8 August 2022

File Ref: OIAP-7-24859

[redacted]
By email: [redacted]

Tēnā koe [redacted]

Request for information 2022-101

I refer to your request for information dated 11 July 2022 which was received by Greater Wellington Regional Council (Greater Wellington) on 11 July 2022. You have requested the following:

"All of Greater Wellington's submissions to Government relating to the topics of climate, biodiversity, and water in the last two years."

After receiving the acknowledgement from Greater Wellington of the above, you further clarified your request to include:

"If the three groups (below) don't include submissions on the NBEA, could you please add that as well."

Greater Wellington's response follows:

Please find attached the following:

Attachment 1 to Attachment 14 for submissions in scope of your request.

Please refer to the following link for submissions published on Greater Wellington's website:

https://www.gw.govt.nz/your-council/council-and-councillors/council-advocacy

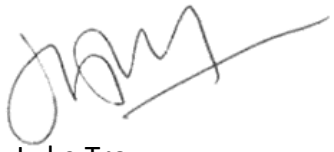
Additional Information:

You may also find it helpful to refer to 'Letters and Position Statements' which can also be found on the same page as submissions in the link above.

If you have any concerns with the decision(s) referred to in this letter, you have the right to request an investigation and review by the Ombudsman under section 27(3) of the Local Government Official Information and Meetings Act 1987.

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request will be published shortly on Greater Wellington's website with your personal information removed.

Nāku iti noa, nā



Luke Troy
Kaiwhakahaere Matua Rautaki | General Manager, Strategy Group

Attachments (14)

Shed 39, Harbour Quays
PO Box 11646
Manners Street
Wellington 6142
T 04 384 5708
F 04 385 6960
www.gw.govt.nz

29 July 2020

Air Quality NES Consultation
Ministry for the Environment
PO Box 10 362
Wellington 6143

Submitted to: AirQualityNESsubmissions@mfe.govt.nz

Submission on Proposed Amendments to the National Environmental Standard for Air Quality: Particulate matter and mercury emissions

Please find enclosed the Greater Wellington Regional Council's submission on the Proposed Amendments to the NES for Air Quality.

Please feel free to contact me on 06 826 1541 or caroline.watson@gw.govt.nz if you have any questions or concerns.

Yours sincerely

Pp JJ Matthews

Caroline Watson
Policy Advisor, Environmental Policy
Greater Wellington Regional Council

greater WELLINGTON
REGIONAL COUNCIL
Te Pane Matua Taiao

Greater Wellington Regional Council submission on: The Proposed Amendments to the National Environmental Standard for Air Quality

Opening statement

1. Thank you for the opportunity to comment on the Proposed Amendments to the National Environmental Standard for Air Quality (NES-AQ). The timeframe extension for submissions gave Greater Wellington Regional Council (GWRC) adequate time to fully consider the proposals.

2. The Wellington region's air quality is generally of a good standard, however during the winter months some of our urban areas (such as Masterton and Wainuiomata) experience very poor air quality largely as a result of smoke from home fires. GWRC measures air quality within designated airsheds to ensure we are meeting national environmental standards as well as Wellington Regional Land Transport Plan targets.

3. GWRC strongly supports the intention of the NES-AQ amendments to enhance, safeguard and manage the impact of development, industry and population growth on air quality.

4. GWRC's submission consists of high-level feedback and followed by specific responses to the questions posed. We have considered all questions and have answered those relevant to our functions.

Air quality in the Wellington region

5. Each winter, the Masterton airshed fails to meet both the NES and World Health Organization (WHO) guidelines for air quality due to the use of home fires. GWRC is currently collaborating with Masterton District Council and the National Institute of Water and Atmospheric Research (NIWA) on a project which involves 24 sensors being installed throughout the town, to get a better picture of the town's air quality during winter. The information gained may be used by councils to target interventions to improve air quality for everyone in the town.

6. The Proposed Natural Resources Plan (PNRP) for the Wellington region has targets for PM2.5 that are more stringent than the proposed new standard in the NES. The PNRP target for annual average is met throughout the region at all currently monitored sites, apart from in Masterton and possibly other Wairarapa towns which have yet to be evaluated. The PNRP 24-hour average target is not meet in Wainuiomata or Wellington Central and potentially other unmonitored parts of the region.

7. GWRC currently offers an interest bearing loan (up to $5000) for upgrading to clean heat appliances or NES-AQ compliant wood burners in the Masterton urban and Wainuiomata airsheds.

Key comments on the proposals

8. Our key comments on the current proposals are that the Ministry for the Environment (MfE) should:

    a. Retain the PM10 standard;

    b. Reconsider a more integrated assessment of a daily and annual standard for PM2.5 as there are different health endpoints for long and short term PM2.5 exposure;

    c. Note our concern with basing some of the NES requirements on 15-year old WHO guidelines (that are currently under review) that may not be based on the latest scientific evidence;

    d. Leave the decision to monitor both PM2.5 and PM10 to the individual council;

    e. Remove the requirement to publicly notify PM10/PM2.5 breaches in newspapers as this is an additional financial and administrative burden serving no purpose. Instead require reporting on Council webpages and annually to MfE;

    f. Support the additional costs of monitoring through purchasing instrumentation; and

    g. Include more stringent emission limits for domestic burners in polluted airsheds.

The Wellington region's existing policy framework for air quality

Regional Policy Statement for the Wellington Region

9. The Wellington Regional Policy Statement (RPS) gives guidance on the future direction for the sustainable management of natural and physical resources in the Wellington region. The RPS sets out objectives and policies to address regionally significant issues.

10. The RPS identifies that, while the region largely has good air quality, there are localised air quality problems that impact on the amenity and health of the community.

11. The NES-AQ amendments would mean some minor changes to the RPS will be needed, such as updating a short paragraph describing the NES's requirements. This would be a minor update not requiring a Schedule 1 process.

The Proposed Natural Resources Plan

12. The PNRP includes objectives and policies to maintain or improve air quality to the acceptable category or better according to Schedule L1 and seeks that human health, property and the environment are protected from the adverse effects of point source discharges of air pollutants. There are other policies that seek good

management practices for domestic fires to minimise the cumulative health and nuisance effects.

13. There will be amendments required to Policy P61 and Schedule L1 to make it consistent with the amended NES-AQ. These amendments will largely be replacing the term PM10 with PM2.5.

14. Method M5: Polluted airsheds also outlines that GWRC will work with others (city and district councils etc.) to develop and implement airshed action plans for polluted airsheds that will identify and address the human and social behaviour changes required to meet the NES-AQ by 2020. The monitoring work described in paragraph 5 above is a first step.

Air quality and climate change

15. GWRC is committed to reducing emissions across all of its activities and ultimately achieving carbon neutrality as an organisation by 2030. We have developed a Climate Change Strategy and Action Plan to provide clear strategic direction on GWRC's intentions and priorities in this respect. While this highlights our own commitment to reducing greenhouse gas emissions, it also further indicates our full support for NES that will also achieve reductions in emissions. The improved efficiency of wood burning reduces CO_2 and methane emissions per unit of energy required for heating.

Key responses to questions

Particulate matter – Introducing PM2.5 as the primary regulatory tool to manage ambient particulate matter.

Q1. Do you agree the proposed PM2.5 standards should replace the PM10 standard as the primary standard for managing particulate matter?

GWRC has long advocated for PM2.5 standards, and therefore supports its adoption. We agree that PM2.5 should replace PM10 as the primary standard for managing particulate matter as PM2.5 is more strongly associated with anthropogenic combustion emissions than PM10 (i.e. most of the PM from combustion is below 2.5 µm). Combustion emissions can be managed through regulatory and non-regulatory methods. The management activities to reduce combustion-related PM10 emissions (i.e. domestic heating) will be the same for PM2.5.

The PM10 standard should be retained as a secondary standard to address pollutants arising from non-combustion sources that are found in the larger size particle range known as coarse particulate, i.e. particles larger than PM2.5 up to PM10. These coarse particles (measured as PM10) are produced by a range of industrial activities (such as quarries and clean fills) that still need to be regulated to protect against adverse health impacts. Road dust which contains harmful contaminants from brake, tyre and road surface wear is also mainly found as PM10 and this source also needs to be tracked to evaluate the impact of non-tail pipe emissions on air quality.

Q2. Do you agree we should include both a daily and an annual standard for PM2.5?

It would be reasonable to align the New Zealand standards with the WHO guidelines which have both daily and annual standards for PM2.5 and we agree that both a short term and long term standard for PM2.5 is necessary.

However, there are different health endpoints for long term and short term exposure to PM2.5. A more integrated assessment is required that considers the short term and long term standards as a pair of values rather than considered independently. Whether the 24-hour average or annual average is more restrictive depends on the source of PM2.5 and its seasonality. For airsheds with high dependence on solid fuel for winter heating, the 24-hour standard will be more restrictive than the annual average. This is due to the relatively low PM2.5 levels during the non-winter period. For example, in the Masterton airshed in 2018 there were ~40 wintertime exceedances of the PM2.5 24-hour WHO guideline but overall the Masterton airshed was close to compliance with the annual guideline. Therefore, in a wood smoke dominated airshed, the proposed annual standard is not sufficiently protective (as a single standard) against short-term high pollution episodes.

Q3. Do you agree the standards should reflect the WHO guidelines?

The WHO guidelines were set in 2005 and published in 2006, meaning they are now 15 years old. Revised guidelines are expected in late 2020. We question whether it would be prudent to wait for revised guidelines from the WHO rather than adopting the potentially 'out-of-date' guidelines that may not be based on the latest scientific evidence.

In addition, the WHO states that that guidelines "*have the character of recommendations, and it is not intended or suggested that they simply be adopted as standards*". It goes on to say that, as there is no reliably established "safe" level of exposure to PM, standards should be set after balancing risks to health, technological feasibility, economic considerations and other political and social factors. There does not appear to be any analysis to support why simply adopting the WHO guidelines is appropriate for New Zealand.

Despite our misgivings of adopting the WHO guidelines without explicit consideration of the New Zealand context, it is still a step in the right direction and we would rather adopt WHO guidelines than have no PM2.5 standard at all.

Q4. Do you consider your airshed would meet the proposed PM2.5 standards? If not, what emissions sources do you expect to be most problematic?

The Wellington Region has eight designated airsheds, five of which are currently monitored (see Table 1 below). These airsheds were originally gazetted on wider criteria than PM10 compliance with the NES-AQ so therefore they do not all require compliance monitoring. The emissions source that dominates PM2.5 concentrations in the Greater Wellington region is home heating (home fires) during the winter months.

Airshed	PM10 monitoring	PM2.5 monitoring	PM10-polluted	PM2.5 polluted
Wellington City	✓	✓		
Masterton urban area	✓	✓	✓	✓
Wainuiomata	✓	✓		
Upper Hutt	✓			
Lower Hutt	✓			
Kapiti Coast	Not monitored	Not monitored		
Porirua	Not monitored	Not monitored		
Karori	Not monitored	Not monitored		

Table 1. Wellington airsheds monitoring

Our current PM10 polluted airshed (Masterton urban area) would continue as a polluted PM2.5 airshed under both the proposed annual and daily criteria. We expect the town of Carterton may fail to meet the proposed daily criteria depending on inter-annual variation in meteorology, and the Wainuiomata airshed will be borderline. There may be other pockets of poor winter air quality due to home heating emissions that may not meet the proposed daily criteria. These areas will be highly local and not necessarily reflect the wider airshed that they are located in. Modelling work using the data from the current Masterton winter campaign monitoring and new data collected from Upper Hutt next year is planned to better understand the spatial variability in PM2.5 concentrations throughout the region arising from wood smoke impacts.

GWRC has only one traffic monitoring site in central Wellington where PM2.5 is measured. At this site PM2.5 levels would meet the proposed annual and daily standard. In our region PM2.5 is not found to be a useful measure for tracking the impacts of road transport on air quality. Black carbon and nitrogen dioxide are much more strongly correlated with traffic sources than un-differentiated PM mass. We propose that MfE consider adopting the WHO annual average guideline for NO_2 as our screening monitoring shows that NO_2 from traffic is much more likely to approach guideline limits than PM2.5.

Retain the PM10 standard with reduced mitigation requirements for breaches

Q5. Do you agree councils should be required to keep monitoring and managing PM10?

It is useful to have a PM10 annual and short-term reporting standard for councils to consider reporting against in addition to PM2.5 – but reporting should not be mandatory. PM10 is still a useful indicator to track changes in exposure to coarse particles which are not 'harmless' and for compliance monitoring where there are significant industrial contributions to coarse particles. Road dust (originating from brake and tyre wear and road surface abrasion) will become more important as vehicle exhaust emissions reduce due to cleaner vehicle technology and electrification.

We think there is a need for ongoing management of PM10 where there are principal non-combustion sources, such as from specific industries that cannot be managed by controlling PM2.5 alone.

The decision to monitor both PM10 and PM2.5 should be left to individual council's discretion and will depend on relative contribution of local sources to both PM2.5 and PM10 in their areas. For example, in areas with high PM10 due to dust from quarries only PM10 needs to be monitored. At roadside monitoring sites councils may wish to monitor both PM2.5 and PM10 if they want to track the impact of vehicle combustion emissions and road dust emissions. But in a situation where there are high PM2.5 emissions, eg, winter wood smoke dominated airsheds, only PM2.5 needs to be monitored.

We do not support the current requirement to publically notify PM10 and/or PM2.5 breaches in the print newspaper within 30 days of the breach occurring. This is because the newspaper notices are an additional cost and an administrative burden which seems to serve no purpose as the breaches can be notified long after the actual event. We support breaches of air quality standards being published on council webpages and LAWA, and reported annually to MfE. We suggest that MfE consider an annual compliance reporting requirement in a template format – as per the current Australian National Environment Protection Measures – which would be available through MfE data services, Council webpages or LAWA.

Q6. What would be the additional costs involved in retaining PM10 monitoring alongside PM2.5 monitoring, versus the potential loss of valuable monitoring information?

Requiring both PM10 and PM2.5 monitoring necessitates buying additional instruments and/or switching to dual instruments that can measure both. This effectively doubles the monitoring budget required. There will be ongoing costs with maintaining existing instruments as well as capital expenditure to purchase new instruments.

We would like to see European reference monitoring methods (EN) as allowable monitoring methods for NES-AQ compliance monitoring. This would allow councils to use a greater range of instrumentation. To save costs, many councils are now investing in 'optical' monitoring methods which can measure PM10 and PM2.5 simultaneously and require less ongoing maintenance. However, optical instruments are not US EPA federal reference methods and are therefore not allowable monitoring methods under Schedule 2. Evaluation trials by Environment Canterbury suggest that a European optical instrument (certified against EN16450) provides data that is more comparable to instruments currently in use than the optical instrument designed to meet US EPA equivalence requirements (FEM). Allowing instruments that meet EN reference standards as well as US Standards would give councils more flexibility to invest in instrumentation that best characterises their local air quality situation.

A centralised national programme to compare these new optical methods with existing filter-based methods (BAM) is recommended so that both councils and MfE national reporting can have confidence in comparability of results between regions.

Most regions do not have the resources to run these instrument inter-comparison studies.

When the NES-AQ first came into force MfE assisted councils with purchasing instrumentation. This could be considered again if there is an ongoing need for both regional PM10 and PM2.5 reporting to MfE. Another alternative is for MfE to co-fund a national PM10 and PM2.5 monitoring network of key indicator sites for national reporting purposes and updating HAPINZ.

Polluted airsheds and resource consents

Q7. Do you agree an airshed should be deemed polluted if it breaches either the annual or the daily PM2.5 standard?

Yes, please see response to Q2. This is particularly important for airsheds impacted by solid fuel home heating emissions during the winter months. There are different health endpoints for long term and short term exposure to PM2.5.

In some airsheds with a winter domestic emissions heating issue the daily standard will be more restrictive than the annual standard. This is due to the relatively low PM2.5 levels during the non-winter period. This is not necessarily an issue, but may need some explaining. For example, in the Masterton urban airshed in 2018 there were ~40 exceedances of the PM2.5 24-hour WHO guideline but close to compliance with the annual guideline.

Q8. If all new resource consent applications to discharge PM2.5 into a polluted airshed must be offset or declined, how would this affect your activities, or activities in your region?

To date we have not used PM10 offsets for discharges in our polluted airshed (Masterton) although there is provision to do so in policy P61 of the PNRP. Assessing PM2.5 discharges from industry will require nationally consistent technical guidance on how to measure in-stack condensable particulate matter which can be an important contributor to PM2.5 emissions.

Q9. Can you identify a more appropriate, measurable threshold for controlling consented discharges in a PM2.5 context?

The derivation of the proposed offset provision (5% of daily standard) is unclear and this requires further supporting information. Furthermore the proposed PM2.5 1.25 $\mu g/m^3$ (offsite impact of industrial discharge as 24-hour average) is not feasible to model or measure as an ambient concentration as it is very close to or within the uncertainty bounds of the measurement method and modelling techniques.

Further assessment would need to be undertaken to decide whether an offset threshold should be applied to the annual average as well. Note that modelling results for offsite PM2.5 impacts will be very sensitive to input parameters and therefore guidance will need to be provided e.g. http://envirolink.govt.nz/assets/Envirolink/1285-HBRC184-Practical-Guidance-on-Dispersion-Modelling-Determining-the-need-for-PM10-offsets-under-the-NES.pdf

Q10. Do you agree that if a council does not have adequate PM2.5 data, the airsheds classification under the PM10 standards should continue to apply?

Yes, if the main reason for PM10 exceedances is being driven by PM2.5 emissions (e.g. wood smoke). The relationship between PM10 and PM2.5 depends on the source and differs by airshed. It is not possible to directly infer PM2.5 concentrations from PM10 unless prior co-location of PM10 and PM2.5 monitoring has been undertaken.

Domestic solid-fuel burners emissions standard

Q11. Do you agree with the proposal to reduce the emissions standard to no more than 1.0g/kg? If not, what do you think the standard should be?

GWRC supports the lowering of emission standards although evidence is needed to show that low-emission burners are actually achieving the lower emissions in 'real-life' and demonstrate the benefits of moving from 1.5 to 1.0 g/kg.

Q12. Are there areas where a lower (more stringent) standard could be applied?

GWRC suggests that more stringent emission limits for burners could apply to polluted airsheds as an additional measure for improving air quality. This could also include a ban on the use of coal in polluted airsheds which would mitigate emissions from older in-use burners that use coal.

Q13. Do you agree the new emissions standard should apply to all domestic, solid-fuel burners newly installed in properties less than two hectares in size?

GWRC agrees that the new emission standard should apply to all types of new domestic solid fuel burners. We also consider that, within polluted airsheds, the 2ha rule may not be appropriate. Properties in or near polluted airsheds are likely to be contributing to poor air quality regardless of their size and should be regulated as such. We ask that MfE consider requiring all new burners installed within polluted airsheds to meet the emissions standards regardless of the property size.

Q14. Do the current methods to measure emissions and thermal efficiency need updating or changing? For example, to address any trade-off between thermal efficiency and emissions, or to test other types of burners or burner modifications that seek to reduce emissions?

No comment.

Mercury emissions

Q15. Do you support the proposed amendments to the NESAQ to support ratification of the Minamata Convention on Mercury?

Yes, this is supported. It seems to be a good opportunity.

Q16. Do you agree with how these amendments will affect industry?

No comment.

Q17. What additional guidance do you think will be needed to support implementation of the proposed amendments? Will industry need help to interpret the best practice guidance for the New Zealand context?

No comment.

Q18. Do you use any of the manufacturing processes in Proposal 9? If so, does this process use mercury?

No comment.

Q19. Do you agree with the Government's proposed approach to regulate the source categories in Proposal 10? If not, why not?

No comment.

Q20. What air pollution control technologies are currently required for existing source categories listed in Proposal 10?

No comment.

Timing, implementation and transitional provisions

Q21. Do you agree that lead-in times are required for starting to monitor PM2.5 and for burners that will no longer be compliant? What lead-in times would you suggest and why?

Two to three years appears a reasonable timeframe for commencing PM2.5 monitoring for those councils who do not already have PM2.5 monitoring established.

For non-compliant burners a lead in time would be required for those households and suppliers who have already purchased burners that meet the current standard. GWRC does not have data on this aspect and this should have been considered under the cost-benefit analysis commissioned to support the consultation.

Q22. Are there any other matters you think would require transitional provisions? If so, what?

No comment.

Other matters

The current provision 16C Meaningful PM10 data for airshed is not clear and needs to be re-written to account for the daily and annual standard being proposed.

Recommendations:

- Data capture rate of 95% (excluding planned maintenance/calibrations) is a target for monitoring programme quality assurance (based on planned monitoring duration) and is too stringent a requirement for achieving 'meaningful' data. Therefore, recommend that section 2(b) is removed.

- For assessing whether an airshed is 'polluted' based on the 24-hour or annual standard, there should be 75% valid data present. For the annual standard this should be at least 75% valid data for each of the four seasons. This avoids bias in the results when there are strong seasonal sources (i.e. winter domestic emissions).

- If councils do not have a full year's worth of monitoring data, this should not preclude them from declaring an airshed polluted on the basis of the 24-hour average standard, i.e. they only need to have more than three exceedances of the PM2.5 daily standard and this data could be obtained with less than 12-months' worth of monitoring. They may not be able to show compliance with annual standard due to insufficient data capture – but this should not preclude them from using exceedances of the 24-hour average as 'meaningful' data. This is particularly important for councils who want to carry out winter monitoring campaigns to assess whether further monitoring is required and to save costs.

- Amending the NES-AQ so it refers to the calendar year rather than 1/9 to 31/8 would be useful to match with annual reporting that captures the entire winter period within a single year rather than split across two periods.

Final statement

Thank you for the opportunity to make a submission on the proposed amendments to the National Environmental Standard for Air Quality. Overall, Greater Wellington Regional Council supports the intent of the proposed amendments.

Please do not hesitate to contact GWRC to discuss any of the points raised.

Daran Ponter **Date: 28 July 2020**
Chair, Greater Wellington Regional Council

Address for service:

Caroline Watson
Policy Advisor, Environmental Policy
Greater Wellington Regional Council
Level 4
Departmental Building
35-37 Chapel Street
PO Box 41
Masterton 5840

T 06 826 1541
M 021 182 0216

By email

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

26 October 2021

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: WetlandsTeam@mfe.govt.nz

Tēnā koutou

Submission on Managing Our Wetlands Consultation

1. The Greater Wellington Regional Council wishes to make a submission on the proposed changes to the wetlands regulations.

2. This submission represents the view of Greater Wellington Regional Council (**Council**). Our submission consists of this letter and Attachment 1, which provides detailed answers to the questions in the discussion document.

