

BEFORE THE HEARING COMMISSIONERS

IN THE MATTER OF
AND

the Resource Management Act 1991
The Proposed Natural Resources
Plan for the Wellington Region

AND

Report: Review of the objectives of
the Proposed Natural Resources
Plan for the Wellington Region
(Gerard Willis, 14 July 2017)

Comments of **Phillip Percy** (Planner) on Review Report
on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa

Dated: 28 July 2017

INTRODUCTION

1. The Hearing Panel directed the Council to commission an independent planning review of the objectives of the Plan. The terms of reference for the review are set out in the Hearing Panel Minute #13. The Council commissioned Gerard Willis to undertake the review and he has prepared the report *Review of the objectives of the Proposed Natural Resources Plan for the Wellington Region: A report for Greater Wellington* dated 14 July 2017.
2. I prepared planning evidence for Hearing 1 and Hearing 2 on behalf of Rangitāne Tū Mai Rā Trust and Rangitāne o Wairarapa (Rangitāne). Details of my qualifications and experience are set out in my evidence for those hearings.
3. Set out below are my preliminary comments on Mr Willis' report. In this statement I have only provided comments at an overall level. Where necessary, I will provide further specific comment as part of my evidence for upcoming hearings.

GOOD PRACTICE PRINCIPLES FOR OBJECTIVES

4. At section 1.2.3, Mr Willis sets out what he sees as a set of good practice principles that the objectives of the Plan should collectively achieve. Establishing a set of principles is a helpful way to evaluate the objectives of the Plan. Mr Willis explains that the principles listed in the report have informed his analysis in later sections of the report, however he has not explicitly evaluated the objectives against the principles. That, in my opinion, would be a useful exercise to assist in refining and clarifying the suite of objectives.
5. The principles listed in the report are:
 - (a) *Provide the basis against which the plan's effectiveness can be monitored (in accordance with section 35 (2) (b) of the Act);*
 - (b) *Provide guidance (along with policies) for determining resource consent applications (in accordance with section 104 and 104D of the Act);*
 - (c) *Be the most appropriate way (and be able to be assessed as the most appropriate way) to achieve the purpose of the Act (in accordance with section 32 (1) of the Act);*
 - (d) *Provide the logical basis or foundation for the provisions (policies and methods/rules) that follow; and*

(e) Give effect (insofar and objectives can) to national policy statements and other national instruments.

6. The report includes a footnote to principle (a), which is: *This is especially important in plans that do not contain “anticipated environmental results” as is the case with the PNRP.*
7. The report does not specify the origin of the principles other than by way of the general discussion in the preceding sections of the report. There are a number of guidance documents that include principles that can be applied to drafting planning provisions. They include:
 - a. The Quality Planning website, in particular the sections titled *Writing issues, objectives and policies*¹ and *Checklists for RMA plan writers*².
 - b. *Report 35: Legislation Manual Structure and Style*, Law Commission, May 1996³
 - c. *Drafting Issues, Objectives, Policies and Methods in Regional Policy Statements and District Plans*, Ministry for the Environment, 2003⁴
8. In the paragraph immediately following the list of principles, the report states: *Needless to say, plans will also be easier to understand and implement, and convey a greater sense of professionalism and integrity, if provisions avoid repetition, duplication, internal contradiction and have a clear flow of logic from problem/pressure to solution/response.* In my opinion, this paragraph reflects another principle of good practice, which is that the objectives should be legible both individually, collectively and as part of the whole Plan.
9. Principle (d) understates the role objectives play in informing policies, rules and other methods. Section 67(1) of the Act requires that a regional plan must state the policies *to implement the objectives* and the rules (if any) to implement the policies. Implement is defined in the Oxford Dictionary as *put (a decision, plan, agreement, etc) into effect*. That requires a purposeful cascade within the Plan and more specifically requires that objectives need to be formed in such a way that it is clear how policies can be drafted to

¹ <http://www.qualityplanning.org.nz/index.php/plan-steps/writing-plans/writing-issues-objectives-and-policies>

² <http://qualityplanning.org.nz/index.php/plan-steps/writing-plans/checklists-for-rma-plan-writers>

³ <http://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R35.pdf>

⁴ <http://queenstown-noise.co.nz/pdf/MFEDRA~1.PDF>

⁵ I note that this guidance was prepared by Mr Willis.

put them into effect. That implies that the objectives need to be certain as to the outcome they prescribe.

