That would align the key compliance dates more obviously.

Voluntary FEPs

- 55 A question was asked as to whether it would be possible for a landowner to *voluntarily* prepare and have certified a FEP (ie. even when not required to do so by rules) in order to access the advantages of an FEP (notably the ability to get a waiver from stock exclusion from rivers on land that is not low slope land).

56 I can advise that there was no intention that landowners should be able do to that and the rules do not expressly anticipate that as an option. It would seem to me an unlikely option for a small block owner to want to take since it would require the development and certification of entire FEP (and scrutiny of nutrient loss and erosion risk land) when the issue is limited to stock exclusion. In my opinion, a landowner would be better placed to apply for a discretionary consent if excluding stock in the timeframe is not feasible.

57 However, as drafted, Rule WH.28 appears to leave the option open and may invite some confusion. Accordingly, I propose that Rule WH.R28 (c) be amended to read:

(c) where a farm environment plan is required under rule WH.R27, the environment plan certifier has certified that

Boundaries of TAoP Part FMUs

58 Ms Strugnell questioned the demarcation of Part FMUs in TAoP Whaitua. She noted that:

58.1 The Kakaho stream catchment (in the Pouewe Part FMU) and Duck Creek catchment (in Wai-o-hata Part FMU) are “fairly well accepted” as contributing significant amounts of sediment to the Inlet. Despite that, because they are not in the Takapū part FMU they are not subject to the requirement for FEPs to have Erosion Risk Treatment Plan (**ETRPs**); and (conversely)

58.2 The Pāuatahanui Part FMU includes areas (Cannons Creek and Takapū Stream) where the surface hydrology is unconnected to the Pauatahanui Stream where the grading/monitoring occurs. The inference being that farms in these areas are required to have an ERTTP but do not contribute to the surface water body of concern (ie. suspended sediment in the Pāuatahanui Stream).

59 At face value, Ms Strugnell’s submission raises a valid concern. There are anomalies associated with how Part FMUs have been defined. However, I have investigated this in more detail (and sought advice from Mr Jamie Peryer) and I do not consider that any change is required for the reasons set out below.

59.1 I understand that the much of Kakaho Stream catchment is currently the subject of a subdivision application lodged with Porirua City Council and that the sediment risk from this catchment going forward is likely to be largely associated with residential development rather than farming.

- 59.2 The Duck Creek catchment is partly urban (Whitby) and partly Belmont Regional Park (as noted by Ms Strugnell). I am advised by Mr Peryer that there are thought to be no farmed landholdings over 20ha in that catchment (aside from Belmont Park itself).
- 59.3 While the Cannons Creek/Tākapu stream area is not hydrologically connected to the Pāuatahau stream, it does flow to the Onepoto Arm and hence the small number of farms in that area will be contributing sediment to the Arm. As noted in the HS2 evidence of Dr Melidonis, a 49% sediment reduction to the Onepoto Arm is required to meet ANZG guidelines (Table 7, page 30). Accordingly, I consider that farms draining to the Arm should be required to prepare an E RTP.

MINOR CORRECTIONS

- 60 Various minor inconsistencies and drafting errors were pointed out during the hearing. I have reviewed the points raised and recommend the following amendments.
- 60.1 Amendment to Rule WH.R28 to change the reference from “Part E of Schedule 36 (farm environment plans- additional)” to “Part ~~E~~F of Schedule 36 (~~farm environment plans- additional~~).
- 60.2 Amendment to Policy P.P22 so that, consistent with Policy WH.P 23, it reads “Achieving reductions in sediment discharges from farming activities on land with Part Freshwater Management Units that exceed the target attribute state of suspended fine sediment”.
- 60.3 Amendment to Part F of Schedule 36 so that after the word “cattle” the words “included dairy cows” are added in parentheses. This makes the wording in the Schedule consistent with Rule WH.R29. Technically, dairy cows are cattle and the additional phrase is not necessary in either provision. Hence deleting the phrase from WH.R29 is the other option to achieve consistency. However, I have proposed the addition to remove any doubt⁴.
- 60.4 Amendment to WH.30 (b) to remove the superfluous “to” before “**Pastoral land use**”.

⁴ The phrase is used in Rule R98 only because part of that rule distinguishes between dairy cows and other cattle.

61 These corrections are shown in the revised draft provisions provided as Appendix 1.

DATE: 2 July 2025

A handwritten signature in blue ink, appearing to read 'Gerard Willis', with a large initial 'G' and 'W'.

Gerard Willis

**Contracted Reporting Officer for Rural
Land use Topic**