3. Council considers that the proposed revisions to the 'natural wetland' definition and additional consenting pathways do not advance the intent of the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) to avoid the loss of extent of natural wetlands and protect their values (Policy 6). The changes are not consistent with the Te Mana o te Wai hierarchy of obligations that requires that the mauri of the water is protected. The proposed changes will result in further loss of wetlands and prioritise the ability of people and communities to provide for their social, economic, and cultural well-being over the health and well-being of water bodies and freshwater ecosystems. We expect leadership from the Government on demonstrating how Te Mana o te Wai should be given effect to.

4. We support the statement, which reflects the views of Greater Wellington Regional Council mana whenua partners, that wetlands are important to tangata whenua in terms of cultural and spiritual significance over which kaitiakitanga is exercised. Wetlands are identified by mana whenua as key aspects for each Whaitua Implementation Programme that has been completed in partnership with Greater Wellington Regional Council, for Ruamāhanga; Te Awarua o Porirua and Te Whanganui-ā-Tara. However, we are concerned that the analysis on how the Te Mana o Te Wai applies is incomplete. This gap suggests the current list of amendments is not fully informed nor complete.

Natural Wetland Definition

5. We oppose the proposed changes to the natural wetland definition, and consider that the existing definition should be retained, without reference to rain-derived pooling. The existing definition is aligned with that in the Proposed Natural Resources Plan for the Wellington Region (**PNRP**). This definition and our assessment methodology have been accepted by the District Court in a prosecution. Revising this definition will undo the progress achieved to date to apply and develop it, and create inconsistencies and further confusion on the ground.

6. We consider the proposed revisions will weaken the protection of wetlands. The ongoing cumulative loss and degradation of wetland ecosystems is a significant issue. The Regional Policy Statement for the Wellington region (**RPS**) directs the protection of wetlands, through the protection of aquatic ecological functions of water bodies (Policy 18) and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values (Policy 24). Due to the rarity of wetlands in the Wellington region, the PNRP considers all natural wetlands to have significant indigenous biodiversity values as defined in RPS Policy 23. We are particularly concerned that removing the commencement date from the natural wetland definition provides incentives for the deliberate introduction of exotic species into otherwise natural wetlands.

7. In the Wellington region, most of the 180 wetlands we have determined and/or delineated to date contain only small proportions of indigenous vegetation. The addition of 'exotic species associated with pasture' risks that genuine wetlands would be un-protected. We have defined 'improved pasture' using a species list and tested this extensively, and note that this species list is referred to in the recently published guidance[1] on 'Defining natural wetlands and natural inland wetlands'. We do, however, acknowledge that the National Environmental Standards present difficulties and uncertainty for existing landowners who may not have known they had a natural wetland on their land at the time of purchase.

Consenting Pathways

8. We oppose the proposal for landfills, cleanfills, managed fills and mining to have a consenting pathway. We do not consider these activities to be appropriate within wetlands in any circumstances and consider they should remain prohibited.

9. We agree that plan-enabled urban development and quarrying should have a consenting pathway. However, we oppose discretionary activity status for urban development and quarrying, and consider non-complying to be more appropriate. A non-complying activity status puts the onus on the applicant to show why their activity can pass through the non-complying gateway test. We consider that upholding Te Mana o te Wai will require practice changes, not business as usual.

[1] Ministry for the Environment. (2021). Defining natural wetlands and natural inland wetlands, 21. https://environment.govt.nz/assets/publications/Defining-natural-wetlands-and-natural-inland-wetlands.pdf

10. We consider that leaving decisions on where urban development occurs solely to district plans will lead to further wetland loss. District plans have, in the past, zoned urban development in unsuitable areas without consideration of land and water matters. Leaving decisions about wetlands to be considered at the resource consent level is not appropriate, and also unfair for developers who may hit a roadblock when it comes to regional planning rules. It will also make it impossible for councils to achieve integrated management as required by clause 3.5 of the NPS-FM.

11. We support the use of the effects management hierarchy, however note that there is considerable uncertainty about the ability to provide effective offsets to maintain wetland extent and condition. Some wetlands cannot be offset and there are few good examples of wetland re-creation to draw on. Allowing for the loss of existing wetlands is likely to result in an associated loss of values, particularly in the short term.

12. Providing more lenient consenting pathways for the four proposed activities creates imbalances with other activities near wetlands, for example, farming activities such as irrigation. This will lead to inequitable restrictions on activities; creating easier pathways for potentially highly damaging activities and much harder pathways for minor activities.

13. We consider that there is a need to include a consenting pathway for water storage within wetlands. Water storage will become an increasingly important method of supporting drinking water supply and primary production as the effects of climate change become more severe. In particular, regions on the eastern side of New Zealand will be heavily impacted by decreased rainfall and highly variable river flows.

14. Small scale water storage options for farming support will often need to be based on converting small gullies into water storage, which may impact on natural wetland areas in those gullies. While large-scale water storage would be considered regionally significant infrastructure (and therefore is a discretionary activity), there is currently no consenting pathway for smaller scale water storage, such as that required on-farm. We recommend that water storage should have non-complying status.

15. The regulatory impact analysis undertaken for the consenting pathways proposal is incomplete in that it does not provide estimates of the extent and impacts of the four proposed activities on wetland extent loss and their associated values.

Maintenance, Restoration and Biosecurity Activities

16. We largely support the proposed changes regarding wetland restoration, maintenance and biosecurity activities, with some suggestions. We agree that these activities should be recognised as distinct and provided for in the regulations without onerous processes.

17. We consider that all activities undertaken in a natural wetland, whether they are for restoration, maintenance or biosecurity, must maintain and improve the naturalness and functioning of the wetland.

Nāku iti nei

Daran Ponter
Chair
Greater Wellington Regional Council

Address for service:

Mika Zöllner
Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T: 021 226 7336
E: mika.zollner@gw.govt.nz

Encl:
Attachment 1: Greater Wellington Regional Council responses to Managing Our Wetlands discussion questions

Attachment 1: GWRC Responses to Managing Our Wetlands discussion questions

Definition of 'natural wetland'

1. Do you agree with the proposed changes to the definition of 'natural wetland'? Why / why not?

No, we oppose the proposed changes to the definition of a natural wetland. We support retaining the existing definition, with the removal of 'and is subject to temporary rain-derived water pooling'.

We consider that changing the natural wetland definition to exclude more areas is not a useful way to provide for particular activities or to strike the appropriate balance between protection and land use and development. Altering the definition risks creating more confusion and undoing work done to date.

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The addition of 'exotic species associated with pasture' also pulls in buttercup and other exotic species which are not considered suitable or palatable for grazing. Excluding an area containing these exotic species from being considered a natural wetland will lead to missed opportunities for the protection of genuine wetlands. This will also exclude seepages and ephemeral wetlands which were originally intended to be included, and therefore risks the loss of much more wetland area. We note in particular the significance of these wetland types which are often small in size (generally less than 1ha in extent). They can contain a disproportionate number of rare and threatened flora and fauna. It is not possible to re-create seepage wetlands because they develop through interactions between the groundwater, soils and geology. While individually small, they can represent a large proportion of headwater catchments and collectively play a significant role in moderating catchment flows and reducing contaminants. It will also create a dis-incentive for control of exotic species in natural wetlands. In general, exotic species maintained as pasture tend not to be found in wetlands, and exotic species that are (i.e. swamp buttercup) are highly indicative of a natural wetland. In Kāpiti Coast district for example, buttercup is usually present in very rare wetland ecosystems such as dune slack or dune plain ephemeral wetlands.

We consider that the term 'exotic species associated with pasture' lacks a clear definition through a species list or otherwise. It therefore fails to address concerns over inconsistent interpretation and application of the natural wetland definition and is likely to continue to require litigation. The progress toward a shared understanding of the current definition achieved to date will be undone if this definition revision is carried through.

Improved pasture species can be defined and is useful

We disagree that there are issues with defining 'improved pasture'. Greater Wellington Regional Council developed an improved pasture plant species list as part of our technical guidance for the determination of natural wetlands. This list was developed by considering only those species currently available for propagation to support pasture improvement, drawn from publications by the New Zealand Grassland Association.

We tested the improved pasture species list in around 180 potential wetlands. We established that 50 percent of the aerial cover being dominated by species from the improved pasture species list was the threshold at which an area could be characterised as wet pasture as opposed to a degraded natural wetland. We note that our approach is specifically referred to in the recently published guidance on 'Defining natural wetlands and natural inland wetlands'.

Our view is that it is important to retain the mention of 'improved pasture' in this definition, as this assists with the distinction between areas actively managed for livestock production from natural wetlands that have been invaded by exotic plants.

We accept that the improved pasture species list may change according to industry advances, farming needs and practices, and agronomist's recommendations. We will look to update the species list as necessary to allow for these changes. There are also numerous cultivars and hybrids of pasture species which we have attempted to capture at the genus or species level as appropriate.

2. *Should anything else be included or excluded from the definition of 'natural wetland'?*

Due to the reasons discussed in our response to Question 1, the wording we support is:

> (c) 'any area of improved pasture that, at the commencement date, has more than 50 percent ground cover comprising exotic pasture species.'

We support the removal of 'and is subject to temporary rain-derived water pooling' as this is difficult for consenting authorities to prove and is not necessary to distinguish between wet pasture and a natural wetland.

Better provision for restoration, maintenance and biosecurity activities

3. *Should maintenance be included in the regulations alongside restoration? Why / why not?*

Yes, we support the inclusion of maintenance in the regulations alongside restoration, but only in relation to maintaining wetland condition (as compared to maintaining existing structures or anything else). Wetland maintenance and wetland restoration are two distinct activities and need to be recognised as such within the regulations. Wetlands that have undergone restoration require ongoing maintenance to manage and improve (appropriate to the type and location of the wetland) ecosystem health, indigenous biodiversity, or hydrological function. The current regulations are unclear as to whether ongoing maintenance of restored or current-state wetlands is permitted under restoration, so we agree that these should both be included.

However, we consider that what is meant by 'maintenance' is ambiguous in the discussion document. It is unclear whether weed control maintenance is already accounted for with 'active intervention and management' in the existing definition of restoration. We would therefore support a minor change to the definition of restoration in the NPS-FM as follows:

> "**restoration**, in relation to a natural inland wetland, means active intervention and management, appropriate to the type and location of the wetland, aimed at restoring <u>and maintaining</u> its ecosystem health, indigenous biodiversity, or hydrological functioning."

4. *Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?*

Yes, we support the removal of the area limit for restoration and maintenance activities, provided that it is associated with the hand-held tool requirement, and that the conditions in regulation 55 of the NES-F are met.

The area limit risks the re-invasion of pest plants and undoing beneficial wetland restoration work to date. The removal of the area restriction will allow Council to continue our pest management activities in the most tactical manner to address pest plant populations.

We support the need to adhere to the conditions in regulation 55 for restoration and maintenance activities. We consider regulation 55 to be generally appropriate for determining how work should be carried out with adequate safeguards. The intention of the area limit rule was to reduce the effects of sediment discharge from bare land following weed control. However, condition 88(d) of regulation 55 already specifies that "earth must not be left bare for more than 3 months" for it to be a permitted activity. This aspect is already a matter of control in the NES-F and the area limits therefore are not necessary to meet the intent.

We consider that restoration and maintenance work that is permitted should not provide for non-targeted aerial spraying, as per Rule 105 in our Proposed Natural Resources Plan.

5. *Should activities be allowed that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?*

Yes, we support allowing activities that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes. In the case of a biosecurity incursion, time is of the essence and being required to obtain resource consent means that eradication programmes will be significantly delayed to the detriment of the wetland. A number of regional plans already provide exceptions for these activities (see Northland and Southland for example), so a national approach seems sensible here.

We do however consider that these biosecurity activities should need to meet the conditions in regulation 55, because some activities such as aerial control or heavy machinery can still have adverse effects on wetlands. We also consider that biosecurity activities undertaken should uphold the naturalness of a wetland where possible.

6. *Should restoration and maintenance of a 'natural wetland' be made a permitted activity, if it is undertaken in accordance with a council-approved wetland management strategy? Why/why not?*

We agree in principle that restoration and maintenance of a natural wetland should not be an arduous process. However, the proposed changes establish a permitted activity status which depends on approval of a Wetland Management Strategy. A permitted activity that relies on an approval through a separate process that could be declined is poor planning practice and will require the approval process to be constrained. A permitted activity must not reserve discretion to a decision maker to provide final approval and it must be sufficiently certain to be understandable and functional. In practice what is proposed would be more aligned with a controlled activity status.

We also consider that a permitted activity rule may not give regional councils enough scope or oversight to require appropriate management of wetlands restoration activities, which could result in the loss of wetland function and/or naturalness.

7. *Should weed clearance using hand-held tools be a permitted activity? Why/why not?*

Yes, weed clearance using hand-held tools should be permitted activity. Manual weed clearance can be an effective method to manage some aquatic weeds, and facilitating this activity can substantially reduce the use of herbicides.

Hand-held tools needs to be clearly defined to avoid confusion. We have assumed that motorised tools and backpack sprayers are included in what is proposed and support this, however this should be specified. Consideration could be given to how to provide for evolving technologies for targeted

aerial spraying, such as drones. We also consider that the definition of 'weed' should be specified, i.e. plants that are inappropriate to the wetland type and location.

Consenting pathway for quarrying

8. Should a consenting pathway be provided for quarries? Is discretionary the right activity status? Why/why not? (See page 10 of the discussion document for a definition of discretionary activity)

We accept that a consenting pathway should be provided for quarries in limited circumstances. We oppose discretionary activity status for quarrying and consider that the activity status should be non-complying, as it is generally not appropriate to quarry within or near a wetland. Non-complying activity status sends a clear message that an activity will not be contemplated unless the effects are no more than minor or the circumstances are exceptional. We consider that the activity status should reflect the appropriateness of the activity, and that quarrying near wetlands should be difficult to consent.

The following general comments apply to all four consenting pathways:

i. Assigning discretionary activity status to the four proposed activities is in tension with the intent of the NPS-FM and Te Mana o te Wai to put the health and well-being of waterbodies and freshwater ecosystems first. We oppose discretionary activity status given the limited remaining extent of natural wetlands; the significant ecosystem services they provide; the hierarchy of obligations of Te Mana o te Wai; and finally the lack of confidence that we have in wetland offsetting and compensation leading to good outcomes. A discretionary activity status tends to put pressure on the regional council.

ii. Providing specific carve-outs for these four activities as proposed is likely to lead to imbalanced restrictions on activities. We wish to highlight our concern that this is an inconsistent approach which means restrictions are not necessarily linked to the severity or damaging effects of activities. For example, if discretionary activity status is applied to the four proposed activities, it will become easier for a land owner to mine or quarry a wetland than to irrigate land 95 metres away from it. It will also become easier to reclaim a wetland entirely for housing than to take water 95 metres away from it. It is unclear which activities the prohibited activity rule in regulation 54 in the NES-F is now intended to capture.

iii. The regulatory impact analysis is incomplete as it does not highlight the extent and geographical distribution of the identified issues with the four proposed activities being restricted. No real attempt has been made to estimate the area of natural wetlands that could be affected by each activity, and the associated biodiversity loss and cost to communities through lost ecosystem services. Previous regulatory impact analyses attempted to estimate this for mining and determined that the ecosystem services are more valuable[2]; and an earlier interim regulatory impact analysis also looked at impacts to

[2] Treasury. (2020). Regulatory Impact Analysis - Action for healthy waterways – Part II: Detailed Analysis, 211. https://www.treasury.govt.nz/sites/default/files/2020-06/ria-mfe-water2-may20.pdf

the agricultural sector[3]. Without this information, we consider a precautionary approach should apply.

9. *Should resource consents for quarrying be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

The 'gateway test' is appropriate as it will ensure that activities need to have demonstrable functional need and significance. We wish to highlight that the use of the term 'gateway test' creates confusion with the gateway test that applies to non-complying activities under the RMA.

Efforts need to be taken to ensure a shared understanding of 'functional need' and 'significant national or regional benefit' so that these terms are not used inappropriately.

There also needs to be a tightly controlled and shared understanding of the Effects Management Hierarchy so that it is consistently and stringently applied, with offsetting and compensation considered only if there are no other options. We also wish to raise concerns regarding the ability to offset wetlands, as New Zealand has few examples of wetlands being successfully re-created, and some wetland types cannot be re-established. This is particularly problematic for wetlands that are likely to occur on hillsides and may be subject to quarrying, mining, landfills or urban development activities; for example seepage wetlands. Seepage wetlands often contain some of our rarest wetland species and cannot be re-created elsewhere.

The Government may wish to distinguish between existing and new quarries which may have different consenting pathways or criteria. This is the approach taken in the PNRP.

Consenting pathway for landfills, cleanfills and managed fills

10. *Should a consenting pathway be created for landfills, cleanfills and managed fills? Is discretionary the right activity status? Why/why not? (See page 10 of the discussion document for a definition of discretionary activity)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We oppose the proposed consenting pathway for landfills, cleanfills and managed fills, as this activity is not appropriate within natural wetlands and has significant adverse environmental effects. Prohibited activity status sends a clear message that landfills, cleanfills and managed fills will not be contemplated within wetlands.

These activities have historically occurred in gully environments, however this is not a functional requirement. If the loss of wetlands is to be halted, changes in practice are required. Providing for landfills is directly in conflict with the Te Mana o te Wai hierarchy of obligations and the objective of no net loss of wetlands.

11. *Should resource consents for landfills, cleanfills and managed fills be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

[3] Ministry for the Environment. (2019). Interim Regulatory Impact Analysis for Consultation: Essential Freshwater – Part II: Detailed Analysis, 261. https://environment.govt.nz/assets/Publications/interim-regulatory-impact-analysis-for-consultation-essential-freshwater-part-2-v3.pdf

Refer to our response to Question 9 for our views on the proposed gateway test, noting that Council submits that these activities should remain prohibited.

Consenting pathway for mining (minerals)

12. *Should a consenting pathway be provided for mineral mining? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We oppose the proposed consenting pathway for mining as this activity is not appropriate within natural wetlands. Providing for wetland drainage to occur through mining is in conflict with the Te Mana o te Wai hierarchy of obligations and the objective of no net loss of wetlands.

13. *Should the regulations specify which minerals are able to be mined subject to a resource consent? Why/why not?*

Yes, regional councils should not be deciding which minerals should have consenting pathways. If the Government decides to provide consenting pathways for some minerals then the subset of minerals must be specified in the regulations.

14. *Should resource consents for mining be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

Refer to our response to Question 9 for our views on the proposed gateway test, noting that Council submits that these activities should remain prohibited.

Consenting pathway for plan-enabled development

15. *Should a consenting pathway be provided for plan-enabled urban development? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We accept that a consenting pathway should be provided for urban development in limited circumstances, however the activity status should be non-complying to make it clear that development activity is not appropriate in natural wetlands. An alternative to providing a discretionary activity status that could be considered is reducing the 100 metre setback requirements for urban development activities.

Leaving decisions on where urban development goes in relation to wetlands to district plans will result in wetland loss. In the past, district plans have not considered land and water matters and urban development has been zoned in inappropriate places, with regional consents needing to try to manage effects once land has been zoned as developable. Pushing it all down to resource consent decisions, rather than proper oversight and consideration at the region-wide level, does not give effect to the National Policy Statement on Urban Development nor the NPS-FM.

From our experience, the current regulations are leading to practice changes in urban development to avoid wetlands, while enhancing our built environment. We are currently working with developers through the development of wetland restoration plans to enable them to meet the flood and storm water attenuation requirements within the natural wetland space.

If developers work with councils early enough, we can help them to work with the landscape to maintain its hydrological functioning while providing both ecological and amenity values. Altering the building typologies can make up for any yield losses through avoiding wetlands and streams. Wetlands offer significant ecosystem services which benefit urban developments; including climate change mitigation and adaptation, recreation opportunities and aesthetic values.

16. *Should resource consents for urban development listed in a district plan be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

Refer to our response to Question 9 for our views on the proposed gateway test. We also struggle to see how urban development would get through a 'functional need' test.

We regularly receive consent applications for urban development within natural wetlands. There will need to be rigorous guidance on how the regional significance criteria will be applied consistently, particularly relating to large-scale green-field developments which may have adverse effects.

17. *Is the current offsetting requirement appropriate for all types of urban infrastructure, for example, public amenities such as schools and medical centres? Why/why not?*

No, we oppose any exceptions to the Effects Management Hierarchy.

By email

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

26 October 2021

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: WetlandsTeam@mfe.govt.nz

Tēnā koutou

Submission on Managing Our Wetlands Consultation

1. The Greater Wellington Regional Council wishes to make a submission on the proposed changes to the wetlands regulations.

2. This submission represents the view of Greater Wellington Regional Council (**Council**). Our submission consists of this letter and Attachment 1, which provides detailed answers to the questions in the discussion document.

3. Council considers that the proposed revisions to the 'natural wetland' definition and additional consenting pathways do not advance the intent of the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) to avoid the loss of extent of natural wetlands and protect their values (Policy 6). The changes are not consistent with the Te Mana o te Wai hierarchy of obligations that requires that the mauri of the water is protected. The proposed changes will result in further loss of wetlands and prioritise the ability of people and communities to provide for their social, economic, and cultural well-being over the health and well-being of water bodies and freshwater ecosystems. We expect leadership from the Government on demonstrating how Te Mana o te Wai should be given effect to.

4. We support the statement, which reflects the views of Greater Wellington Regional Council mana whenua partners, that wetlands are important to tangata whenua in terms of cultural and spiritual significance over which kaitiakitanga is exercised. Wetlands are identified by mana whenua as key aspects for each Whaitua Implementation Programme that has been completed in partnership with Greater Wellington Regional Council, for Ruamāhanga; Te Awarua o Porirua and Te Whanganui-ā-Tara. However, we are concerned that the analysis on how the Te Mana o Te Wai applies is incomplete. This gap suggests the current list of amendments is not fully informed nor complete.

Natural Wetland Definition

5. We oppose the proposed changes to the natural wetland definition, and consider that the existing definition should be retained, without reference to rain-derived pooling. The existing definition is aligned with that in the Proposed Natural Resources Plan for the Wellington Region (**PNRP**). This definition and our assessment methodology have been accepted by the District Court in a prosecution. Revising this definition will undo the progress achieved to date to apply and develop it, and create inconsistencies and further confusion on the ground.

6. We consider the proposed revisions will weaken the protection of wetlands. The ongoing cumulative loss and degradation of wetland ecosystems is a significant issue. The Regional Policy Statement for the Wellington region (**RPS**) directs the protection of wetlands, through the protection of aquatic ecological functions of water bodies (Policy 18) and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values (Policy 24). Due to the rarity of wetlands in the Wellington region, the PNRP considers all natural wetlands to have significant indigenous biodiversity values as defined in RPS Policy 23. We are particularly concerned that removing the commencement date from the natural wetland definition provides incentives for the deliberate introduction of exotic species into otherwise natural wetlands.