10. Also referenced in the passage from Mr Willis' report quoted above, and in the Quality Planning guidance, is that the objectives should address the problems/pressures the Plan is seeking to respond to. The objectives should describe the response to the relevant problems and pressures (issues), particularly given the role objectives play in the plan structure as the 'springboard' for the policies and methods.
11. I agree that the principles identified in the report are appropriate, but suggest that there are some modifications and additions that should be applied based on the relevant guidance material. What would be of significant assistance would be to specifically evaluate the PNRP objectives against a revised set of principles as a means of implementing improvements to the structure, legibility and effectiveness of the PNRP. That may be an exercise that the Hearing Panel directs to be undertaken as part of re-drafting and restructuring the objectives (and policies).
12. I suggest the following modified set of principles should apply to the objectives; that the objectives of the Plan, both individually and collectively:
 - a. Clearly relate to, and describe the outcomes that resolve, the resource management issues;
 - b. Provide the basis against which the plan's effectiveness can be monitored (in accordance with section 35 (2) (b) of the Act);
 - c. Provide guidance (along with policies) for determining resource consent applications (in accordance with section 104 and 104D of the Act);
 - d. Be the most appropriate way (and be able to be assessed as the most appropriate way) to achieve the purpose of the Act (in accordance with section 32 (1) of the Act);
 - e. Specify measurable and tangible (what is to be achieved and where) outcomes that the policies of the plan (and subsequently the rules and other methods) are to implement;
 - f. Do not pre-empt policy (do not state how the objective is to be met);

- g. Give effect (insofar as objectives can) to national policy statements and other national instruments;
- h. Are for a resource management purpose that is within the scope of the plan;
- i. Are drafted individually and collectively to be legible and useful to the intended audience of the plan;
- j. Language and terms are consistent between provisions within the plan and with higher order policy and legislation

OVERALL IMPLICATIONS OF THE REPORT

13. My reading of the report is that it identifies that there are opportunities for significant improvements to be made to the objectives of the Plan. That is highlighted in statements such as:

That is not to say that a case cannot be made for more radical change. A number of the objectives (particularly those dealing with specific activities) are not strictly necessary and, if there was a desire for streamlining of the objectives, could be dispensed with without compromising the functionality of the Plan. This report stops short of recommending such a change although an outline of a streamlined suite of objectives is provided (in Appendix B) for completeness.⁶

Needless to say, plans will also be easier to understand and implement, and convey a greater sense of professionalism and integrity, if provisions avoid repetition, duplication, internal contradiction and have a clear flow of logic from problem/pressure to solution/response.⁷

[...] in the end, a plan is about performing clear functions that require decisions to be made about how resources are used and what outcomes in the environment will be acceptable. Accordingly, a plan should contain sufficient objectives of the type

⁶ Executive summary, last paragraph

⁷ Section 1.2.3, second paragraph

*described in (a) to (e) above to allow it to function with a clear focus on outcomes to be achieved for, and in, the environment.*⁸

*Several of the objectives use the terms “restored” or “improved” or similar non-numerically defined adjective. I will not comment on this point in detail but will note that it is probably regarded as good practice to relate such narrative goals to numerically defined outcomes wherever possible.*⁹

*However, the framework admittedly remains complex and arguably not easily navigable by the layperson. It also contains objectives of a type and nature that may not be strictly necessary if there is an underlying desire to streamline the framework.*¹⁰

14. I read the report to be saying that, while the current framework and drafting of objectives may not be unlawful and can be regarded as one method of drafting, the structure and drafting of the objectives is not consistent with good practice and could be substantially improved. Furthermore, the report infers that there is a clear opportunity for a more comprehensive re-drafting and re-structuring of the objectives to make the Plan simpler, clearer and more useable.

RECOMMENDED NEXT STEPS

15. The review report confirms that the current drafting and structure of the objectives of the Plan can be significantly improved, including rationalisation of the objectives. While Mr Willis has provided an indicative framework in Appendix 3, he is clear that actual rationalisation requires more analysis than what he has currently undertaken.

16. While the structure and content of the objectives of the Plan remains unresolved, particularly those objectives that relate to or influence the provisions that are to be addressed in Hearings 3 – 6, it creates analysis challenges for planners preparing evidence for those upcoming hearings. The complex interconnection between the objectives as currently drafted creates challenges for evaluating the appropriateness of policies and methods that implement them, particularly where some of those objectives are likely to change both in substance and form.

⁸ Section 1.2.3, second to last paragraph

⁹ Section 2.3.4, first paragraph

¹⁰ Section 2.4. second to last paragraph

17. If the Hearing Panel was of a mind to direct the development of an interim set of objectives that resolve the issues raised by Mr Willis and submitter witnesses, that would provide a useful reference point for planning analysis for upcoming hearings. In my opinion, it would also reduce the breadth and complexity of planning evidence required to be prepared and presented at upcoming hearings.

A handwritten signature in black ink, appearing to read 'P. Percy'.

Phillip Percy