7. In the Wellington region, most of the 180 wetlands we have determined and/or delineated to date contain only small proportions of indigenous vegetation. The addition of 'exotic species associated with pasture' risks that genuine wetlands would be un-protected. We have defined 'improved pasture' using a species list and tested this extensively, and note that this species list is referred to in the recently published guidance[1] on 'Defining natural wetlands and natural inland wetlands'. We do, however, acknowledge that the National Environmental Standards present difficulties and uncertainty for existing landowners who may not have known they had a natural wetland on their land at the time of purchase.

Consenting Pathways

8. We oppose the proposal for landfills, cleanfills, managed fills and mining to have a consenting pathway. We do not consider these activities to be appropriate within wetlands in any circumstances and consider they should remain prohibited.

9. We agree that plan-enabled urban development and quarrying should have a consenting pathway. However, we oppose discretionary activity status for urban development and quarrying, and consider non-complying to be more appropriate. A non-complying activity status puts the onus on the applicant to show why their activity can pass through the non-complying gateway test. We consider that upholding Te Mana o te Wai will require practice changes, not business as usual.

[1] Ministry for the Environment. (2021). Defining natural wetlands and natural inland wetlands, 21. https://environment.govt.nz/assets/publications/Defining-natural-wetlands-and-natural-inland-wetlands.pdf

10. We consider that leaving decisions on where urban development occurs solely to district plans will lead to further wetland loss. District plans have, in the past, zoned urban development in unsuitable areas without consideration of land and water matters. Leaving decisions about wetlands to be considered at the resource consent level is not appropriate, and also unfair for developers who may hit a roadblock when it comes to regional planning rules. It will also make it impossible for councils to achieve integrated management as required by clause 3.5 of the NPS-FM.

11. We support the use of the effects management hierarchy, however note that there is considerable uncertainty about the ability to provide effective offsets to maintain wetland extent and condition. Some wetlands cannot be offset and there are few good examples of wetland re-creation to draw on. Allowing for the loss of existing wetlands is likely to result in an associated loss of values, particularly in the short term.

12. Providing more lenient consenting pathways for the four proposed activities creates imbalances with other activities near wetlands, for example, farming activities such as irrigation. This will lead to inequitable restrictions on activities; creating easier pathways for potentially highly damaging activities and much harder pathways for minor activities.

13. We consider that there is a need to include a consenting pathway for water storage within wetlands. Water storage will become an increasingly important method of supporting drinking water supply and primary production as the effects of climate change become more severe. In particular, regions on the eastern side of New Zealand will be heavily impacted by decreased rainfall and highly variable river flows.

14. Small scale water storage options for farming support will often need to be based on converting small gullies into water storage, which may impact on natural wetland areas in those gullies. While large-scale water storage would be considered regionally significant infrastructure (and therefore is a discretionary activity), there is currently no consenting pathway for smaller scale water storage, such as that required on-farm. We recommend that water storage should have non-complying status.

15. The regulatory impact analysis undertaken for the consenting pathways proposal is incomplete in that it does not provide estimates of the extent and impacts of the four proposed activities on wetland extent loss and their associated values.

Maintenance, Restoration and Biosecurity Activities

16. We largely support the proposed changes regarding wetland restoration, maintenance and biosecurity activities, with some suggestions. We agree that these activities should be recognised as distinct and provided for in the regulations without onerous processes.

17. We consider that all activities undertaken in a natural wetland, whether they are for restoration, maintenance or biosecurity, must maintain and improve the naturalness and functioning of the wetland.

Nāku iti nei

Daran Ponter
Chair
Greater Wellington Regional Council

Address for service:

Mika Zöllner
Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T: 021 226 7336
E: mika.zollner@gw.govt.nz

Encl:
Attachment 1: Greater Wellington Regional Council responses to Managing Our Wetlands discussion questions

Attachment 1: GWRC Responses to Managing Our Wetlands discussion questions

Definition of 'natural wetland'

1. Do you agree with the proposed changes to the definition of 'natural wetland'? Why / why not?

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Our view is that it is important to retain the mention of 'improved pasture' in this definition, as this assists with the distinction between areas actively managed for livestock production from natural wetlands that have been invaded by exotic plants.

We accept that the improved pasture species list may change according to industry advances, farming needs and practices, and agronomist's recommendations. We will look to update the species list as necessary to allow for these changes. There are also numerous cultivars and hybrids of pasture species which we have attempted to capture at the genus or species level as appropriate.

2. *Should anything else be included or excluded from the definition of 'natural wetland'?*

Due to the reasons discussed in our response to Question 1, the wording we support is:

> (c) 'any area of improved pasture that, at the commencement date, has more than 50 percent ground cover comprising exotic pasture species.'

We support the removal of 'and is subject to temporary rain-derived water pooling' as this is difficult for consenting authorities to prove and is not necessary to distinguish between wet pasture and a natural wetland.

Better provision for restoration, maintenance and biosecurity activities

3. *Should maintenance be included in the regulations alongside restoration? Why / why not?*

Yes, we support the inclusion of maintenance in the regulations alongside restoration, but only in relation to maintaining wetland condition (as compared to maintaining existing structures or anything else). Wetland maintenance and wetland restoration are two distinct activities and need to be recognised as such within the regulations. Wetlands that have undergone restoration require ongoing maintenance to manage and improve (appropriate to the type and location of the wetland) ecosystem health, indigenous biodiversity, or hydrological function. The current regulations are unclear as to whether ongoing maintenance of restored or current-state wetlands is permitted under restoration, so we agree that these should both be included.

However, we consider that what is meant by 'maintenance' is ambiguous in the discussion document. It is unclear whether weed control maintenance is already accounted for with 'active intervention and management' in the existing definition of restoration. We would therefore support a minor change to the definition of restoration in the NPS-FM as follows:

> "**restoration**, in relation to a natural inland wetland, means active intervention and management, appropriate to the type and location of the wetland, aimed at restoring <u>and maintaining</u> its ecosystem health, indigenous biodiversity, or hydrological functioning."

4. *Should the regulations relating to restoration and maintenance activities be refined, so any removal of exotic species is permitted, regardless of the size of the area treated, provided the conditions in regulation 55 of the NES-F are met? Why/why not?*

Yes, we support the removal of the area limit for restoration and maintenance activities, provided that it is associated with the hand-held tool requirement, and that the conditions in regulation 55 of the NES-F are met.

The area limit risks the re-invasion of pest plants and undoing beneficial wetland restoration work to date. The removal of the area restriction will allow Council to continue our pest management activities in the most tactical manner to address pest plant populations.

We support the need to adhere to the conditions in regulation 55 for restoration and maintenance activities. We consider regulation 55 to be generally appropriate for determining how work should be carried out with adequate safeguards. The intention of the area limit rule was to reduce the effects of sediment discharge from bare land following weed control. However, condition 88(d) of regulation 55 already specifies that "earth must not be left bare for more than 3 months" for it to be a permitted activity. This aspect is already a matter of control in the NES-F and the area limits therefore are not necessary to meet the intent.

We consider that restoration and maintenance work that is permitted should not provide for non-targeted aerial spraying, as per Rule 105 in our Proposed Natural Resources Plan.

5. *Should activities be allowed that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes? Why/why not?*

Yes, we support allowing activities that are necessary to implement regional or pest management plans and those carried out by a biosecurity agency for biosecurity purposes. In the case of a biosecurity incursion, time is of the essence and being required to obtain resource consent means that eradication programmes will be significantly delayed to the detriment of the wetland. A number of regional plans already provide exceptions for these activities (see Northland and Southland for example), so a national approach seems sensible here.

We do however consider that these biosecurity activities should need to meet the conditions in regulation 55, because some activities such as aerial control or heavy machinery can still have adverse effects on wetlands. We also consider that biosecurity activities undertaken should uphold the naturalness of a wetland where possible.

6. *Should restoration and maintenance of a 'natural wetland' be made a permitted activity, if it is undertaken in accordance with a council-approved wetland management strategy? Why/why not?*

We agree in principle that restoration and maintenance of a natural wetland should not be an arduous process. However, the proposed changes establish a permitted activity status which depends on approval of a Wetland Management Strategy. A permitted activity that relies on an approval through a separate process that could be declined is poor planning practice and will require the approval process to be constrained. A permitted activity must not reserve discretion to a decision maker to provide final approval and it must be sufficiently certain to be understandable and functional. In practice what is proposed would be more aligned with a controlled activity status.

We also consider that a permitted activity rule may not give regional councils enough scope or oversight to require appropriate management of wetlands restoration activities, which could result in the loss of wetland function and/or naturalness.

7. *Should weed clearance using hand-held tools be a permitted activity? Why/why not?*

Yes, weed clearance using hand-held tools should be permitted activity. Manual weed clearance can be an effective method to manage some aquatic weeds, and facilitating this activity can substantially reduce the use of herbicides.

Hand-held tools needs to be clearly defined to avoid confusion. We have assumed that motorised tools and backpack sprayers are included in what is proposed and support this, however this should be specified. Consideration could be given to how to provide for evolving technologies for targeted

aerial spraying, such as drones. We also consider that the definition of 'weed' should be specified, i.e. plants that are inappropriate to the wetland type and location.

Consenting pathway for quarrying

8. Should a consenting pathway be provided for quarries? Is discretionary the right activity status? Why/why not? (See page 10 of the discussion document for a definition of discretionary activity)

We accept that a consenting pathway should be provided for quarries in limited circumstances. We oppose discretionary activity status for quarrying and consider that the activity status should be non-complying, as it is generally not appropriate to quarry within or near a wetland. Non-complying activity status sends a clear message that an activity will not be contemplated unless the effects are no more than minor or the circumstances are exceptional. We consider that the activity status should reflect the appropriateness of the activity, and that quarrying near wetlands should be difficult to consent.

The following general comments apply to all four consenting pathways:

i. Assigning discretionary activity status to the four proposed activities is in tension with the intent of the NPS-FM and Te Mana o te Wai to put the health and well-being of waterbodies and freshwater ecosystems first. We oppose discretionary activity status given the limited remaining extent of natural wetlands; the significant ecosystem services they provide; the hierarchy of obligations of Te Mana o te Wai; and finally the lack of confidence that we have in wetland offsetting and compensation leading to good outcomes. A discretionary activity status tends to put pressure on the regional council.

ii. Providing specific carve-outs for these four activities as proposed is likely to lead to imbalanced restrictions on activities. We wish to highlight our concern that this is an inconsistent approach which means restrictions are not necessarily linked to the severity or damaging effects of activities. For example, if discretionary activity status is applied to the four proposed activities, it will become easier for a land owner to mine or quarry a wetland than to irrigate land 95 metres away from it. It will also become easier to reclaim a wetland entirely for housing than to take water 95 metres away from it. It is unclear which activities the prohibited activity rule in regulation 54 in the NES-F is now intended to capture.

iii. The regulatory impact analysis is incomplete as it does not highlight the extent and geographical distribution of the identified issues with the four proposed activities being restricted. No real attempt has been made to estimate the area of natural wetlands that could be affected by each activity, and the associated biodiversity loss and cost to communities through lost ecosystem services. Previous regulatory impact analyses attempted to estimate this for mining and determined that the ecosystem services are more valuable[2]; and an earlier interim regulatory impact analysis also looked at impacts to

[2] Treasury. (2020). Regulatory Impact Analysis - Action for healthy waterways – Part II: Detailed Analysis, 211. https://www.treasury.govt.nz/sites/default/files/2020-06/ria-mfe-water2-may20.pdf

the agricultural sector[3]. Without this information, we consider a precautionary approach should apply.

9. *Should resource consents for quarrying be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

The 'gateway test' is appropriate as it will ensure that activities need to have demonstrable functional need and significance. We wish to highlight that the use of the term 'gateway test' creates confusion with the gateway test that applies to non-complying activities under the RMA.

Efforts need to be taken to ensure a shared understanding of 'functional need' and 'significant national or regional benefit' so that these terms are not used inappropriately.

There also needs to be a tightly controlled and shared understanding of the Effects Management Hierarchy so that it is consistently and stringently applied, with offsetting and compensation considered only if there are no other options. We also wish to raise concerns regarding the ability to offset wetlands, as New Zealand has few examples of wetlands being successfully re-created, and some wetland types cannot be re-established. This is particularly problematic for wetlands that are likely to occur on hillsides and may be subject to quarrying, mining, landfills or urban development activities; for example seepage wetlands. Seepage wetlands often contain some of our rarest wetland species and cannot be re-created elsewhere.

The Government may wish to distinguish between existing and new quarries which may have different consenting pathways or criteria. This is the approach taken in the PNRP.

Consenting pathway for landfills, cleanfills and managed fills

10. *Should a consenting pathway be created for landfills, cleanfills and managed fills? Is discretionary the right activity status? Why/why not? (See page 10 of the discussion document for a definition of discretionary activity)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We oppose the proposed consenting pathway for landfills, cleanfills and managed fills, as this activity is not appropriate within natural wetlands and has significant adverse environmental effects. Prohibited activity status sends a clear message that landfills, cleanfills and managed fills will not be contemplated within wetlands.

These activities have historically occurred in gully environments, however this is not a functional requirement. If the loss of wetlands is to be halted, changes in practice are required. Providing for landfills is directly in conflict with the Te Mana o te Wai hierarchy of obligations and the objective of no net loss of wetlands.

11. *Should resource consents for landfills, cleanfills and managed fills be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

[3] Ministry for the Environment. (2019). Interim Regulatory Impact Analysis for Consultation: Essential Freshwater – Part II: Detailed Analysis, 261. https://environment.govt.nz/assets/Publications/interim-regulatory-impact-analysis-for-consultation-essential-freshwater-part-2-v3.pdf

Refer to our response to Question 9 for our views on the proposed gateway test, noting that Council submits that these activities should remain prohibited.

Consenting pathway for mining (minerals)

12. *Should a consenting pathway be provided for mineral mining? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We oppose the proposed consenting pathway for mining as this activity is not appropriate within natural wetlands. Providing for wetland drainage to occur through mining is in conflict with the Te Mana o te Wai hierarchy of obligations and the objective of no net loss of wetlands.

13. *Should the regulations specify which minerals are able to be mined subject to a resource consent? Why/why not?*

Yes, regional councils should not be deciding which minerals should have consenting pathways. If the Government decides to provide consenting pathways for some minerals then the subset of minerals must be specified in the regulations.

14. *Should resource consents for mining be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

Refer to our response to Question 9 for our views on the proposed gateway test, noting that Council submits that these activities should remain prohibited.

Consenting pathway for plan-enabled development

15. *Should a consenting pathway be provided for plan-enabled urban development? Is discretionary the right activity status? Why/why not? (See page 10 for a definition of discretionary activity.)*

Refer to our response to Question 8 for our general comments on the proposed consenting pathways.

We accept that a consenting pathway should be provided for urban development in limited circumstances, however the activity status should be non-complying to make it clear that development activity is not appropriate in natural wetlands. An alternative to providing a discretionary activity status that could be considered is reducing the 100 metre setback requirements for urban development activities.

Leaving decisions on where urban development goes in relation to wetlands to district plans will result in wetland loss. In the past, district plans have not considered land and water matters and urban development has been zoned in inappropriate places, with regional consents needing to try to manage effects once land has been zoned as developable. Pushing it all down to resource consent decisions, rather than proper oversight and consideration at the region-wide level, does not give effect to the National Policy Statement on Urban Development nor the NPS-FM.

From our experience, the current regulations are leading to practice changes in urban development to avoid wetlands, while enhancing our built environment. We are currently working with developers through the development of wetland restoration plans to enable them to meet the flood and storm water attenuation requirements within the natural wetland space.

If developers work with councils early enough, we can help them to work with the landscape to maintain its hydrological functioning while providing both ecological and amenity values. Altering the building typologies can make up for any yield losses through avoiding wetlands and streams. Wetlands offer significant ecosystem services which benefit urban developments; including climate change mitigation and adaptation, recreation opportunities and aesthetic values.

16. *Should resource consents for urban development listed in a district plan be subject to any conditions beyond those set out in the 'gateway test'? Why/why not?*

Refer to our response to Question 9 for our views on the proposed gateway test. We also struggle to see how urban development would get through a 'functional need' test.

We regularly receive consent applications for urban development within natural wetlands. There will need to be rigorous guidance on how the regional significance criteria will be applied consistently, particularly relating to large-scale green-field developments which may have adverse effects.

17. *Is the current offsetting requirement appropriate for all types of urban infrastructure, for example, public amenities such as schools and medical centres? Why/why not?*

No, we oppose any exceptions to the Effects Management Hierarchy.

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

By email

4 March 2022

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: nesdw.consultation@mfe.govt.nz

Tēnā koutou,

Submission on Improving the protection of drinking-water sources

1. Greater Wellington Regional Council (**Greater Wellington**) wishes to make a submission on the proposed changes to the National Environmental Standards for sources of human drinking water (**NES-DW**).

2. This is an officer submission, and we also support the submission of Te Uru Kahika. Our submission consists of this letter and Attachment 1, which provides detailed responses to the questions in the discussion document.

3. Greater Wellington broadly supports the direction outlined in the consultation document. National direction on source water protection following the Havelock North Incident, is overdue and a crucial component of a multi-barrier approach to providing safe drinking water. The proposed changes align with work to date on source water protection in the Wellington Region.

4. Greater Wellington has mapped community drinking water supply protection zones (**protection zones**) for all abstraction points supplying more than 500 people for more than 60 days a year, which are broadly aligned with the proposed Source Water Risk Management Areas (**SWRMAs**) 1, 2 and 3. The protection zones are in the Proposed Natural Resources Plan (**PNRP**) for the Wellington Region and are areas in which the Plan more stringently regulates discharges to land and water, and excavation of land.

5. The proposed changes do not indicate how future water supplies will be incorporated into the NES-DW regulatory regime, nor how the impact of new or expanded water supplies on existing activities will be managed in future delineated source water zones. We are aware of numerous situations in the Wellington Region where new or expanded water supplies are under investigation. We anticipate that this is likely to continue with ongoing urban intensification and greenfield development. We know that the Government is aware of this issue in the context of the broader water reforms. The NES-DW should have

a role in mitigating this risk by directing coordinated spatial planning of new and growing supplies between water suppliers, regional councils and territorial authorities.

6. Urban development poses a significant potential risk to existing and future water supplies, which is not addressed in the consultation material. Urban growth also depends on access to safe drinking water. We consider the NES-DW amendments should be integrated with national direction on urban development to recognise the importance of land use planning in source water protection. The role of territorial authorities as land use regulators is a crucial part of source water protection.

7. Amendments to the NES-DW will need to operate within a freshwater limits regime under the National Policy Statement for Freshwater Management 2020; aligning with integrated freshwater management while avoiding duplication. Likewise, where the National Environmental Standards for Freshwater and Stock Exclusion Regulations control similar activities as the NES-DW they should be consistent. We also recommend that potential interactions with the proposed National Policy Statement for Highly Productive Soils are considered.

8. The proposed changes to the NES-DW do not currently direct what happens to SWRMA delineations, nor how they are updated or maintained. We recommend that SWRMAs must be included in both regional plans and district plans, and that the NES-DW requires them to be considered in land use planning by territorial authorities. A mechanism for review and update of SWRMAs should also be provided for.

Activity and Land Use Regulation

9. We consider that SWRMA 1 should exclude high-risk activities and land uses and manage most other activities through consents, with provisions for crucial biosecurity and hazard works. The PRNP uses setbacks from sensitive areas to limit the effects of high-risk activities. We support the use of setbacks from bores and intakes to identify the land where the highest level of protection is necessary, however we note that setbacks for the same activities from different regulations could cause confusion, particularly for rural land users.

10. We consider that the following should be prohibited in SWRMA 1:

    a) Groundwater - all activities and land uses except for supply maintenance by water suppliers.

    b) Surface water - direct discharges to water and discharges to land of contaminants of health significance.

11. In the PNRP for the Wellington Region, these activities have discretionary activity status in the equivalent area of SWRMA 1, however the setbacks range from 5m to 50m, compared to 5m as proposed. A higher level of stringency from national direction would reflect the now understood need for robust source water protection in the immediate vicinity of intakes and bores. Greater Wellington supports the intention to manage high-

risk activities in SWRMA 2. However, national direction on SWRMA 2 should extend to include discharges to both land (including animal and human waste) and water, as well as land uses such as excavation, landfills, intensive farming and industry.

12. We disagree with the view that SWRMA 3 does not require further controls. Because SWRMA 2 has been delineated to focus on microbial contaminants, SWRMA 3 is the key opportunity to manage the cumulative impacts of persistent, long-term contaminants. Consenting authorities and water suppliers should have oversight over the following in SWRMA 3:

    - Urban development
    - Nutrients discharged from land use activities
    - Activities potentially discharging persistent, long-term contaminants which bio-accumulate and have low Maximum Acceptable Values for drinking water (heavy metals, PFAS/PFOS, emerging contaminants).

13. The implications of these regulations for both resource users and consenting authorities are potentially significant. To mitigate this, we support a risk-based approach; where the requirements are commensurate with the level of risk to drinking water supply. Managing existing activities within SWRMAs will be complex and difficult, and Greater Wellington therefore does not support a blanket approach to this. Retrospective application to existing activities within delineated SWRMAs should be carefully conducted on a case-by-case basis, with consideration of existing source water quality, risks and impacts. We also support a more efficient approach to NES-DW implementation for small water supplies, to mitigate the potentially disproportionate economic and social impacts on rural landowners, communities and small suppliers.

14. The NES-DW should also provide national direction on the minimum (non-exhaustive) requirements and standards for different activities in each SWRMA, for example control measures and ongoing monitoring requirements of discharges in SWRMA 2. Such an approach would help to simplify and streamline consent processes while improving consistency. It would also reduce demands on technical experts in regional councils and ultimately make the NES-DW regulatory regime more effective.

Water Supplier Protection

15. We support the proposal to protect all water supplies. The proposed changes have the potential to create a complex compliance and enforcement landscape with a significant resourcing burden. Consenting authorities and water suppliers will require support with the extensive communication, guidance and training necessary to implement the proposals.

16. A simpler approach to delineation and regulation of SWRMAs will be necessary for small water supplies compared to larger supplies. We support the intention of Taumata Arowai to develop simpler acceptable solutions for small supplies regarding source water risk

management planning and consider that efforts to simplify the process should also extend to the NES-DW. This would align with taking a risk-based approach to source water protection.

Nāku iti nei,

Alistair Cross
General Manager, Environment
Greater Wellington Regional Council

Address for service:

Mika Zöllner
Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T: 021 226 7336
E: mika.zollner@gw.govt.nz

Encl:
Attachment 1: Greater Wellington Regional Council responses to Improving the protection of drinking-water sources discussion questions

Attachment 1: Greater Wellington Regional Council responses to Improving the protection of drinking-water sources discussion questions

The default method for delineating SWRMA

1. ***Do you think this is a good approach for protecting our source waters?***
    a. *Do you think that three areas (and therefore levels of control) are sufficient to protect our drinking water sources?*

Greater Wellington supports the direction taken in this consultation and the recognition for the need to identify and protect source water areas for drinking water supplies. We see this as a fundamental part of the multi-barrier approach. The Proposed Natural Resources Plan for the Wellington Region (PNRP) contains delineated community drinking water supply protection zones (protection zones) for all abstraction points supplying more than 500 people for more than 60 days a year. Work to date in the Wellington Region is aligned with the proposed approach.

The following should be considered as the proposed approach is developed further:

i. There is a fundamental difference between groundwater and surface water with respect to source water management. Impacts on groundwater are typically much more persistent, uncertain and difficult to rectify. Surface water tends to be affected by more immediate contamination events. Often the lack of adequate source water protection necessitates more sophisticated water treatment in surface water. However, once contaminants enter groundwater they can become a longer term problem that can persist for years; with far greater uncertainty and complexity. While source water protection and a multi-barrier approach are effective and necessary for both sources, they should be considered and regulated as differently as they are.
ii. As groundwater and surface water are different; so are the properties of different aquifers. A nuanced approach to the variability between groundwater sources, to complement a default baseline, would help to find the right balance between protection and restriction.
iii. We recognise the need to establish a 'default' baseline approach and support this. A risk-based approach should be taken to water supplies, where as part of the multi-barrier approach, source water delineation can potentially vary in response to the specific circumstances.

Greater Wellington considers that the proposed approach should represent a 'minimum' number of delineated areas, which could be increased in particularly high-risk situations. We recommend that an optional additional zone is provided for between Source Water Risk Management Area (SWRMA) 1 and 2; SWRMA 2A. This could be based on a travel time of around 20-30 days and would function to guide the level of intervention necessary. In complex, high-risk urban catchments, it may not be realistic for water suppliers to be aware of all activities occurring in SWRMA 2. Engaging with or overseeing all consent processes may not always be the priority. SWRMA 2A would be able to triage the activities that are happening closer to the supply; recognising that the closer activities present a more immediate potential risk to drinking water.

2. ***In your view, is the method to determine each SWRMA, for each type of water body, the best option?***
    a. *Should other factors be considered in determining size?*
    b. *What challenges can you foresee in delineating SWRMAs?*
    c. *Should SWRMA for all aquifers be bespoke so their unique features, depth and overall vulnerability can be considered?*

We support the proposed default delineation method for the surface water zones. For groundwater, we do not support the maximum distance of 2.5km for SWRMA 2. Using a maximum distance poses potential risks for aquifers whose 1-year travel time exceeds 2.5km. We also consider that SWRMA 3 could be defined more pragmatically. For example in aquifers with old, slow moving water, the delineation could depend on travel time, while in faster moving gravel aquifers a more conservative approach (i.e. the whole capture zone) would be most appropriate.

Additional factors to consider could include supply treatment options, risks to the catchment, and the potential consequences of contamination. This aligns with our comment in Question 1 on the need for a risk-based approach. Greater Wellington considers that involving local communities in delineating SWRMAs could assist with finding the right balance between protection and restriction in complex cases. A collaborative approach would also help to foster education and buy-in from resource users.

The key challenges associated with SWRMA delineation will be time and resources. Some delineations may require specialist modelling; an already constrained resource which will be under significant demand if all regional councils will need to delineate these areas concurrently.

We agree that where the additional resources can be justified a bespoke approach for unique aquifers is preferred. This will not be realistic for all water supplies, particularly smaller and currently unregistered supplies, so a default baseline approach remains useful and consistent with the Havelock North Inquiry findings.

3. ***For lakes, do you agree that SWRMA 2 should include the entire lake area?***

N/A

4. *SWRMA 1 for lakes and rivers is proposed to extend 5 metres into land from the river/lake edge. This contrasts with 3 metres setback requirement of the Resource Management (Stock Exclusion) Regulations 2020. SWRMA 1 is proposed to be used as a basis for controlling activities close to source water intakes, and applies to a wide range of activities.* ***Do you think differing setbacks will cause confusion or result in other challenges?***

We see no inherent issue with different activities having different setbacks, however this is still likely cause confusion for resource users. On the other hand, regulating the same activities through two different setbacks, for example stock access, could lead to conflict where it is unclear which of the regulations trumps the other. Seeking consistency wherever possible and supporting implementation with clear guidance and direction on how regulations interact, will assist implementation. Freshwater farm plans will be one mechanism to bring together and communicate which activities can happen where on their farms, however good and ongoing communication with resource users will remain fundamental.

5. ***Do you agree that a 5-metre radius around a source water bore gives enough protection?***

We support the use of a radial distance around bores but consider that 5m should be a minimum distance. While a larger area would be encouraged, this is not always practical, particularly for urban water supply bores. Depending on the supply risk, bore security and local context, there will be situations where a greater distance for SWRMA 1 will be more appropriate. The PNRP for the Wellington Region regulates activities immediately around source water bores equivalently to SWRMA 1. This distance is either 5m, 20m or 50m depending on the nature of the activity.

We consider that SWRMA 1 is about more than just protection; it is also about excluding and preventing any potentially hazardous activities. SWRMA 1 should be fenced off to restrict access and all efforts to prevent direct or proximate entry of contaminants to the wellhead should be taken. We note that the 5m radius has been used in borehead security assessments and was initially intended for fencing to exclude stock and other activities. Other headworks security precautions, for example ensuring the borehead is not in a local depression, will also need to contribute to managing contamination risk.

6. *While water takes from complex spring systems or wetlands may require a bespoke SWRMA to ensure consideration of any contamination pathways present, a default method is necessary to ensure interim protection*. ***Do you think a regional council should determine (on a case-by-case basis) the most applicable default method: for a river, lake or aquifer, or is a different default approach necessary?***

Most complex situations will require bespoke SWRMA delineation. However, default methods provided by national direction are a useful starting point which can be used to justify the need for more bespoke methods on a case-by-case basis.

The proposed default delineation could potentially be used in the interim while data is collected to undertake bespoke delineation. In some cases this could take over a year to complete depending on the availability of monitoring data, so having a reliable default method will be useful. In some instances where data is particularly limited, for example with very small supplies, the default interim methods may need to be even more simplistic, e.g. fixed radius methods only in the first instance.

Regional council mapping of SWRMA

7. ***How long do you think is necessary for regional councils to delineate SWRMAs for currently registered water supplies in each region, using the default method?***

It is difficult to estimate the time required to map all registered supplies using the default method at this stage. Any models used would need to be fit for purpose and have adequate available data.

Greater Wellington has mapped community drinking water supply protection zones for all abstraction points in the region supplying more than 500 people for more than 60 days a year, and uses these zones to regulate activities in the PNRP. This mapping process took about a year and was part of the regional plan development process. There are around 20 other registered water supplies serving smaller communities (25 – 500 persons) in the region not yet delineated, as well as several new water supply sources under investigation in the region.

For groundwater, detailed hydrogeological investigations and modelling were undertaken to determine capture zones for 1 year travel time (biological contaminants) and greater (long-term, persistent contaminants). For surface water, our approach was similar to SWRMA 1, 2 and 3. Having invested time, resource and expertise into our existing community drinking water protection zones,

we support the proposal in Question 11 to retain these (with review) for existing supplies as opposed to re-mapping them using a default method.

8. ***What challenges do you foresee in delineating SWRMAs, when previously unregistered supplies are registered with Taumata Arowai?***

The primary challenges are that their number is currently unknown and that data availability to inform delineation may be limited.

We wish to question the assumption that regional councils will delineate SWRMAs for new and previously unregistered supplies. The relationship between water safety planning under the Water Safety Act 2021 and Source Water Risk Management Areas under the National Environmental Standard for Drinking Water (NES-DW) is currently murky. Both unregistered and registered supplies will need to complete a Water Safety Plan under the Water Services Act 2021, which should include capture zone delineation. Water suppliers will also need to assess source water risk as part of an AEE when expanding borefields or establishing new supplies. The NES-DW consultation material does not currently resolve the relationship between water safety planning under the Water Safety Act and SWRMA under the NES-DW. We consider that delineating SWRMAs would make more sense to be completed and owned by the water supplier, with support from the regional council, to avoid duplication of source water risk consideration. These delineated areas could then be incorporated into statutory documents.

Additionally, the consultation material does not specify where the mapped SWRMAs will be housed. Will the areas sit within regional/district plans, or function as an external GIS layer just to apply the NES-DW regulations to? Who will fund their generation, maintenance and necessary updates; the water supplier, councils or central government? If the areas and regulations relating to activities sit within local statutory documents, they can be given effect to through regional or district rules (including additional requirements appropriate for that region or district). They will have gone through a Resource Management Act (RMA) plan change process, but adding or updating the delineations would require further plan changes. If the areas and regulations sit outside of plans they would be easier to update and add to, but could only give effect to regulations directed by the NES-DW. If this path was followed, we consider that SWRMA delineations should be required to be included in both regional and district plans for information purposes. Overall, our view is that these areas can be effectively regulated through regional and district plans.

9. ***What support could enable regional councils to delineate SWRMAs within shorter timeframes?***

See our response to Question 8 regarding whether regional councils should solely be responsible for mapping SWRMAs for new and unregistered supplies, and what will happen to SWRMAs once delineated.

Additional staff and resources as well as external expert capability to support with any modelling requirements, particularly for groundwater, will help. A more simplistic interim solution could also assist where there are data or modelling constraints.

10. ***Do you think consideration should be given to mapping currently unregistered supplies as they register (but before the four-year deadline provided under the Water Services Act), or do you think that waiting and mapping them all at the same time is a better approach?***

See our response to Question 8 regarding whether regional councils should solely be responsible for mapping SWRMAs for new and unregistered supplies, and what will happen to SWRMAs once delineated.

Mapping unregistered supplies as they register would assist with spreading workload and straining external expert capacity. However, if SWRMAs are to be included in regional plans they may need to be added or gazetted in batches.

Bespoke method for delineating SWRMA

11. ***If a regional council has already established local/regional source water protection zones through a consultative process, should there be provision to retain that existing protection zone as a bespoke method without further consultation or consideration against new national direction?***

Yes. The delineations currently in the PNRP for the Wellington Region were developed using the technical guidance referred to in the consultation material and are being used to regulate activities. These delineations will need to be updated periodically as borefields are expanded and altered, or if new supplies are established. We therefore support the use of bespoke methods where they meet the minimum requirements in the NES-DW and align with the recommended methodologies and technical guidance.

We note that the currently proposed process for having a bespoke method approved appears to be very onerous and should be streamlined, efficient and accessible to ensure good outcomes are achieved.

There are several new water supplies under investigation or development in the Wellington Region; either to improve resilience or support population growth. These new supplies will require identification and delineation of SWRMAs as they register. As highlighted in our submission letter, there does not seem to be direction on how future or expanding water supplies will be managed. SWRMA delineations should also include a review process to account for any changes to supplies or newly available information.

SWRMA 1 controls

12. ***Do you think national direction on activities within SWRMA 1 is necessary?***
    a. *If so, what activities should it address?*
    b. *How restrictive should controls be in SWRMA 1, for resource users other than water suppliers?*
    c. *Are there any activities you believe should be fully prohibited in this area?*
    d. *Are there any activities you believe should be permitted or specifically provided for or acknowledged in this area?*

We support national direction on activities in SWRMA 1 to ensure consistency. The NES-DW should set a baseline whereby regional councils and territorial authorities can regulate for additional activities posing particular risks where necessary. We consider that SWRMA delineations should be required to be included in both regional and district plans.

In SWRMA 1, most activities other than necessary works to maintain the water supply by the water supplier should be excluded. We recommend the following:

- *Groundwater* – prohibit all activities and land uses except water supply maintenance.
- *Surface water* – prohibit all direct discharges to water and discharges of contaminants of health significance to land. Most other activities which could potentially impact water quality should be non-complying, except for essential biosecurity work (under a Regional Pest Management Plan) and urgent hazard management works.

In the PNRP for the Wellington Region, these activities have discretionary activity status in the equivalent area of SWRMA 1, however the setbacks range from 5m to 50m, compared to the proposed 5m in the NES-DW. A higher level of stringency from national direction would reflect the now understood need for robust source water protection in the immediate vicinity of intakes and bores.

If an activity is able to be consented, the NES-DW should provide consistent guidance on the minimum requirements and standards (e.g. monitoring) necessary for that activity to occur.

13. ***For water suppliers, are there any other activities beyond intake maintenance and management that should be provided for?***

N/A

14. ***In and around freshwater, control of pest species (including aquatic pest species) may be necessary, including through physical control (removal, that may include bed disturbance) or chemical control (discharge).***
    a. *How much of an issue is this in and around abstraction points?*
    b. *How critical is that work?*
    c. *How often is this work mandated by other regulation or requirements?*
    d. *How frequently is this work undertaken by parties other than the drinking-water supplier (or their contractors)?*

Greater Wellington manages aquatic pest species as part of the Regional Pest Management Plan (RPMP) work programme, which is carried out under the Biosecurity Act 1993. Our annual work programmes for RPMP sites and Key Native Ecosystem Sites (KNEs) are undertaken by Greater Wellington staff and some contractors, as per our RPMP Operational Plan and KNE Operational Management Plans. The National Interest Pest Response is another programme of work led by the Ministry for Primary Industries in collaboration with regional councils.

No pest plant control work is currently undertaken around abstraction sites scheduled in the PNRP for the Wellington Region (those serving over 500 people for more than 60 days per year). Should aquatic pest plants such as Senegal tea, spartina, purple loosestrife, eelgrass, or alligator weed occur in and around an abstraction point, we would be required to control them under the RPMP. The extent of this potential issue with currently unregistered or small supplies is not known.

Our ultimate objectives are to protect the region's water quality, biodiversity, economic and social well-being. The impact of suspending or delaying operations could have irreversible impacts. Species listed in our Regional Pest Management Plan are currently able to be managed but have potential to be highly destructive should they be poorly controlled. Biosecurity works are undertaken with strict adherence to product label instructions, PNRP regulations, NZS 8409:2021 Management of Agrichemicals and EPA requirements for the use of aquatic herbicides. Our staff are trained to use herbicides and other measures with due thought and consideration of the consequences of necessary works in, on or near waterbodies.

SWRMA 2 controls

15. ***Do you think national direction on activities within SWRMA 2 is necessary? If so, what activities should it address?***
17. ***Are there any other activities that should not be permitted within SWRMA 2?***
18. ***What contaminants do you think should be controlled in SWRMA 2?***

We support national direction on activities in SWRMA 2 to ensure consistency and improve efficiency in consenting processes. The list of high-risk activities should not be exhaustive, so that regional councils and territorial authorities can manage any additional activities as necessary to protect water supplies, as required in RMA s104(g). In our view, the two primary contaminants to control under SWRMA 2 are nitrates (through diffuse discharge) and microbial contaminants. However, any persistent, mobile and toxic contaminant can also be of concern and therefore warrant consideration in this zone. Those that bio-accumulate such as lead, dieldrin and PFAS have particularly low Maximum Acceptable Values and are therefore of concern for drinking water.

While we agree that discharges to water and excavation are high-risk activities, we consider the list of activities managed under SWRMA 2 should be expanded to include discharges to land and some land uses. While the National Policy Statement for Freshwater Management (NPS-FM) drinking water attribute will play a role here, awareness of the location and intensity of high-risk activities occurring in SWRMA 2, such as offal pits and animal effluent discharges, is necessary in the shorter term.

We consider that regional councils and territorial authorities should be required to regulate the following (restricted discretionary activity status and matters of discretion being the potential impacts on drinking water safety):

- *Activities and discharges* potentially generating microbial contaminants such as offal pits, septic tanks, animal effluent discharges and wastewater servicing, or posing risks to source water, such as excavation, works in riverbeds, water storage, water diversion and takes.
- *Land uses* potentially generating contaminants which can impact human health, including nitrates, heavy metals, PFAS/PFOS and emerging contaminants. This includes landfills, quarries, and intensive horticultural, agricultural and industrial land uses. Sub-division and land use planning should also be considered in SWRMA 2.

The PNRP for the Wellington Region is generally consistent with what we have proposed for the NES-DW. The PNRP requires the following activities to be consented (restricted discretionary) in protection zones, but are permitted activities outside of the zones:

- Animal effluent discharges – liquids and solids
- Offal pits
- Refuse pits
- New domestic sewage systems
- Excavation over 5m deep
- Discharges from contaminated land that exceeds 50% MAV in NZDWS.

Other activities such as landfills and industrial discharges require consent in all areas under the PNRP.

In addition to controlling activities, the NES-DW should provide national direction on the minimum requirements for different kinds of activities within SWRMA 2, such as control measures and monitoring. It is currently challenging to place meaningful conditions on resource consents to manage the cumulative impacts of activities. Significant technical expertise is required to determine what will work to bring risks to drinking water to acceptable levels, which makes the process uncertain and

time-consuming. For example, if a farmer is seeking to renew their existing effluent discharge which is now in SWRMA 2, what is required? Do all farms need to undertake soil and groundwater monitoring to assess and monitor potential impacts of discharges on a water supply bore? Clear national direction on such requirements would assist with consistency and effectiveness.

It is likely that contaminated land sites will be present in SWRMA 2. National direction on how these should be addressed and regulated, as well as the roles and responsibilities for monitoring and remedial works of sites in the SLUR database, would assist with managing the potential risk they pose. We do recognise that this is a broader issue that cannot be addressed by the NES-DW alone.

16. In your view, how much will this proposal impact the current situation in your region?

a. What discharges to water are currently permitted?
b. Should provision be made to continue to permit those activities?
c. What controls are typically used to ensure potential adverse effects are managed?

The PNRP for the Wellington Region already contains delineated source water protection zones for large supplies which are regulating activities. The proposals would have two key impacts; increase the number of activities and land uses that the existing delineated areas are managing; and increase the area of land being regulated as more supplies have SWRMAs delineated. There are also several new larger water supply sources currently under development in the region which will also require identification and delineation of SWRMAs.

The extent of the proposals' implications cannot be quantified until more detail is available. They are likely to be significant. Applying these regulations to a greater number of water supplies is likely to lead to a complex compliance landscape that would need significant public education and an increase in science, enforcement and compliance capacity for consenting authorities. There is potential for a significant amount of backlog compliance and consenting work once SWMRAs are delineated and regional/district plan changes are complete. Due to the potential extent of additional resourcing required, we support a risk-based approach whereby the requirements for activities are commensurate to the level of risk, including a simpler regulatory approach for small suppliers (see Question 39).

We would recommend that decisions on regulation in SWRMA 2 should be informed by better understanding the extent of activities currently occurring, which would be affected. The risk of reverse sensitivity and legacy issues from existing activities also needs to be considered, particularly with new supplies and registration of smaller supplies.

As mentioned, clear direction on exactly which activities are controlled in SWRMA 2, and the requirements for these activities to occur, will assist with consenting. All efforts should be taken to mitigate additional costs and strain on technical resources. Support with communicating the regulatory changes to resource users, consultants, water suppliers, technical advisors, developers, mana whenua and all potential consent applicants will be crucial. The extent of the SWRMA zones will also need to be widely accessible.

In the PNRP protection zones (equivalent to SWRMA 1 and 2 combined) the PNRP currently authorises (as permitted activities) discharge to water, or onto land where it may enter water, of:

- Stormwater
- Swimming or spa pool water
- Discharges from contaminated land where it may enter water, subject to meeting water quality limits

- Verterbrate toxic agents (not permitted within 20m of a bore)
- Discharge of Fertiliser
- Discharge from existing domestic sewage
- Discharge of greywater
- Minor discharges that meet water quality limits (not permitted within 20m of a bore).

In the PNRP, we have relied on the requirement for a resource consent to manage some activities in the protection zones via consent conditions. However, it has been challenging to impose meaningful and effective conditions on a resource consents for an individual activity when it is the generally the cumulative effects that create risks to drinking water sources. Although they are currently permitted in the PNRP, we do not consider that discharges to water and minor discharges to land should be permitted in SWRMA 2 under the NES-DW.

19. What other challenges do you see when making a consent application within SWRMA 2?

Consent applications will generally rely to a far greater extent on technical experts and dialogue between consent authorities and water suppliers, which may increase costs.

Small suppliers are likely to also be resource users in their SWRMAs, for example through on-site wastewater treatment. There will also be cases where the consent responsibility and costs may lie with land-owners or farm managers rather than the small water suppliers. Navigating this complexity and often prohibitive costs will be challenging, which is why we recommend a simpler approach to regulation and additional support for small suppliers.

SWRMA 3 controls

20. Do you think any additional controls, other than broad consideration of the effects of the activity on source water, are required in SWRMA 3?

Yes. We do not consider RMA 104(g) to be sufficient to prevent the cumulative impacts of land use, land use change and intensive activities from compromising drinking water sources, particularly for groundwater. SWRMA 2 for groundwater has been sized to account for microbial contaminants only through its 1-year travel time. Many contaminants with low Maximum Acceptable Values for drinking water can persist in groundwater for much longer periods of time, and therefore need to be considered across a whole catchment.

We also note that the consultation material does not address the significance of land use planning in managing source water risk. The proposed changes to the NES-DW need to be integrated with national direction on housing, to elevate recognition of the potential impact of urban development and land use change on existing and future water supplies. Urban development also cannot occur without access to safe and reliable drinking water. The two are inextricably linked and must be considered together. SWRMA 3 is therefore where coordinated planning and integrated management between regional councils, territorial authorities and water suppliers is particularly crucial, to connect consenting processes with land use planning and water safety planning.

We therefore consider that consent authorities and water suppliers should have oversight over urban development and land use change, nitrates and generation of toxic, persistent contaminants including emerging contaminants.

Other matters

21. What is your view on how to address issues with bores – should it be enough to amend the NZS 4411:2001 (with reference to that standard in the NES-DW), or should greater direction be given in the NES-DW itself?

Substantial amendments to the NZS4411:2001 standard are urgent to address the specific issue of source water protection, and long overdue after being recommended in the Havelock North Inquiry. Regional plans use this standard to set requirements on bore construction details. We support review and amendment of this standard with reference in the NES-DW. There may be a need for requirements specifically relating to drinking water bores in the NES-DW, which would go further than the general standard, however this would depend on the scope of the review.

22. What is your view on requiring unused bores to be decommissioned?

a) Should bores of poor quality be required to be upgraded or decommissioned? What timeframe might be reasonable to do this?

b) For many older bores there are no records. What sort of evidence could be used to support the ongoing use of these bores, or demonstrate they pose a low risk to the security of the aquifer?

Yes, unused and poor-quality bores should be required to be upgraded or decommissioned as soon as possible. This may not always be practical or possible due to lack of information on older bores and their locations, as well as prohibitive costs and resources. Where bore records are not available, down-hole cameras and optical condition assessments can be used to find out about old bores' construction details and their condition.

23. What is your view on prohibiting below-ground bore heads?

We consider that below ground bores should be prohibited as they present too many contamination risks, even with greater protection in SWRMA 1 and 2. Many water suppliers seeking secure bore status will already have upgraded their bore headworks to be above ground. We recognise that the necessary remediation to headworks to bring bores above ground can be prohibitively expensive for some water suppliers. If below-ground bore heads are prohibited, timeframes for requiring remediation could be phased based on risk.

24. Do you think territorial authorities have a role in land management over aquifers, and if so, what is that role?

Yes absolutely, territorial authorities control the use of land for subdivision and zoning to provide for potentially high-risk uses such as industrial activities. They therefore play a key part in source water protection as land use regulators, particularly in SWRMA 2 and 3. SWRMAs should be required to be included in district plans for more stringent provisions and requirements to apply. For example, they could require AEEs for high-risk activities in SWRMAs, specify requirements for activities such as septic systems, and set monitoring and maintenance requirements.

We note that RMA s104(g) requires consideration of the impact or risk of activity on water supply of any resource consent on registered water supply and risks. This applies to both territorial authorities as well as regional councils and should be clearly connected to the NES-DW. The role of territorial authorities is particularly pertinent in the context of the national direction on housing intensification and freshwater. Both require development and infrastructure, including new or expanding water supplies, to be planned for in an integrated, catchment-wide way.

25. Do you think that an NES-DW is the right channel for addressing vulnerable aquifers?

It is likely that instruments such as a Regional Policy Statement will be more effective at directing regional and district plans to identify and manage activities that pose a risk to vulnerable aquifers than the NES-DW, because it can direct both regional and territorial authorities to have regard to drinking water sources in planning for future land use and managing the associated effects. The NES-DW's value would be in setting minimum requirements for all aquifers which regional councils can then build on through freshwater planning, to ensure particularly vulnerable aquifers are protected.

26. Would it be helpful if guidance on vulnerable aquifers was provided to support freshwater planning as the NPS-FM is given effect?

Yes, guidance on what to consider for vulnerable aquifers would support freshwater planning. Guidance would need to be developed with mana whenua and stakeholders and involve groundwater experts including the Groundwater Forum; a Regional Council Special Interest Group. This approach would also be useful for smaller supplies who would benefit from education rather than regulation.

27. What activities do you believe the NES-DW should retrospectively apply to / not apply to, and why?

Where a risk to source water from an existing activity has been identified, that existing activity should be addressed. An example of this would be existing contaminated land in a SWRMA or existing bore insecurity.

Numerous criteria should be considered when deciding how the NES-DW should apply retrospectively, including aquifer or surface water body properties, bore or intake condition, location and characteristics, source water quality trends, the supply size, the nature of activities and the suppliers' source water risk management plan. Greater Wellington supports case by case assessments to manage impacts on resource users. However, national direction on what should be considered in this process, and guidance on how to apply the regulations retrospectively, will be necessary.

28. In your view, what are the key challenges and benefits to retrospective application?

It will be challenging to balance the responsibilities of water suppliers and resource users and mitigate impacts on existing activities; however the benefit will be improvements to the safety of drinking water. We consider that responsibility for retrospective applications should be shared between resource users and water suppliers.

The economic and social impacts of farming, horticultural or industrial activities being restricted could be significant. There will potentially be disproportionate impacts on small, isolated communities who may have existing activities such as on-site wastewater treatment occurring near their abstraction points where they are both the supplier and resource user. The costs and consequences of addressing existing activities may be prohibitive for landowners, suppliers and small communities in such instances. We therefore support a risk-based approach to implementation, whereby a more efficient approach is taken for small supplies, to mitigate the costs associated with retrospective application.

29. Do you agree with the proposed list of criteria when considering effects on source water? Are any additional criteria needed, or clarification?

We support the proposed criteria. Potential additions could be the duration of the potential impact, and the impacts on the quantity of source water (as well as quality). We note that the current NES-

DW currently considers impacts on quantity by also applying to consent applications to take or divert water upstream or up-gradient.

30. ***What types of activity might pose a significant risk to a water supply in an accident, emergency, or other natural event?***

Accidental discharges of contaminants, floods, natural events causing existing contamination to discharge (e.g. historic landfills), slope failure damaging intakes or bore headworks, and discharges through activities such as fire response.

31. ***Do you think it is reasonable to require all activities with some potential to affect source water to undertake response planning, or just those with a higher risk (likelihood and consequence)?***

N/A

32. ***Do you agree that resource users should engage with water suppliers in consenting matters, within SWRMA 1 and 2?***
33. ***What hurdles do you see in promoting this engagement with water suppliers?***
34. ***What support might small water suppliers need to effectively engage in the consent process?***

Yes, we support the engagement of resource users with water suppliers through consenting. The hurdles to this occurring include time, costs and resource availability. As mentioned in Question 1, an optional SWRMA 2A covering a smaller area could help some larger suppliers in complex catchments to triage their level of involvement in consenting depending on the level of risk to the supply. Small suppliers would benefit from education, training, relationships, expert advice and financial support.

35. ***In your view, how might regional councils be affected by the NES-DW's new requirements to change regional plan rules?***

    a. *Do these effects outweigh the expected benefits of better source water protection?*

The impact of the NES-DW on regional councils would depend on how the regional plan changes are to be undertaken. The changes are aligned with the direction of the NPS-FM and will contribute to giving effect to it, and form part of the Three Waters Reform, including the Water Services Act. Coordinating NES-DW implementation with freshwater planning processes, both in timing and consistency, is likely to be complex. There would need to clear direction on whether the streamlined Freshwater Planning Process would apply to implementing the NES-DW regulations. Source water protection is an important aspect of the multi barrier approach, and so is necessary to improve access to safe drinking water.

36. ***In your view, how could the amendments to the NES-DW better align with farm plans?***
    a. *Is reliance on the NPS-FM, NES-F and Stock Exclusion Regulations enough to manage the long-term effects of farming activities on underlying aquifers and waterbodies?*
    b. *Can you identify potential duplication between the NES-DW and other regulations that control land use?*

SWRMA zones, particularly SWRMA 1 and 2, should be mapped out in freshwater farm plans where they overlap with farm boundaries. The freshwater farm plan would then become the primary tool for farmers to use to guide activities in these zones, including any requirements applying to activities such

as offal pits, refuse pits, liquid or solid animal effluent discharges which can pose a risk to source water quality. We note there is a potential legacy issue with many farm effluent systems having historically been set up near watercourses. Where these fall within SWRMAs they will need to be moved.

If freshwater farm plans are prepared, implemented and monitored appropriately, they should theoretically manage long-term effects on aquifers and waterbodies in a way that considers the catchment's context. However, we still support additional restrictions on fertiliser and agri-chemical applications in SWRMA 1 and the ability to consider the cumulative impacts of high-risk activities in SWRMA 2 and 3.

The National Policy Statement for Freshwater Management, National Environmental Standards for Freshwater, Stock Exclusion Regulations and freshwater farm plans are long-term instruments which aim to improve or prevent further degradation of water quality through changes in behaviours and land use. Their outcomes are not certain and will take years to play out, while drinking water sources are being used now. We therefore consider there is a need for additional measures to strengthen long-term protection of drinking water through a multi-barrier approach, particularly with groundwater where contamination events now can cause long-term issues.

Water supplier protection

37. If you are a water supplier, do you think these amendments will affect your ability to supply water (positively or negatively)?

Greater Wellington works with Wellington Water to manage the Hutt and Wainuiomata/Ōrongorongo water collection areas to reduce the risks of water contamination. As a part of this we restrict activities within the catchments and undertake monitoring to identify threats to water quality and quantity. We also manage Akatārawa and Pākuratahi forests as future water collection areas. For these water collection catchments we are already following a multi barrier approach to manage impacts on water supply, so the impacts of the amendments are unlikely to be significant.

In Greater Wellington's role as a small water supplier through our Regional Parks, the amendments will require us to review existing activities within delineated SWRMAs in some parks where there is no option to shift to a town supply, or where rainwater collection will be insufficient to meet demand. Where there is an opportunity to switch to town supply, we are already considering doing so. Shifting water sources is driven by the new drinking water standards and regulations as opposed to the NES-DW amendments. In this case, the level of demand is not sufficient to justify the additional sampling and planning requirements.

38. If you are a resource user, do you think these amendments will affect how you currently use your land or undertake activities?

Restrictions on activities are likely to lead to changes in how activities are undertaken, particularly in SWRMAs 1 and 2. For example, where fertiliser applications are done using precision application techniques, SWRMA 1 zones would need to be added to what is excluded from application. We note there is likely to be a significant impact on rural landowners, which is why we support a risk-based approach, where requirements are commensurate with the risk of drinking water.

In our role as a small water supplier through the Regional Parks, we are both a supplier and resource user. Our activities may need to change in some instances, depending on the activities that are excluded and the delineations. As with most other small suppliers, we have existing activities occurring near our abstraction points.

39. Do you think the protections of the NES-DW should apply to all registered water supplies?

Yes, but we consider that a simplified approach to delineation and regulation should apply to small supplies. Small supplies will also require additional education and assistance as the NES-DW amendments are implemented. Mechanisms for supporting small suppliers to potentially shift water sources if the source water risks are insurmountable, should also be considered.

40. The WSA has a registration timeframe of four years for currently unregistered supplies. ***Do you agree with aligning application of the NES-DW with the WSA? If not, why?***

a. In your view, what are the challenges resulting from including these newly registered supplies within the NES-DW framework?

We consider that larger suppliers (over 500 people) should be prioritised with NES-DW implementation, followed by small and unregistered supplies. Smaller water supplies require a simplified approach to the whole framework. The challenges with including the newly registered supplies include:

- The large number of them
- The large areas that could be captured by SWRMAs 2 and 3 across all supplies
- Lack of available information, monitoring and data
- Lack of education
- Significant strain on councils' technical, consenting and enforcement resources
- Potentially taking resource and focus away from larger and higher risk supplies.

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

By email

8 July 2022

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: WetlandsTeam@mfe.govt.nz

Tēnā koutou,

Feedback on the exposure drafts of the National Policy Statement for Freshwater Management and National Environmental Standards for Freshwater

1. The Greater Wellington Regional Council (Greater Wellington) wishes to provide feedback on the exposure drafts of the National Policy Statement for Freshwater Management (NPS-FM) and the National Environmental Standards for Freshwater (NES-F).

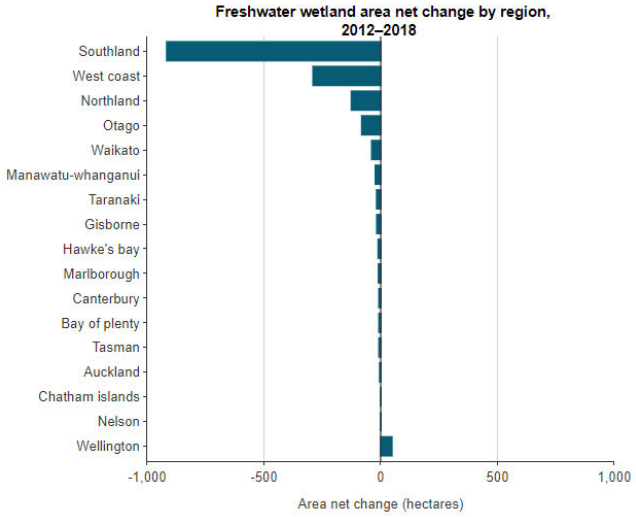
2. This feedback represents the view of Greater Wellington officers. Our feedback consists of this letter, Attachment 1 (detailed feedback on the drafting of proposed amendments) and Attachment 2 (suggested wording changes to specific provisions).

Key points

3. We appreciate amendments proposed to clarify the definition of a natural wetland and generally support the amendments to provide for wetland maintenance and biosecurity. However, we have significant concerns with the requirement to insert amended clause 3.22 of the NPs-FM into our regional plan. We anticipate that the effect of this will be to seriously compromise the effectiveness of our regional rules, which are generally more stringent than the NES-F regulations.

4. The Wellington Region has only three percent of its original wetland extent remaining and, as a result of the strong provisions in the proposed Natural Resources Plan for the Wellington Region (pNRP), which is now deemed operative, we have been the only region in the country to have held the line on wetland loss and even achieved a net gain.[1]

[1] https://www.stats.govt.nz/indicators/wetland-area#:~:text=Freshwater%20wetlands-,New%20Zealand's%20(including%20the%20Chatham%20Islands)%20freshwater%20wetland%20area%20decreased,wetlands%20between%201996%20and%202018.



5. Urban development is the biggest threat to wetlands in our region, with many areas identified or proposed for development containing wetlands. The pNRP contains non-complying activities for activities such as reclamation and land disturbance, recognising the significant risk these pose to retaining wetland extent and condition. The new exclusions in clause 3.22 will now provide a policy pathway through the non-complying gateway test. While it may be argued that the effects management hierarchy requires that these effects be redressed, there is a wealth of information[2] that shows the poor outcomes for biodiversity from offsetting and compensation and that, where a resource is rare and threatened, the necessary approach is to avoid damage in the first instance.

6. We note that the ability to have more stringent measures is enabled by NPS-FM clause 3.1(2)(a), and also refer to clause 3.12(b), that nothing in Part 3 should limit a local authority's functions and duties under the Act in relation to freshwater. Regulation 6(1) of the NES-F also provides for regional rules to be more stringent than the regulations.

7. We consider that the requirement to insert the land use exclusions provided for in amended clause 3.22 of the NPS-FM into the pNRP will undermine Council's ability to fulfil our RMA functions, including:

    - recognising and providing for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna (section 6(c)); and

    - section 30, in particular (c)(iii)(a) the maintenance and enhancement of ecosystems in water bodies and coastal water.

8. Wetlands continue to provide important ecosystems services in urban environments, attenuating heavy rains, discharging to urban streams to maintain their flow through dry periods, removing sediment and contaminants and providing tangible connections to nature when most biodiversity has been transformed into infrastructure. Additionally, wetlands play a critical role in terms of providing resilience to urban areas from the increasing effects of climate change.

9. The pNRP provisions have been through the rigorous RMA Schedule 1 process, taking 7 years, with all appeals now resolved through mediation and subsequent consent orders. It is now deemed

[2] ROOT-CAUSES-OF-WETLAND-LOSS-IN-NZ_Jan-2021.pdf (wetlandtrust.org.nz)

operative. The more restrictive provisions of the pNRP have been endorsed by the wider Wellington community. We suggest clause 3.22 needs to be amended to provide the scope for regional plans to be more stringent on the type of activities that can occur in natural wetlands, as provided for by clause 3.1(2)(a) and (b) of the NPS-FM.

Nāku iti nei,

Matt Hickman

Manager, Environmental Policy
Greater Wellington Regional Council

Address for service:

Paula Hammond
Senior Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T: 021 986 731
E: paula.hammond@gw.govt.nz

Encl:
Attachment 1: Greater Wellington feedback on exposure drafts
Attachment 2: Greater Wellington suggested wording changes to specific provisions

Attachment 1: Greater Wellington feedback on exposure drafts

General Feedback

1. We consider there should be clarity on the scope and intent of the NES-F as it applies to natural wetlands (or parts of natural wetlands) that occur in the coastal marine area (CMA).

   We note that the new consenting pathways (urban development, quarries, mining, and fills) provide for those activities only in or around natural ***inland*** wetlands, whereas the other regulations apply to natural wetlands. We believe this adds further confusion to the scope and intent of the NES-F.

Consistency with National Policy Statement for Indigenous Biodiversity (NPS-IB)

2. Section 3.18 on Monitoring, the NPS-FM requires regional councils to establish monitoring methods that must include measures of mātauranga Māori. The draft NPS-IB requires a monitoring plan to be developed that establishes methods of monitoring that, to the extent possible and where tangata whenua agree, use scientific monitoring methods and mātauranga Māori and tikanga Māori monitoring methods equally. There is an opportunity to align these national approaches in this revision.

Amendment 1: Definition of 'natural wetland'

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

In particular, we welcome your feedback on this list of 'exotic pasture species', in particular commentary on any missing species, and whether the list would work when applied in your region.

3. The definition of natural wetland has exclusions for geothermal wetlands and wetlands in an area of pasture where the ground cover comprises more than 50% exotic pasture species. The intention of these exclusions is for the provisions of the NPS-FM and the NES-F not to apply to these wetlands. Our view is that irrespective of whether the provisions apply to them, these are 'natural' wetlands. Excluding them from the definition sends the wrong message and is not necessary to achieve the intention. We suggest the wording of the definition could be amended to indicate the natural wetlands that the provisions of the NPS-FM and the NES-F apply to, rather than excluding particular types of wetland that have formed naturally from the definition. However, we do acknowledge that deliberately constructed wetlands are not 'natural wetlands' and should be excluded from the definition.

4. We consider some wetlands will be excluded by clause (a) of the definition of a natural wetland that should not be.

   a) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland as part of giving effect to the effects management hierarchy; or

   The clause limits the exclusion to natural wetlands that were constructed or restored to manage effects of a consent and does not recognise natural wetlands created or restored for biodiversity purposes, or the requirements that the NPS-IB is looking to place on regional councils to address the condition of degraded wetlands and to restore natural wetland extent.

For clarity, we suggest amending clause (a) to ensure wetlands that are constructed for biodiversity purposes (not necessarily because of giving effect the effects management hierarchy) are not captured by the deliberately constructed wetland exclusion.

5. The method to calculate the percentage ground cover does not necessarily align with the exposure draft definition wording.

   In an attempt to accommodate situations where there are wetland trees and shrubs herbaceous layer dominated by exotic pasture species underneath, the proposed method for calculating the 50% pasture rule divides the percentage cover of exotic pasture species in the herbaceous layer by the total vegetation cover and multiplies by 100 to reflect the pasture species as a percentage of the total vegetation cover. The wording in the exposure draft refers to pasture species as contributing more than **50% of the ground cover**. It has been argued that this may be interpreted as the total ground cover from a bird's eye view, including the trees and shrub layers, but there is an ecological argument to be made that ground cover is more commonly viewed as the herbaceous layer alone. If this interpretation of ground cover being limited to the herbaceous layer were to be upheld by the courts, it would void the proposed method for calculating the 50% rule.

   We suggest that this be clarified in the NPS-FM to avoid costly legal arguments and potentially having to revise the method for calculating the 50% rule.

6. It is encouraging to see that wetlands that threatened species are being considered for exemption from the pasture exclusion, however, we consider further clarification is required.

   Wetland areas may be so transformed that they support threatened species not typical of wetland areas. It is therefore important that this be limited to threatened species typical of wetland areas as protection of areas as wetland would not benefit non-wetland species. We suggest, clarifying the reference to threatened species in the definition of a natural wetland to those threatened species ***that are typical of wetlands***.

7. The term 'contains' also needs clarity. Our difficulty is with highly mobile fauna, such as the Australasian bittern, that disperse through the landscape, stopping in some wetlands where they may be recorded but would not be considered resident.

   We consider that highly mobile fauna, that meet the definition of a threatened species, should be *resident* for a period, rather than *transitory,* to meet the requirement to 'contain' a threatened species. It is important that the resident status be confirmed and not just conferred from individual sightings that may be a decade or more old.

Amendment 3: New consent pathway for quarrying

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

8. We are very disappointed to see that quarrying has been provided for as a discretionary activity in the NES-F and is supported by clause 3.22 of the NPS-FM.
   Please see the comments for Amendment 6.

Amendment 4: New consent pathway for landfills and cleanfills

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

9. We are very disappointed to see that landfills and cleanfills have been provided for as a discretionary activity in the NES-F and are supported by clause 3.22 of the NPS-FM. Please see the comments for Amendment 6.

Amendment 5: New consent pathway for mining (minerals)

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

10. We are very disappointed to see that mining has been provided for as a discretionary activity in the NES-F and is supported by clause 3.22 of the NPS-FM. Please see the comments for Amendment 6.

Amendment 6: New consent pathway for activities necessary for urban development

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

11. We are very frustrated to see that urban development in natural wetlands has been provided for as a restricted discretionary activity in the NES-F, and as previously mentioned clause 3.22 of the NPS-FM constrains our ability to be more restrictive. We consider urban development in the Wellington Region to be the biggest threat to wetlands.

    While we acknowledge the need for urban development and that the effects of urban development are subject to the effects management hierarchy, we consider that the loss of wetlands in the Wellington Region has been so significant, that we must do all we can to avoid any further loss of these important ecosystems.

    The provisions in our pNRP have been through the rigorous Schedule 1 RMA process, including all appeals on the wetland provisions being resolved through mediation. The more restrictive provisions of the pNRP are, therefore, supported by our community and it is frustrating to have this position undermined at a national level.

    We consider clause 3.22 of the NPS-FM should be amended to provide the scope for regional plans to be more stringent on the type activities that can occur in natural wetlands.

Amendment 7: Include water storage in the definition of 'specified infrastructure'

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

12. We consider the proposed amendment will only provide for 'larger' water storage schemes as they need to meet the not only the functional need test, but also meet the test of national or regional benefit. Therefore, 'smaller' on farm dams for stock water are unlikely meet these tests.

Amendment 8: Include aquatic offset/compensation principles

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

Are these principles fit for purpose for aquatic offset/compensation? What weight should be given to these principles in the decision making by the consent authority?

13. We consider the weight given to the principles in clause 3.22(3)(b) needs to be stronger to ensure applicants apply (rather than have regard to) the principles when proposing aquatic offsetting or compensation. We suggest the weighting is consistent with Appendix 3 and 4 of the NPS-IB, where the principles must be complied with.

Amendment 9: Amend the 'restoration' provisions

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

14. Amendment 9B – We consider it is still unclear how the area 'affected' is calculated. Is the area based on the area of the canopy of these trees (which ties in with the proposed methodology to determine the pasture exclusion criteria for determining a natural wetland)? Or a polygon area around them all? Or simply the trunk area of each tree? Is it an annual limit or life of a project limit?

    At Greater Wellington we have in place some guidance for staff to ensure they are working within the permitted activity rule, making the following assumptions:

    - the limits applied to a temporal period (weed control operation per year)
    - the area calculated related to a distinct wetland unit e.g. landowner boundaries irrelevant
    - the area calculated was based on the area sprayed/controlled not searched given the purpose of the rule was to avoid bare soil/dead vegetation with different calculations used for different methods of control e.g. canopy area was used if no vegetation was underneath, or trunk area if vegetation underneath.

15. Amendment 9E - We consider there are unintended consequences of the area limit not applying to the clearance of non-indigenous vegetation where it is in accordance with a restoration plan (Regulation 38(5)(c)) that could result in the loss of wetland function and/or naturalness. There is no ability for the regional council to check or verify the restoration plan to ensure the activity is actually for restoration and therefore any compliance action would occur after potentially irreversible damage has been done. Additionally, amendment 9H removes the ability to charge for any review of a restoration plan.

    If Regulation 38(5)(c) is to remain in the amended NES-F, then we question why it is necessary to have an area restriction as a condition, given all of the exemptions from meeting that condition. In our submission on the proposed changes to the wetland regulations, we agreed in principle, that restoration and maintenance of a natural wetland should not be an arduous process. However, a permitted activity should only provide for activities where the scope of that activity is limited to no more than minor effects. We are concerned that an unchecked activity to clear more

than 500m^2 of non-indigenous vegetation, by any means (albeit in accordance with Regulation 55) could have significant adverse effects.

We recommend deleting regulation 38(5)(c) in its entirety.

Amendment 10: Clarify the take, use, dam, diversion, and discharge of water

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

16. We consider amendment 10B is likely to continue to have unintended consequences and capture 'discharges' through the 'use' of water such as for irrigation (not the taking, but using the water), watering a garden etc.

    To resolve this unintended consequence, we suggest the follow amendments could be made to Regulation 54

    The following activities are non-complying activities if they do not have another status under this subpart:

    (a) vegetation clearance within, or within a 10 m setback from, a natural wetland:

    (b) earthworks within, or within a 10 m setback from, a natural wetland:

    (c) the taking, ~~use~~, damming, or diversion of water within, or within a 100 m setback from, a natural wetland.

    (d) the use and discharge of water within, or within a 100 m setback from, a natural wetland if—

        (i) there is a hydrological connection between the discharge and the natural wetland; and

        (ii) there are likely to be adverse effects from the discharge on the hydrological functioning or the habitat or the biodiversity values of a natural wetland.

Technical amendments

17. River bed

    The rationale for this change was not described in the Overview of technical corrections and clarifications in the NPS-FM exposure draft. If the intent is to manage Section 13 of the RMA activities, then we consider the amendments achieve this purpose. However, it narrows the scope, particularly with regard to the loss of values.

18. DRP

    The technical amendments proposed to clause 3.13 state that the DIN and DRP outcomes derived under this clause should be treated as target attribute states. This now overlaps with the DRP Table 20 in Appendix 2B. A suggested solution is to remove Table 20 as the DRP outcomes derived under Clause 3.13 effectively replace the Table 20 attribute.

Attachment 2: Greater Wellington suggested wording changes to specific provisions

Provision or Section	Suggested wording amendments
NPS-FM **natural wetland** means a wetland (as defined in the Act) that is not: b) a deliberately constructed wetland, ~~constructed by artificial means (unless it was~~ other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland~~)~~ as part of giving effect to the effects management hierarchy; or c) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or d) a geothermal wetland; or e) a wetland that: (i)is within ~~any~~ an area of ~~improved~~ pasture ~~that, at the commencement date~~; and (ii) ~~is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling~~ has ground cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species (see clause 1.8)); and (iii) is not known to contain threatened species	**NPS-FM** **natural wetland** means a wetland (as defined in the Act) that is not: a) a deliberately constructed wetland, ~~constructed by artificial means (unless it was~~ other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland~~)~~ as part of giving effect to the effects management hierarchy; or b) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or c) a geothermal wetland; or d) a wetland that: (i)is within ~~any~~ an area of ~~improved~~ pasture ~~that, at the commencement date~~; and (ii) ~~is dominated by (that is more than 50% of) exotic pasture species and is subject to temporary rain-derived water pooling~~ has ground cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species (see clause 1.8)); and (iii) is not known to contain threatened species that are typical of wetlands

Provision or Section	Suggested wording amendments
3.22 Natural inland wetlands (1) Every regional council must include the following policy (or words to the same effect) in its regional plan~~(s):~~ The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where: (a) the loss of extent or values arises from activities for any of the following purposes: (i) the customary harvest of food or resources undertaken in accordance with tikanga Māori (ii) wetland maintenance, restoration, or biosecurity …. (c) the regional council is satisfied that: (i) the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and (ii) the activity occurs on land identified for urban development in an operative regional or district plan; and (iii) the activity does not occur on land that is zoned in a district plan as general rural, rural production, or rural lifestyle; and (iv) there is either no practicable alternative location for the activity, or every other practicable location would have	**3.22 Natural inland wetlands** (1) Every regional council must include the following policy (or words to the same effect) in its regional plan~~(s):~~ The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where: (a) the loss of extent or values arises from activities for any of the following purposes: (a) the customary harvest of food or resources undertaken in accordance with tikanga Māori (ii) wetland maintenance, restoration, or biosecurity …. (1A) Unless a regional council has chosen to adopt more stringent measures, as provided for in 3.1(2), every regional council must include the follow, unless it resolves to do otherwise: (a~~c~~) the regional council is satisfied that: i. the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and ii. the activity occurs on land identified for urban development in an operative regional or district plan; and iii. the activity does not occur on land that is zoned in a district plan as general rural, rural production, or rural lifestyle; and

Provision or Section	Suggested wording amendments
equal or greater adverse effects on a natural inland wetland; and (v) the effects of the activity are managed through applying the effects management hierarchy and, if aquatic offsetting or aquatic compensation is applied, the offsetting or compensation will be maintained and managed over time; or (d) the regional council is satisfied that: (i) the activity is for the purpose of expanding an existing, or developing a new, quarry for the extraction of aggregate; and (ii) extraction of the aggregate will provide significant national or regional benefits; and (iii) there is a functional need for the extraction to be done in that location; and (iv) the effects of the activity will be managed through applying the effects management hierarchy." (e) the regional council is satisfied that: (i) the activity is for the purpose of extracting any mineral in its natural state from the land; and (ii) extraction of the mineral will provide significant national or regional benefits; and (iii) there is a functional need for the activity to be done in that location; and (iv) the effects of the activity are managed through applying the effects management hierarchy; or (f) the regional council is satisfied that: (i) the activity is necessary for the purpose of expanding an existing, or developing a new, landfill or cleanfill; and	iv. there is either no practicable alternative location for the activity, or every other practicable location would have equal or greater adverse effects on a natural inland wetland; and v. the effects of the activity are managed through applying the effects management hierarchy and, if aquatic offsetting or aquatic compensation is applied, the offsetting or compensation will be maintained and managed over time; or (b~~d~~) the regional council is satisfied that: i. the activity is for the purpose of expanding an existing, or developing a new, quarry for the extraction of aggregate; and ii. extraction of the aggregate will provide significant national or regional benefits; and iii. there is a functional need for the extraction to be done in that location; and iv. the effects of the activity will be managed through applying the effects management hierarchy." (c~~e~~) the regional council is satisfied that: (i) the activity is for the purpose of extracting any mineral in its natural state from the land; and (ii) extraction of the mineral will provide significant national or regional benefits; and (iii) there is a functional need for the activity to be done in that location; and (iv) the effects of the activity are managed through applying the effects management hierarchy; or

Provision or Section	Suggested wording amendments
(ii) the new or expanded landfill or cleanfill will provide significant national or regional benefits; and= (iii) there is either no practicable alternative location, or every other practicable alternative location would have equal or greater adverse effects on a natural inland wetland; and (iv) the effects of the activity will be managed through applying the effects management hierarchy." (2) Subclause (3) applies to an application for a consent for an activity that: (a) is for a purpose that falls within any exception referred to in subclause (1)(a) to (f), other than the exception in paragraph (a)~~(i)(ii) to (vii) or (b) of the policy in subclause (1); and~~ (b) would result (directly or indirectly) in the loss of extent or values of a natural inland wetland. (3) Every regional council must make or change its regional plan~~(s)~~ to ensure that an application referred to in subclause (2) is not granted unless: (a) the council is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied to any loss of extent or values of the wetland (including cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of: ecosystem health, indigenous biodiversity,	(df) the regional council is satisfied that: i. the activity is necessary for the purpose of expanding an existing, or developing a new, landfill or cleanfill; and ii. the new or expanded landfill or cleanfill will provide significant national or regional benefits; and= iii. there is either no practicable alternative location, or every other practicable alternative location would have equal or greater adverse effects on a natural inland wetland; and iv. the effects of the activity will be managed through applying the effects management hierarchy." (2) Subclause (3) applies to an application for a consent for an activity that: (a) is for a purpose that falls within any exception referred to in subclause (1)(a) to (f), other than the exception in paragraph (a)~~(i)(ii) to (vii) or (b) of the policy in subclause (1); and~~ (b) would result (directly or indirectly) in the loss of extent or values of a natural inland wetland. (3) Every regional council must make or change its regional plan~~(s)~~ to ensure that an application referred to in subclause (2) is not granted unless: (a) the council is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied to any loss of extent or values of the wetland (including

Provision or Section	Suggested wording amendments
hydrological functioning, Māori freshwater values, and amenity values; and (b) the council is satisfied that, if aquatic offsetting or aquatic compensation is applied, the applicant has had regard to the principles in Appendix 6 or 7, as appropriate; and (c) any consent ~~is~~ granted is subject to: (i) conditions that apply the effects management hierarchy; and (ii) a condition requiring monitoring of the wetland at a scale commensurate with the risk of the loss of extent or values of the wetland.; and (iii) if the consent is granted in relation to urban development, the conditions specify who will monitor the condition of the wetland over time, and how.	cumulative effects and loss of potential value), particularly (without limitation) in relation to the values of: ecosystem health, indigenous biodiversity, hydrological functioning, Māori freshwater values, and amenity values; and (b) the council is satisfied that, if aquatic offsetting or aquatic compensation is applied, the applicant has ~~had regard to~~ complied with the principles in Appendix 6 or 7, ~~as appropriate~~; and (c) any consent ~~is~~ granted is subject to: i. conditions that apply the effects management hierarchy; and ii. a condition requiring monitoring of the wetland at a scale commensurate with the risk of the loss of extent or values of the wetland.; and iii. if the consent is granted in relation to urban development, the conditions specify who will monitor the condition of the wetland over time, and how.
NES -F Regulation 54 The following activities are non-complying activities if they do not have another status under this subpart: (a) vegetation clearance within, or within a 10 m setback from, a natural wetland:	**NES-F Regulation 54** The following activities are non-complying activities if they do not have another status under this subpart: (a) vegetation clearance within, or within a 10 m setback from, a natural wetland:

Provision or Section	Suggested wording amendments
(b) earthworks within, or within a 10 m setback from, a natural wetland: (c) the taking, damming, or diversion of water within, or within a 100 m setback from, a natural wetland. (d) the discharge of water within, or within a 100 m setback from, a natural wetland if— (i) there is a hydrological connection between the discharge and the natural wetland; and (ii) there are likely to be adverse effects from the discharge on the hydrological functioning or the habitat or the biodiversity values of a natural wetland.	(b) earthworks within, or within a 10 m setback from, a natural wetland: (c) the taking, ~~use~~, damming, or diversion of water within, or within a 100 m setback from, a natural wetland. (d) the use and discharge of water within, or within a 100 m setback from, a natural wetland if— (i) there is a hydrological connection between the discharge and the natural wetland; and (ii) there are likely to be adverse effects from the discharge on the hydrological functioning or the habitat or the biodiversity values of a natural wetland.

By email

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

7 October 2021

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: IWG@mfe.govt.nz

Tēnā koutou

Submission on Managing Intensive Winter Grazing Consultation

1. The Greater Wellington Regional Council wishes to make a submission on the proposed changes to the intensive winter grazing regulations.

2. This submission represents the view of Greater Wellington Regional Council. Our submission consists of this letter and Attachment 1, which provides detailed answers to the questions in the discussion document.

3. Intensive winter grazing activities can have significant adverse effects on receiving environments. We note that the winter grazing regulations are intended to manage these adverse effects by restricting these activities and mandating good practice. We recognise that increased awareness and a shift toward best practice is necessary, and that national regulation is one of a mix of measures to achieve this. We note that the regulations mostly take a pragmatic approach and do not require all sediment to be kept on land (e.g. in cases of large weather events).

4. We note that urgent water quality and animal welfare issues in areas outside Wellington were the main drivers for developing the intensive winter grazing regulations. Intensive winter grazing does occur in the Greater Wellington region. In the Proposed Natural Resources Plan for the Wellington region there are effects-based rules managing break feeding which require setbacks from surface water bodies and include on limits on effects. We have sought some changes to the proposed regulation amendments, specifically relating to pugging.

5. We do, however, consider the proposed amendments are not consistent with the direction provided by the National Policy Statement for Freshwater Management for two reasons:

    a. There is tension between the proposed permitted activity pathway and a limits-based regime, as the default conditions do not account for cumulative effects.

b. Te Mana o te Wai is missing in how the issue has been framed and how the amendments have been developed. This is inconsistent with Te Mana o te Wai's hierarchy of obligations. We expect leadership from the Government on demonstrating how Te Mana o te Wai should be given effect to in regulations, including consideration of the hierarchy of obligations.

5. We are broadly supportive of the shifts made in the proposed regulation changes, particularly the adoption of critical source areas and the emphasis on farm planning to facilitate effects-based, site-specific management of intensive winter grazing. We support this more flexible approach in the long term, where solutions to minimise the adverse effects of farming activities on freshwater can be tailored on-farm and within a catchment context.

6. However, we have concerns relating to the certainty and effectiveness of the revised default conditions as permitted activity conditions, without having yet seen the additional guidance that is promised. We consider that there is not yet enough certainty on what the freshwater farm planning system will look like, nor the additional guidance to be provided, to be entirely comfortable with the proposed amendments.

7. The default conditions determine compliance with the permitted activity pathway and set the acceptable level of adverse effects to be met by intensive winter grazing through freshwater farm planning and resource consents in the long term. The Government needs to ensure that these regulations provide sufficient certainty, are consistent with the wider policy setting of the Essential Freshwater Package and are aligned with the freshwater outcomes that are sought.

8. There remains a capacity issue for regional councils regarding the likely increased demand for resource consents if default conditions cannot be met. This is likely to be a short-term issue until freshwater farm planning is implemented.

Nāku iti nei

Daran Ponter
Chair
Greater Wellington Regional Council

Address for service:

Mika Zollner
Environmental Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T 021 226 7336
E mika.zollner@gw.govt.nz

Encl:
Attachment 1: Greater Wellington Regional Council responses to Intensive Winter Grazing discussion questions

Attachment 1: GWRC responses to intensive winter grazing discussion questions

Context for the proposed changes to the intensive winter grazing regulations

1. *Do you agree with our framing of the issue? If not, why not?*
2. *What other information should we consider?*
3. *Are there any other implementation issues with the current default conditions that have not been discussed above?*

We agree with some of the implementation issues that are discussed; specifically the difficulty with monitoring and enforcing, which we highlighted in our 2019 submission on Action for Healthy Waterways. We note that the intensive winter grazing regulations were developed in response to particularly urgent issues in areas outside the Wellington region, although intensive winter grazing is occurring here.

Te Mana o te Wai is missing from how intensive winter grazing activities are discussed. This makes these regulations and their context at odds with the remainder of the Essential Freshwater Package. It is also in conflict with the premise that any activity which impacts on water has Te Mana o te Wai obligations.

Te Mana o te Wai is the fundamental concept for freshwater management. Regional councils are required to ensure that freshwater is managed in a way that gives effect to Te Mana o te Wai. We consider the framework of Te Mana o te Wai to be aligned with our collaborative, community-led Whaitua process for freshwater. We expect leadership from the Government on how Te Mana o te Wai can be embedded into regulations and considered when assessing the implications of regulatory changes.

We consider that Te Mana o te Wai drives a catchment approach to freshwater management, which is demonstrated by the Whaitua processes occurring in the Wellington region. It also requires a step change in practices to put the health and well-being of waterbodies and freshwater ecosystems first. We note that a catchment approach and the hierarchy of obligations are missing from the proposed intensive winter grazing regulations, and advise that they should be embedded in all three potential pathways (permitted, freshwater farm planning and consents) for intensive winter grazing to occur.

The intention for the industry to steadily improve farm practices to minimise the adverse effects of intensive winter grazing, and reduce the intensity of this activity where possible (such as the commitment made by Pāmu) should be central in the context for these regulations, to give effect to the Te Mana o te Wai hierarchy of obligations. We do not consider a commitment to the freshwater outcomes sought through other aspects of the Essential Freshwater Package to be particularly evident in how this high-risk activity has been framed.

We also observe that while animal welfare is mentioned very briefly, it is not highlighted as a key concern with intensive winter grazing activities which could be indirectly addressed through these regulations.

Amendments to the default conditions

4. *Do you think these proposed changes are the right way to manage intensive winter grazing? If not, why not?*

5. *Do you think these proposed changes would improve the workability of the permitted activity standards? If not, why not? (Please be specific about which provisions you are commenting on when you are responding.)*
6. *Do you think these proposed changes would manage adverse environmental effects of intensive winter grazing effectively? If not, why not?*

We are broadly supportive of the shifts made in the proposed regulation changes, particularly the adoption of critical source areas and the emphasis on freshwater farm planning in the long term. We consider the key outcomes of these regulations to be education and shifts toward good farm practices which minimise the adverse effects of farming. Greater Wellington supports the establishment of catchment groups as a way to facilitate adoption of good farming practices, and this is leading to positive outcomes in the region.

We see an effects-based and site-specific approach to managing intensive winter grazing as most effective, which we expressed in our 2019 submission on Action for Healthy Waterways. The Proposed Natural Resources Plan for the Wellington region contains effects-based rules controlling break feeding, which include setbacks from, and limits on discharges to, surface water bodies.

The discussion document proposes amendments to the default conditions. These default conditions determine compliance with the permitted activity pathway and define the acceptable level of effects of intensive winter grazing activities for the freshwater farm planning pathway. Specific comments on proposed changes are included in Table 1, where we seek amendment to the proposed pugging regulation in particular. In addition to our detailed comments in Table 1 we wish to highlight three general concerns:

1. **Subjectivity in permitted activity conditions**

The proposed amendments introduce subjectivity and discretion into the conditions for permitted activity status through the use of 'practicable' and 'reasonably'. This is inherently poor planning practice. We recognise that this shift toward a narrative approach provides more flexibility for this activity to be managed at an on-farm basis and could reduce the likelihood of unintended consequences through the regulations. We are also able to enforce these proposed amendments. However if this subjectivity is not managed adequately, the proposed amendments could make the regulations less workable.

Allowing for discretion in the default conditions means that the winter grazing regulations will heavily rely on supporting guidance to be provided by the Government. To avoid confusion, this supporting guidance will need to be timely and provide certainty on what is required to meet the default conditions. It will need to be tested with councils and industry to ensure the regulations will achieve the desired outcomes. If not, the proposed amendments to the default conditions could lead to inconsistent enforcement and insufficient lifts in farming practices through the authorisation of business as usual. For such a high-risk activity this may have severe consequences.

2. **Cumulative effects and freshwater limits**

The default conditions are currently missing a mechanism to consider the cumulative effects of intensive winter grazing activities in a catchment. While this may be managed through resource consents or freshwater farm planning in the long term, in the short term the permitted activity pathway is therefore lacking consideration of any catchment-based limits. The effect of this is that the amended regulations are inconsistent with the wider policy setting of the National Policy Statement

for Freshwater Management (NPS-FM), which requires a limits regime to achieve target attribute states.

We highlight that the recommendations developed through the collaborative Whaitua processes in the Wellington region demonstrate the need to take a catchment approach to such issues, which can then account for cumulative effects. The proposed permitted activity pathway does not currently take this approach and is missing consideration of Te Mana o te Wai.

We also note that these proposed default conditions are setting the benchmark for freshwater farm planning through which intensive winter grazing activities will continue to occur. The discussion document also indicates that these conditions represent the level of adverse effects which must then be met through a resource consent. The default conditions should therefore give effect to Te Mana o te Wai and be aligned to the long-term outcomes that are sought by other aspects of the Essential Freshwater package. Ensuring clarity on the level of adverse effects that the default conditions are permitting, and assuring these are appropriate for a limits regime, is essential.

3. Resource consents

Despite the proposed amendments there are still likely to be resource consents required in the short term for those farmers that still cannot meet the default conditions pathway, which will pose a capacity challenge for regional councils. We see this as being a short-term issue until freshwater farm planning is fully implemented. In amending these regulations, we do not consider that the stringency of the permitted activity pathway for this high-risk activity should be loosened for the purpose of reducing the need for resource consents.

In saying this, we note that at this stage there also remains uncertainty around how freshwater farm plans will be written, certified, audited and updated, including how compliance with national regulations will be demonstrated. Until the freshwater farm planning regulations are released following consultation it is therefore difficult to comment on the proposed pathways for intensive winter grazing, and evaluate whether the proposed regulatory system will be effective.

Table 1 – Comments on specific proposed amendments to default conditions

Proposed change	Comments	Amendments/changes sought
Slope threshold - Reg 26(4)(b)	We support the retention of the 10 degree slope limit, as we consider the potential adverse effects of an increase in the slope threshold to be too high for a permitted activity pathway. We note that the definition of a maximum allowable slope is not necessarily clearer and more practical, without indicators on where in a paddock this should be measured.	Suggest ensuring clarity on the definition and measurement of maximum allowable slope.
Pugging – Reg 26(4)(c)	We agree that the numeric limits on the depth and extent of pugging in the original regulations may have been difficult to monitor and enforce. However, we observe that the shift to "*take reasonably practicable steps to manage the effects on freshwater from pugging"* is a significant step away from	Re-word to mandate reduction of pugging and effects of pugging: "…take reasonably practicable steps to ~~manage~~ minimise pugging and minimise the effects on freshwater from pugging."

	where the regulations were. The focus is no longer on minimising pugging or its effects. The stringency of control on pugging has been markedly reduced, with room for interpretation on what 'managing effects' would involve. This is unlikely to lead to the desired lift in farm practices, and has no limit on the level of adverse effects that freshwater farm plans and resource consents must then meet. Another consequence of this is that the animal welfare effects of pugging could also go un-managed. We also note that inclusion of the words 'reasonable' and 'practicable' provides for subjectivity and lacks certainty for a permitted activity condition. While this is likely to be more adaptable, there is heavy reliance on guidance for farmers to know whether they meet this, and for regulators to consistently enforce on it.	We consider that amending this wording ensures steps are taken to reduce both animal welfare and soil damage as well as effects on freshwater. This will encourage assessment of paddocks for their suitability for intensive winter grazing when preparing for these activities.
Buffer zone - Reg 26(4)(d)	We note that sub-surface drains still drain to waterbodies and have the potential to carry contaminant loads. However, we agree that this could be managed through critical source areas, on the condition that the definition of critical source areas facilitates the level of protection necessary to mitigate contaminant pathways.	Ensure the definition of critical source areas facilitates the level of protection necessary to mitigate contaminant pathways.
Re-sowing - Reg 26(4)(e)	We support the removal of a specific re-sowing date, and consider this to be best managed locally. Regional councils could determine timeframes for when different catchments would be expected to re-sow based on weather and soil conditions, to assist with monitoring and enforcement.	Suggest specifying in the regulations that the time that bare ground is exposed to weather should be minimised, rather than stating this in guidance only.
Critical source areas	We support the adoption of critical source areas, as this moves toward an effects-based approach. The definition that is used in Appendix 1 of the freshwater farm planning discussion document, and referenced in this discussion document, is a minimum definition. There is a risk that if the regulated definition of critical source areas is not carefully considered and tested, it will capture many small areas on a paddock which do not represent potential contaminant pathways, or will miss key contaminant pathways.	The critical factors feeding into determining the extent of critical source areas are soil conditions, rainfall, surrounding slopes and the activities undertaken which affect contaminant loads, such as grazing density, types of animals etc. We would support a widening of the definition to take into account the different factors affecting critical source areas. This would reduce subjectivity in how the extent of critical source areas is determined.

		It would also indicate what might be necessary to appropriately mitigate contaminant pathways, including consideration of sediment control measures as well as protection from grazing and cultivation. This definition should be consistent with that in the freshwater farm plan regulations.

Implementation timeframes

7. *Do you have any comments on implementation timeframes and whether a further deferral would be necessary?*

We consider the implementation timeframe to be reasonable, and that further deferral should be avoided. We are disappointed that these regulations have been deferred for two winters since the introduction of the NES-F.

There remains a significant council capacity issue with the likely increased demand for consents, and there is still uncertainty around the timing and mechanics of the freshwater farm planning system. Regional councils require additional resourcing to assist with monitoring and enforcement requirements.

The proposed regulation changes depend significantly on supporting guidance. If the Government decides to adopt these proposed amendments, we recommend that this guidance is timely and thoroughly tested with the industry and regional councils to ensure it achieves the intended outcomes.

By email

7 October 2021

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
www.gw.govt.nz

Ministry for the Environment
PO Box 10362
Wellington 6143

Submitted to: freshwaterfarmplans@mfe.govt.nz

Tēnā koutou

Submission on Freshwater Farm Plan and Stock Exclusion Low Slope Map Consultation

1. The Greater Wellington Regional Council wishes to make a submission on the following discussion documents:

    a. Freshwater farm plan regulations
    b. Stock exclusion regulations: Proposed changes to the low slope map

2. This submission represents the view of Greater Wellington Regional Council. However, we are also supportive of the joint regional council submission. Our submission consists of this letter, which sets out our overall position on the freshwater farm planning system, and two attachments, which provide detailed answers to the questions in each discussion document.

3. We recognise that the Government's Essential Freshwater package aims to improve freshwater quality and ecosystems in both urban and rural areas across Aotearoa New Zealand, and that freshwater farm plans are an important component of the package.

4. We are currently working on regional plan changes to implement the National Policy Statement for Freshwater Management, and undertaking collaborative Whaitua processes to identify priorities, objectives and actions (regulatory and non-regulatory) for each Freshwater Management Unit in five different catchments. We strongly support the need for a catchment-scale approach to freshwater management. Freshwater farm planning needs to have a catchment-scale outlook and integrate into catchment action planning.

5. We support the need to improve freshwater outcomes by mitigating the adverse effects associated with farming activities, and acknowledge that regulations are inevitable. The regulations need to recognise and complement non-regulatory actions to achieve

catchment outcomes. We are concerned that taking a regulatory approach could undermine the voluntary work that has already occurred if it is not implemented effectively.

6. We appreciate that the Government has attempted to make the freshwater farm plan system flexible so that farmers can take tailored, site-specific actions to respond to the priorities and objectives in their catchment. We are generally supportive of this approach.

7. However, we are concerned that the overall system will be costly to run – both for farmers in developing and maintaining the farm plan, and for compliance and enforcement of the farm planning system. In addition, it may not achieve the desired environmental outcomes to justify these costs, as farmers will be spending time and money on meeting regulatory requirements instead of taking the actions that will actually improve environmental outcomes.

8. One way to minimise the administrative costs for farmers would be for the Government to provide certification and audit on a cost-recovered basis, similar to the Ministry for Primary Industries' export certification service at meat-works around the country. This would have the added benefit of addressing any conflicts of interest from industry certifiers, who are likely to be advising farmers on a range of matters. An alternative way to manage costs could be to control fees that can be charged for certification and audit services to ensure that a profit-driven industry does not inflate costs for farmers. Systems for cost transparency should also be considered.

9. We consider that there needs to be a clear transitional pathway for incorporating existing farm plans, voluntary activities and industry assurance programmes into the freshwater farm plan process, so that efforts already taken or underway are acknowledged and not duplicated. The transitional pathway will be different for each region, depending on the current state of farm planning. We believe there should also be mechanisms for recognising farmers that have already taken steps to address freshwater issues through non-regulatory actions.

10. Freshwater farm planning should be led by catchment communities wherever possible, to align with existing catchment groups and National Policy Statement for Freshwater Management regional planning processes such as our Whaitua programmes. This will move toward collective accountabilities for environmental improvements and create more meaningful outcomes. We believe potential options for taking account of catchment-scale interventions in place of farm-scale actions should be considered. To facilitate this there will need to be a coordinated and integrated approach to the implementation of freshwater farm planning from industry, landowners, regulators and mana whenua in each catchment.

11. Finally, it is essential and fundamental for mana whenua to be active partners in the design and implementation of the freshwater farm plan system, and that Te Mana o te Wai is embedded throughout the regulations. Council supports the approach for mana whenua objectives, values, indicators and strategies to be communicated to farm planners at a catchment or FMU level. The capacity and capability of mana whenua

to engage with the freshwater farm planning system nationally, regionally and locally needs to be enabled as early as possible.

Nāku iti nei

Daran Ponter
Chair
Greater Wellington Regional Council

Address for service:

Mika Zollner
Environmental Policy Advisor
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T 021 226 7336
E mika.zollner@gw.govt.nz

Encl:

- Attachment 1: Greater Wellington Regional Council responses to Freshwater Farm Plan discussion questions
- Attachment 2: Greater Wellington Regional Council responses to Stock Exclusion Revised Low-slope Map discussion questions

Office of the Chairperson
100 Cuba Street
Wellington
T 04 384 5708
www.gw.govt.nz

By email

24 November 2021

Emissions reduction plan consultation
Ministry for the Environment
PO Box 10362
Wellington 6143

Email to: climateconsultation2021@mfe.govt.nz

Tēnā koutou

Submission on Te hau mārohi ki anamata: Transitioning to a low-emissions and climate-resilient future discussion document

The Wellington Regional Transport Committee (RTC) thanks the Ministry for the Environment for leading work on the Emissions Reduction Plan discussion document, and for the opportunity to make a submission. We also acknowledge the contribution the Ministry of Transport has made to the Transport section.

We welcome the suite of initiatives proposed to reduce transport emissions. At the regional and local level, we believe reducing demand and enabling the accelerated delivery of mode shift activities is the most significant and beneficial approach. We see improving the fleet as a secondary and longer-term focus where appropriate alternatives are not available or practicable. There are a number of areas however, where we need action from central government to facilitate systems level change to enable this to happen, particularly with the urgency that is required in a crisis. We note for these significant changes to have greatest impact, the current levels of maintenance and operations must be sustained.

Through the recently adopted Wellington Regional Land Transport Plan 2021 (RLTP) the RTC – a partnership of all local councils in the region, Waka Kotahi and KiwiRail – have agreed to target a reduction in the region's land transport emissions of 35%, and a 40% increase of public transport and active modes share by 2030. We have collectively agreed policies to support this direction and have identified and prioritised a programme of activities to implement these targets and other important transport outcomes like safety and resilience.

In the recently released National Land Transport Programme (NLTP), 92% of the region's bid was included. This is much welcomed support for our programme and will go a long way in aiding our emission reduction

and mode shift targets. However, significant obstacles remain for us, and our RLTP partners, in playing our part to achieve a just transition to a low-carbon transport sector.

In our view, the priority areas to enable effective action are as follows:

- Establish adequate and sustainable funding sources to support the scale of Government's emission reduction ambitions
- Reform the transport investment decision making and funding approval settings and processes
- Remove regulatory barriers to delivery
- Provide the tools and partnerships needed to re-shape our cities and towns and change the way we travel
- Develop nationally consistent and robust tools to measure and monitor emission reduction at the national, regional, local and project level
- Build social licence for change.

Expanding on the points above, current issues and recommendations are noted below:

- **Establish adequate and sustainable funding sources to support the scale of Government's emission reduction ambitions**

  We need greater certainty of funding to deliver on key public transport and urban development programmes. The National Land Transport Fund is already strained and is inadequate to facilitate the transformation required over the next decade. We understand that the Ministry of Transport has commenced work on medium-term revenue requirements and agree that alternative funding sources must be identified with urgency. We would like to note the importance of the continuation of essential maintenance and renewals work and any future funding initiatives should be in addition to these requirements.

- **Reform the transport investment decision making and funding approval settings and processes**

  Current business case and approval processes to unlock transport funding are long, cumbersome and expensive. They are not designed for addressing a climate emergency. There is considerable opportunity for streamlining the processes without compromising on investment assurance and value for money objectives, particularly for climate reduction and mode shift 'no-brainers' like bus priority, and walking and cycling improvements. This activity, plus public transport improvements and active-mode facilities, urgently need processes that accelerate delivery and free up resources for implementation. The acceleration of bus priority improvements in Wellington City has been considerably stalled. Both Greater Wellington Regional Council and Wellington City Council adopted the Bus Priority Action Plan in December 2019 but with a change in business case process and a wider multi-modal lens required, two years later we are just now able to proceed with further detailed corridor planning. This is not supporting the rhetoric that we must act now.

- **Remove regulatory barriers to delivery**

  Issues such as overlapping responsibilities between public transport authorities and road controlling authorities and lengthy traffic resolution processes create unnecessary obstacles to getting things

done. Repetitive and drawn out consultation requirements also add to delays and cost money that could be better spend on improvements themselves. We would like you to work with us to identify and remedy these barriers.

- **Provide the tools and partnerships needed to re-shape our cities and towns and change the way we travel**

  We welcome regional spatial strategies and look forward to working with you on developing these. However, we recognise the difference between metropolitan centres, provincial centres, towns, and rural areas. Different solutions will be required if all are to reduce their carbon emissions beyond those being deployed in the metropolitan areas. We would welcome the opportunity to work with you further on these tools and partnerships, for example Resource Management Act reform, congestion charging and other pricing options.

- **Develop nationally consistent and robust tools to measure and monitor emission reduction at the national, regional, local and project level**

  Assessing the carbon emission reduction benefits of regional programmes, transport projects, and urban intensification has been a major challenge in Wellington, nationally, and internationally. A nationally consistent approach would reduce churn and give assurance to government around progress towards reducing our transport emissions. While the factors applied might be at different levels, the framework for analysing major transport and urban transformation projects should align.

- **Build social licence for change**

  Lack of community support can be a significant barrier for us. We need support at the national level to give people confidence in a just transition, show the benefits of change, and inspire communities to embrace both systems change and individual actions, noting the different approaches and demands that will be placed on urban and rural residents to reduce emissions. Smaller scale 'quick wins' are an opportunity to demonstrate action and build trust locally. Pilots and trials are a good way to introduce changes; they invite more direct community feedback and provide a better opportunity to take them with us. An added benefit is the quicker, less bureaucratic access to funding. Better funding and support for behaviour change programmes at the local and regional level are critical for enabling behaviour change within communities.

In the Emissions Reduction Plan, we would like to see primary emphasis be given to achieving better travel demand management, including reducing the need for people and goods to travel, and a shift to more sustainable transport modes, over rapid adoption of low-emissions vehicles and fuels in the short and intermediate term, while we continue to progress the urban form changes to our cities and regions that will deliver reductions for the long term. Reducing the need to travel and a shift to more sustainable modes of transport has benefits over a sole focus on emissions reduction and decarbonising the vehicle fleet. These benefits include equity, safety and health benefits, creating more liveable places, and land and resource efficiency. Mode shift also delivers on other government priorities such as those set out in the Government Policy Statement on Housing and Urban Development and Road to Zero Strategy.

Further considerations for the Emissions Reduction Plan include:

- Regarding the proposal to **implement Mode Shift Plans**. The Wellington Region Mode Shift Plan, developed by Waka Kotahi, sits outside the legislative framework and applied a mode-shift lens to collate

projects that were already identified through other planning processes. With regional mode shift targets, policies and activities included in our recently adopted RLTP 2021, updating the Mode Shift Plan in its current form would only duplicate this. However, if the Mode Shift Plan was re-shaped as an action plan, focused on co-ordinated implementation and facilitated fast-tracking of funding allocation and approval, there is potential for it to be a useful tool in accelerating delivery. We would expect the Plan to identify the optimisation of current infrastructure and targeted delivery of 'quick wins', with an integrated view of the long-term significant changes that are underway. We would welcome the opportunity to work with Waka Kotahi on refreshing Wellington Region's Mode Shift Plan.

- We support **advancement of the National Freight Strategy**. The road freight industry offers significant potential for carbon reduction and greater resilience through mode shift away from road and decarbonisation. Acceleration of the Rail Plan and early adoption of coastal shipping are essential to provide cost effective and attractive alternatives to long-haul freight. Market and regulatory reform is required, however, to provide certainty for operators and to incentivise change. In local and regional markets, emphasis should be given to decarbonising the local delivery fleets and where appropriate changing delivery patterns and modes to ensure greater overall energy efficiency.
- The move away from fossil fuels is underpinned by **renewable energy supplies**. Significant investment in generating and transmission capability will be required to support this shift. Evidence of the current market's ability to deliver this step change is equivocal. We support work to better estimate the requirements through to 2050 and ensure that the market is incentivised to invest in long-term capacity.

The RTC welcomes further discussion on any point raised in this submission and looks forward to seeing this progress to New Zealand's first Emissions Reduction Plan.

Yours sincerely

Adrienne Staples
Chair
Wellington Regional Transport Committee

For further discussion on the specifics of this submission, please contact: **Grant.Fletcher@gw.govt.nz**

Accelerating renewable energy and energy efficiency: Greater Wellington Regional Council submission

Responses to the online survey

Free-text summary of submission

Additional comments

200. Do you have any additional feedback?

Greater Wellington Regional Council supports the ambitions of the discussion document to encourage energy efficiency and the uptake of renewable fuels in industry, and to accelerate renewable electricity generation and infrastructure. Achieving these goals will be critical to our success in delivering urgent greenhouse gas emissions reductions across Aotearoa, and aligns with the path that the council is on towards becoming a net zero emissions organisation by 2030.

We do however want to reemphasise points made under section 7 of this submission, that should the NPSREG be amended, there is a need to avoid creating an imbalance between the easing of restrictions to accelerate renewable electricity with the requirements of other national planning instruments. In particular an amended regulation must not result in perverse outcomes for the wider environment and must consider the objectives of the RMA reforms underway now, including those for freshwater and indigenous biodiversity management.

Part A: Encouraging energy efficiency and the uptake of renewable fuels in industry

Section 5: Boosting investment in energy efficiency and renewable energy technologies

67. Do you agree that complementary measures to the New Zealand Emissions Trading Scheme (NZ-ETS) should be considered to accelerate the uptake of cost-effective clean energy projects?

Agree

68. Would you favour regulation, financial incentives, or both?

Given the complexity of the barriers to investment in energy efficiency and renewable energy technologies, it is likely that an incentive based approach will be needed to drive innovation and achieve a significant improvement in energy efficiency.

For example, the ETS alone is unlikely to significantly improve the poor 'wire to water' energy efficiency of the three-waters infrastructure because the cost of power is not significant enough to overcome the barriers. Factors contributing to the industry maintaining the status quo include a long-life high-cost asset base, engineering design standards that are difficult to change, slow development of new technologies by industry, often poor accountability framework to improve efficiency, and limited awareness of the extent of the problem. It is estimated that as much as 2.8PJ of energy is wasted in the three-

waters sector every year in NZ (based on 40% of the approx. 7PJ p.a. total shown in the National Performance Review 2017-18 by Water New Zealand).

Part B relates to renewable electricity generation. Please indicate which sections, if any, you would like to provide feedback on.

Section 7: Enabling renewables uptake under the Resource Management Act 1991

78. Do you consider that the current NPSREG gives sufficient weight and direction to the importance of renewable energy?

We support the recommendation that, if the NPSREG is amended, stronger direction is provided on how to weigh renewable energy generation against potentially competing values under the RMA. This would need careful consideration to avoid creating an imbalance between the NPSREG and other national planning instruments.

81. How should the NPSREG address the balancing of local environmental effects and the national benefits of renewable energy development in RMA decisions?

Any further direction should give clarity around whether all (e.g. regardless of scale), or which, renewable energy projects are to be considered nationally significant in order to achieve climate targets etc.

83. What are your views on the interaction and relative priority of the NPSREG with other existing or pending national direction instruments?

The implications of amending the NPSREG or developing a new NES need to be carefully considered against the stated objectives of other existing NPS's developed by Government and their interactions fully understood and intended. Ultimately, the suite of NPS's need to be consistent and balanced - as identified on page 60 of the discussion document.

84. What objectives or policies could be included in the NPSREG regarding councils' role in locating and planning strategically for renewable energy resources?

Further consideration is needed regarding whether it should be the responsibility of Councils to identify potential areas, and no-go areas, for renewable energy resources. Councils are not typically resourced with this type of expertise. However, some of this identification work - particularly no-go areas - could occur as part of spatial planning for our region. Having these areas identified in a spatial plan as opposed to a regional or district plan may be more appropriate given the difficulties and time involved to make changes to district or regional plans.

87. What specific policies could be included in the NPSREG for small-scale renewable energy projects?

We agree that there may be benefits to having separate policies for nationally significant infrastructure and others for small-scale projects. For example, nationally significant projects could get stronger, more direct support in the NPSREG while acknowledging local and cumulative benefits of small-scale renewable projects.

103. Are there opportunities for non-statutory spatial planning techniques to help identify suitable areas for renewables development (or no go areas)?

Within the Wellington region, the use of spatial planning is currently providing an opportunity for the region to think collectively about the long-term energy needs of the region, including demand and security of supply, in the context of our wider well-being goals, such as equitable access, resiliency of the region and environmental outcomes.

The main purpose around current spatial planning is in the development of housing and supporting infrastructure requirements, of which energy is a key aspect. Our spatial planning exercise will identify the need for more (or different) energy requirements and also no-go areas within the region where no development (including renewable energy) should go.

The identification of specific pieces or areas of land for renewable energy i.e. wind farms, would require a much more detailed analysis that will probably not be undertaken during this piece of work but could be developed from the spatial planning work.

Section 8: Supporting renewable electricity generation investment

108. Do you agree there is a role for government to provide information, facilitate match-making and/or assume some financial risk for PPAs?

Agree (information)
Agree (facilitate)
Agree (assume financial risk)

109 Would support for PPAs effectively encourage electrification?

Yes

110. Would support for PPAs effectively encourage electrification and new renewable generation investment?

Yes

111. How could any potential mismatch between generation and demand profiles be managed by the Platform and/or counterparties?

Ideally the deals brokered would be PPA plus some contingency hedges and recourse to the spot market, even if the latter is non-renewable.

114. What are your views on State sector-led PPAs?

This would allow councils to leverage their long term investments in water infrastructure to directly support development of renewable energy generation. At the moment there are very limited options for purchase of certified 100% renewable energy.

121. Do you consider the development of the demand response (DR) market to be a priority for the energy sector?

Yes, this is a priority, but possibly lower priority than other government interventions. Demand response approaches can reduce demand for thermal generators and help address the intermittency problem of renewables. However, by itself it can't encourage electrification or more renewables.

122. Do you think that DR could help to manage existing or potential electricity sector issues?

Yes

123. What are the key features of demand response markets?

There are potential benefits to developing the demand response market. Demand Response reduces network peaks which helps the supply side, and provides revenue and other benefits to improve demand side resilience (e.g. regularly operating standby generators under load improves confidence the equipment will work in an emergency). There are also some issues with intermittency and electrification that may be addressed, but not inter-seasonal energy storage.

125. Which features of a demand response market would enable the uptake of distributed energy resources?

Uptake needs to be prompted. It could simply be mandatory for certain loads (e.g. EV chargers) to achieve greatest market penetration. Financial reward is also key but the impact on the consumer's carbon emissions from knocking out thermal generating plants has been overlooked. Ideally the consumers voluntarily participating in demand response should get some credit in their organisational carbon accounts for helping avoid use of thermal generators at the peak (i.e. they get to use a unique emissions factor). If demand response participation was mandatory then this wouldn't be necessary.

126. What types of demand response services should be enabled as a priority??

Heat pumps, heating swimming pools and AC EV charging. DC 'fast' EV charging rates (e.g. at public chargers) could also be moderated but not switched off.

128. Would energy efficiency obligations effectively deliver increased investment in energy efficient technologies across the economy?

It worked well in the UK (through the EEC and CERT schemes that ran in the 1990's-2000's). However, any such scheme would need to demonstrate additionality since there is a risk that savings from energy efficiency work is counted which would have happened anyway.

130. If progressed, what types of energy efficiency measures and technologies should be considered in order to meet retailer/distributor obligations?

Insulation, LEDs, heat pumps

131. Should these be targeted at certain consumer groups?

There could be a different approaches for different groups, for example cheaper options for those on lower incomes.

132. Do you support the proposal to require electricity retailers and/or distributors to meet energy efficiency targets?

Yes

133. Which entities would most effectively achieve energy savings?

Retailers would likely be more effective than distributors. However, they would need to focus on getting customers over the 'too good to be true' factor, which was an issue in the UK during their similar schemes that offered energy supplier subsidised home energy saving measures (EEC and CERT).

136. What do you perceive to be the major benefits to developing offshore wind assets in New Zealand?

The major benefits would come from coupling offshore wind development with the production of hydrogen and/or ammonia for direct domestic use, export and inter-seasonal energy (electricity) storage, as otherwise the lack of diversity of such a large chunk of generation capacity coming online is likely to have adverse economic effects.

143. Should RPS requirements apply to all retailers and/or major electricity users?

There are potential benefits to requirements applying to all energy users being subject to the requirement, including those not buying electricity through a retailer (thereby outsourcing the task of obtaining energy certificates to them).

146. Would a government backed certification scheme support your corporate strategy and export credentials?

Yes.

147. What types of renewable projects should be eligible for renewable electricity certificates?

Any built after a given date e.g. now. Perhaps the certificates could specify if they are from a 'new' or 'legacy' generation plant. 'Legacy' energy certificates would allow the holder to say they are supplied with renewable electricity, but perhaps should not be able to be used to claim they have lower carbon emissions than that calculated using the grid average (excluding the renewables classed as 'new').

153. Do you support the managed phase down of baseload thermal electricity generation?

Yes.

154. Would a strategic reserve mechanism adequately address supply security and reduce emissions affordably during a transition to higher levels of renewable electricity generation?

Probably would.

155. Under what market conditions should thermal baseload held in a strategic reserve be used?

There should be trigger points for being allowed to operate, e.g. below a certain storage level or above a certain percentage of total available grid capacity used.

156. For example, would you support requiring thermal baseload assets to operate as peaking plants or during dry winters?

Yes

157. What is the best way to meet resource adequacy needs as we transition away from fossil fuelled electricity generation and towards a system dominated by renewables?

Investment in energy storage (e.g. by government) and demand side management.

158. Do you have any views regarding the above options to encourage renewable electricity generation investment that we considered, but are not proposing to investigate further?

It may be beneficial to perform a planned phase out of generation plants based on regulated emissions limits per kWh (excluding peaking plants and strategic reserve).

Section 9: Facilitating local and community engagement in renewable energy and energy efficiency

160. What types of community energy project are most relevant in the New Zealand context?

Onshore wind energy (utility-scale turbines) can offer the best returns but solar is easier to implement.

161. What are the key benefits of a focus on community energy?

- Bringing more renewable energy generation onstream
- Community dividends

162. What are the key downsides/risks of a focus on community energy?

- Community buy-in will not necessarily prevent objections/RMA appeals
- To be 'community owned' in practice means project needs to have its financial benefits spread equitably to local community, not just a few local investors. Assets need to be owned by councils, community trusts, possibly social enterprises, to do this.

Greater Wellington Draft Transport Emissions Action Plan Submission

Title: Draft Transport Emissions Action Plan
Feedback from: Regional Transport / Strategy Group / Public Transport

General /Overall comments

1.	Transport pricing will be most effective and acceptable where good alternatives to driving private vehicles already exist, or can be planned for. In rural and lower income areas, which cannot be effectively served by the traditional bus and train public transport, it would be inequitable to "push" transport pricing. Unless, for example, accessible on-demand public transport was available in those areas and communities.
2.	New Zealand emissions testing regime is significantly less stringent than many parts of the world. Improving emissions vehicle standards could introduce costs, but has the potential to reduce harmful emissions to everyone else. Our purchase prices tend to be lower than other nations, and part of the reason for this is that we have not externalised the cost of emissions or required their reduction. The nation with the lowest fuel emissions standards is an attractive market for vehicles that can't be sold in locations with more rigorous standards – thus receiving a disproportionate share of high emitting vehicles.
3.	Parking pricing is one option (albeit limited where private parking is ubiquitous), parking supply is another. The new National Policy Statement for Land use removes consent requirements for parking – this may free up a lot of urban land for further development, as well as reducing parking supply and potentially resulting in a shift to lower-carbon travel modes. NZ also has a really unusual habit of locking up road space with on street parking even on major roads. One carpark prevents 900 vehicles per hour, or a bus or cycle lane. We can easily free up road space by removing curb side parking. This can reduce congestion / side friction / people circling looking for carparks, while freeing up space for low Carbon travel modes.
4.	GWRC have undertaken some interesting research comparing Carbon Footprint by mode of travel. Electric bus/rail can be up to 21 times more carbon efficient, but this difference is not yet priced into the transport system.
5.	The TEAP document focuses almost exclusively on price controls, rather than interventions to reduce Carbon – presumably these will be covered in later discussion documents? Also, the document itself does not refer to identifying/externalising/educating on the cost of emissions and how these compare between vehicles/modes of transport
6.	The document discusses car ownership or multiple car ownership at length. However, in some European urban areas car ownership can be quite high, without that translating into vehicle dependency if other options are available. I.e. people can commute to work on high quality public transport, but drive on weekends. Interventions that limit household access to vehicles may create hardships without any serious impact on mileage.

7.	There will need to be further consideration of the interaction between existing Fuel Excise Duty and potential expansion of the distance-based road user charge system. Fuel Excise Duty is one means of pricing the Carbon cost of the fuel purchased, which might be lost in a fully GNSS/Locational based charging system. Presumably, if EV uptake grows over the next 20 years, we may need to implement a dual system of distance based RUC + Excise (EVs have a low carbon footprint, but still contribute to congestion, road wear & tear, etc).

Page 2: *(Specific Feedback)*
Heading

Section	Page No.	Heading	Existing text (copy & paste or excerpt)	Suggested change	Rationale / notes
Transport pricing, financial incentives and regulation of car ownership	2	Key Messages *Does this give a good enough picture of existing tools and context?*		Add more context relating to recovering the costs of providing the transport system.	At point of renewal of WoF and vehicle registration, little is currently offered to people who are considering less car use. If the true cost of vehicle ownership was highlighted, along with alternatives such as, buy-back schemes for cars with low annual mileage(i.e. little use), or car share scheme membership, that may create incentive for behaviour change.
Chapter 1	3	Smart road pricing Is this clear on the assumptions and likely operation of such a scheme at a highly theoretical level?	This paper assumes that smart road pricing could be implemented and rolled out to all vehicles with an on-board device.	Add a qualifying statement regarding the average age of the NZ vehicle fleet	The average age of the NZ vehicle fleet is estimated at 13-14 years.
			It assumes a base distance charge with externality pricing built on top of that.	Base distance charge and externality pricing need to be explained more fully.	

			Road users would likely get usage reports of their travel regularly.		How would this happen? More explanation of this would be helpful.
	4	Benefits	*Improve transport system resilience* – the data transport authorities can gather from GNSS enabled devices in vehicles would be very valuable for resilience purposes. Smarter transport decisions would be enabled.		This is a very good rationale for pitching the idea of smart road pricing to the public.
Parking pricing	8		One specific study found evidence that an increase in residential parking prices specifically can lead to reduction in car ownership (8% reduction of car ownership for a 10% increase in price, according to a study of Amsterdam[1]).		Could a possible NZ future example be to increase the cost of parking cars in peri-urban areas, BUT at the same time increase to provision of car-share schemes, such as Mevo, Cityhop and others?
Benefits	9		*Improve the liveability of places* - increasing the cost of parking means more parking revenue for councils that can be used for investment and infrastructure for public transport and active transport.		If more urban centre parking was prioritised for people with disabilities, this could be added to benefits (as opposed to the dis-benefits listed below) and may also help address inequalities. Not all disabled people can access public or active transport options. Recently, provision in Wellington CBD of parking space for carshare (Mevo, Cityhop etc) has expanded. If planning rules also allowed for the easy expansion of disability parking, it would also send a message to the wider public about who needs access to

[1] De Groote, van Ommeren and Koster, 2016, Car ownership and residential parking subsidies: Evidence from Amsterdam

					parking the most, i.e. those with the least transport options.
Data	10	**Data**	Useful data (but haven't had time to search for) would be: Average cost of specified types of parking in New Zealand Average number of free parks in major New Zealand urban centres		Probably worth taking the time to find this data. Colin Shields from Candor 3 has done some of this for work with LGWM
	10	**What is being done in New Zealand and elsewhere?**	*What existing parking pricing strategies have had significant focus and impact on emissions reduction or mode shift?*	Wellington City Council's resident parking scheme, and CBD parking prices.	Consider adding mention of Wellington City Council's parking schemes for residents, which have potentially limited car ownership in peri-urban areas of the city. The high price of on-street parking serves to limit short visits to the city for shopping or business. Conversely, cheaper "earlybird" parking encourages people to drive during peak congestion times, and those cars take up valuable city space which could be put to better use.
	11	**What is the opportunity ?**	The ability for congestion charging to have an impact on emissions is dependent on the resulting behaviour charge from the charge.	The ability for congestion charging to have an impact on emissions is dependent on the resulting behaviour change from the charge.	This entire sentence and the one following are repeated in the second paragraph. Suggest removing this from paragraph 1.

Low Emission Zones	14	**What co-benefits and/or dis-benefits would each action provide?**		Additional benefit Potentially less noise pollution if the low emissions vehicles are electric.	
	14	**Costs, risks and barriers to implement ation**	Compared to European cities where this type of policy is currently most common, New Zealand doesn't have the same visible air pollution, and therefore would struggle to see tangible improvements.	This type of policy is currently most common in European cities. Apart from in Auckland, New Zealand doesn't have the same visible air pollution, and therefore would struggle to see tangible improvements.	
Distance -based Road User Charges	18	**What co-benefits and/or dis-benefits would each action provide?**	*What co-benefits could this contribute to? How does this type of charge influence other parts of the system?*	Add - Awareness of the true costs of vehicle kilometres driven might support choice of alternative transport options (where they are available)	

Public Transport Operating Model Review – Greater Wellington Regional Council Submission

Opening statement

Thank you for the opportunity to make this submission on the Public Transport Operating Model (PTOM) Review. Greater Wellington Regional Council (Greater Wellington) broadly supports the focus and values underpinning the review and its associated discussion documents. We have also reviewed the Climate Change Commission's report and consider that this submission aligns with the direction set out by the Commission. In addition, we are preparing a submission on Ministry of Transport's 'Hīkina te Kohupara – Kia mauri ora ai te iwi - Transport Emissions: Pathways to Net Zero by 2050'; our submission on Hīkina te Kohupara aligns with the positions taken in this submission.

Greater Wellington has taken a strategic approach to our response which is reflected in the brevity of our comments below. We welcome further engagement with the Ministry of Transport on this review and can supply further information, including financial modelling, if required.

We will address the key themes from the review under the eight headings laid out below.

1. Proposed new objectives

Greater Wellington broadly supports the proposed new objectives, particularly the inclusion of sustainable provision of services through a sustainable labour market and the acknowledgement that public transport needs to be an attractive mode of transport to deliver our collective mode shift goals.

Greater Wellington suggests the objective related to attractiveness of public transport is amended to specifically refer to the importance of transport equity and removal of access barriers.

2. Zero emission bus mandate

Greater Wellington supports the government's zero emissions bus mandate and notes that, as a regional council, we have committed to reducing our carbon emissions to an earlier timeframe than the mandate requires. Our target, as set out in Greater Wellington's Regional Public Transport Plan (RPTP) and Long Term Plan (LTP), is to have a fully electric core bus fleet by 2030.

Through the recent high volume of submissions to the reviews of our RPTP and LTP, we have experienced strong public support for our decarbonisation goals. To achieve these goals we will require significant financial support from central government considerably above the $50 million fund set aside to support decarbonisation of the national bus fleet. We will also address related matters under the following two topics.

3. Asset ownership and operating model

Greater Wellington has put considerable thought into asset ownership and its related financial implications. We strongly hold that, for regional councils to be truly strategic in our planning and provision of world-class public transport, we need to have stronger control of critical infrastructure like depots and charging infrastructure. This is to ensure the critical assets remain available to public transport use (i.e. they are not converted into other uses such as retail or housing), and that competitors' access to the public transport market is not constrained through the private and diverse (multiple) ownership of these critical assets.

Greater Wellington acknowledges that the current PTOM framework does not exclude regional councils from owning this infrastructure, but we do consider that it would be helpful for our long term financial planning if a stronger statement of government's support for strategic public transport asset ownership would be forthcoming.

Greater Wellington considers that public ownership of the bus fleet either directly or through a Council Controlled Organisation (CCO) provides the following benefits:

- A better ability to be flexible and agile in fleet distribution to meet demand
- A more strategic and financially beneficial approach to the procurement and financing of fleet purchases including the reduction of private profit margins
- Security and continuity of fleet availability in our region.

With regard to the consultation questions: for bus fleet ownership, Greater Wellington supports local government owning public transport bus fleets which could be leased back to operators in a similar manner to the ownership model currently in place for metro rail in Wellington; for depot ownership, we support local government ownership of depots and related infrastructure, particularly EV charging, which could be leased to individual or multiple operators to enable competitive access.

Greater Wellington believes that asset ownership is best held by local government to ensure complete accountability to ratepayers is maintained and service provision continues to be responsive to local and community needs and requirements.

Greater Wellington is proud to work with our bus operators in partnership. Greater Wellington considers that there are many benefits from public transport continuing to be operated under contract by private service providers. These benefits include the access to skills and experience that operators bring to our services.

4. Funding and financing

Greater Wellington has put considerable thought into the current funding and financing model in place in our region. We do not believe that the current model is making best use of public finances and is placing all financial risk onto councils, with few associated financial benefits. A model which saw more active ownership by councils of key public transport infrastructure would better balance the risk profile for the public good. Examples of aspects of the financial model that we believe need consideration of include:

- The public good – under the current model, public funds (taxes and rates) funds the private acquisition of public transport assets. This situation sees the long-term public good dependent on the short to medium term commercial interests of private companies. We are increasingly seeing that these two interests are at odds.
- The profit motive – under the current PTOM objectives, commercial imperatives strongly drive the contracting model. As would be expected from this, the pursuit of a return on investment (i.e. profit) is a significant focus of operators. Depending on the private ownership model, and the commercial objectives of individual shareholders, the pursuit of what could be considered unreasonable returns can impact on the quality of service provision. While Greater Wellington supports the principle of private enterprises to make a reasonable profit from the provision of services, we also believe there is a place for some public ownership of profit to control costs and enable reinvestment in public goods. The CCO model could achieve this.
- The cost of borrowing – through the Local Government Funding Agency, supported by our high credit rating, we are able to borrow at cheaper rates than commercial operators. Under the current model, local government is effectively compensating operators for their more expensive borrowing through the contracting model
- Balance sheet – under the current model, councils carry the notional debt of assets on our balance sheets without the benefits accrued from asset ownership. Councils would welcome continued local and central government funding of large asset purchases
- Amortisation – the current private ownership model incentivises private operators to attempt to recover the cost of the investment across the remaining life of the contract. This adds additional cost to councils, particularly when the contract periods are considerably shorter than the lifespan of the asset.

We recognise the current constraints on the national purse due to current economic difficulties. Greater Wellington considers that local government, in particular regional councils, are in a stronger financial position than central government to own, acquire and secure for the long-term the key public transport assets needed to provide this essential service for social good, and environmental well-being and economic growth. Greater Wellington is certainly in a position financially to co-fund the acquisition and ownership of assets for the long-term public good.

5. Roles and responsibilities

Greater Wellington acknowledges and appreciates the relationships it holds with all key stakeholders including our operators, territorial authority partners, Waka Kotahi and the Ministry of Transport. We consider that the role of Waka Kotahi as both a regulator and a funding partner, is sufficient to meet the objectives of regional and central government and does not require expanding beyond its current purview.

6. Labour market

Greater Wellington is committed to seeing ongoing improvements to the terms and conditions, including pay rates, of our public transport workforce. We support the three

stated measures in the PTOM review discussion documents to protect bus driver wages and conditions in future contracting.

7. Exempt services

Greater Wellington acknowledges that there is still a place for exempt services. However, we believe the current blanket inclusion of inter-regional services as exempt hinders our ability to work with neighbouring regional councils to plan for and enable regional economic growth through the provision of public transport. This is particularly apt for the regional growth occurring in the boundary areas between Greater Wellington and the Horowhenua District where there is an emerging need to support inter-regional commuter travel from north of Otaki. We support a new requirement for inter-regional public transport services to be contracted unless they are commercially operated e.g. inter-city services.

8. On-demand services

Greater Wellington supports on-demand services being brought under PTOM. We support the ability to plan, contract and subsidise on-demand services under PTOM and to require commercial on-demand services to be registered with councils/Public Transport Authorities. Doing this will support the proposed new objectives and provide Public Transport Authorities with the ability to utilise new and emerging Mobility as a Service technologies and initiatives.

Closing remarks

Greater Wellington greatly values the strong working relationship we have with the Ministry of Transport and Waka Kotahi. We note that our officers have been involved in the development of the discussions documents that inform and underpin this review. We appreciate our ability to provide comments towards the key strategic issues raised through this review. This review covers complex matters that will impact on the character of the long-term provision of public transport services across New Zealand and, in light of our current collective focus on decarbonisation and the labour market, is a timely review of national importance.

We welcome further dialogue with the Ministry on this review and our comments set out above. We are available to discuss any and all matters we have raised in greater detail at your convenience.

Greater Wellington
Te Pane Matua Taiao

By email

22 June 2021

Email to: transportemissions@transport.govt.nz

Office of the Chairperson
100 Cuba Street
Wellington
T 04 384 5708
www.gw.govt.nz

Tēnā koutou

Submission on Hīkina te Kohupara – Kia mauri ora ai te iwi - Transport Emissions: Pathways to Net Zero by 2050

Greater Wellington Regional Council (GWRC) appreciates the challenge that lies ahead and thanks the Ministry of Transport (the Ministry) for the opportunity to make a submission on Hīkina te Kohupara – Kia mauri ora ai te iwi - Transport Emissions: Pathways to Net Zero by 2050.

GWRC **agrees** the transport sector is a major contributor to emissions and respects the work the Ministry is doing to enable the transport sector to play its part in meeting Aotearoa New Zealand's zero emissions target. GWRC **notes** that it has taken us 60 to 70 years of fairly single-mode focussed investment to get to where we are today. A significant shift in policies and institutional arrangements, in addition to the planned investment, is required to accelerate the change that is needed.

GWRC **supports** a zero emission target to break the cycle of car dependence, and to allow sectors needing a longer transition to utilise carbon-offsetting. For these reasons, GWRC **supports** a focus on Hīkina te Kohupara's Theme 1 "Changing the way we travel", as well as an increased focus on the freight sector under Theme 3 "Supporting a more efficient freight system".

GWRC does not believe that Theme 2 "Improving our passenger vehicles" by itself will meet the targets on time due to the long lead times required in investment, nor necessarily encourage the overall shifts in behaviour in the sector. Theme 2 needs to be supported with a parallel initiative aimed squarely at Mode Shift (Theme 1).

GWRC **strongly supports** a Just Transition and would like to see the analysis of social impacts of implementing the pathways, and also the social impacts of maintaining the current trajectory.

GWRC has further comment on each of the Themes:

Theme 1: Changing the way we travel

- GWRC **supports** better urban form and transit-oriented spatial planning, as recognised in the draft Wellington Regional Growth Framework.
- Reliable, safe, convenient alternatives need to be in place *before* disincentives are applied.

- An ongoing national behaviour change campaign at the level seen for Waka Kotahi's continuous road safety promotion is needed to inform and support decision-makers, and to generate public buy-in.
- GWRC **supports** the use of road pricing tools such as congestion charging and parking policies to manage travel demand.
- Significant investment in public transport is needed to accommodate the predicted increase in demand.
- GWRC **supports** the expansion of rail for inter-regional passenger service building off the current Capital Connection, Te Huia and Connector (Wellington-Auckland) rail passenger initiatives.
- A quality separated and connected network of lanes/paths for active modes is overdue, particularly with the rise in eBikes and eScooters in recent years.
- The draft Wellington Regional Land Transport Plan 2021 has seen a considerable move towards public transport and active modes, in contrast to previous road and car-centred activity distribution. However, if for the next ten years over three quarters of the National Land Transport Fund (NLTF) is already allocated, a review of the NLTF's scope and priorities as well as additional funding will be required.
- GWRC recommends the development of national and regional targets for mode share shift through Regional Land Transport Plans. For example, the Greater Wellington Regional Land Transport Plan (RLTP) includes a target of: "40 percent increase in active travel and public transport mode share by 2030".
- As part of setting national and regional targets for mode shift, there needs to be a willingness by government and councils to reduce public transport fares. We need to be looking at a FAR rate that is more than 60% for public transport provision. Greater Wellington is up for this challenge – but we can't do this alone. We need the government at our side.
- GWRC has developed a scenario for transition of mode share between motor vehicle occupants, rail passengers, bus passengers, pedestrians and cyclists based on inbound trips across the Wellington central city cordon area in the morning peak between 7am and 9am - see Figure 1. This scenario meets the target in the RLTP of a 40% mode shift to active travel and public transport by 2030.
    - Possible measures that will be taken in this scenario include: intensification around the central city fringe, resulting in more active mode trips generated by higher density housing and low car ownership levels; mass rapid transit such as light rail with integrated bus network improvements, to achieve a step change in public transport; and demand management such as congestion charging to change behaviours.
    - Supporting measures would include: compact urban form and placemaking, investments in frequent and reliable public transport, safe and accessible walking and cycling networks and micro-mobility, trials of innovative reallocation of space on streets to deliver mode shift quickly, shared mobility options such as car sharing, lower speed limits, universal design principles, and discouragement of single-occupant vehicle trips through parking management.

- Mode share changes by 2030 would be: walking trips to the central city would increase by 60%, cycling trips would increase by 130%; public transport journey to work trips to the central city would increase by 45% and car trips would reduce by 60%.

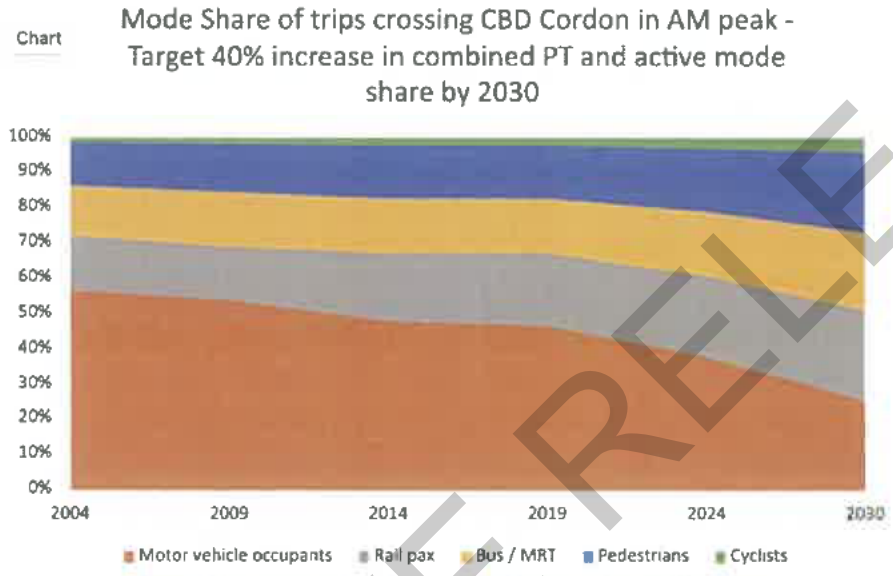


Figure 1. Mode share of trips crossing Wellington CBD cordon in morning peak to achieve 40% increase in PT and active mode share by 2030

Theme 2: Improving our passenger vehicles

- GWRC has **concerns** around a mass shift to private electric vehicles (EV). This shift represents an alteration in the status quo rather than transformational change ie more roads and maintenance, loss of green space, less available investment in public transport and active modes.
- GWRC also notes that a considerable shift in renewable energy volumes and reliability is required to support a mass shift to EVs. There is conflicting evidence about the current levels of renewable energy volumes. We note that in the first three months of this year, the same amount of coal was used to generate electricity as in all of 2016 and 2017 combined.
- GWRC **notes** that it has committed to accelerate decarbonisation of the Metlink fleet, including running all core services on electric buses by 2030, and **recommends** moving more people with less vehicles as a priority.

Theme 3: Supporting a more efficient freight system

- GWRC **supports** shifting freight to rail and sea. GWRC sees this not only freeing up existing road space and contributing to Road to Zero outcomes, but also reducing significant wear and tear of infrastructure and subsequent maintenance costs.

'We have less than 15 years to halve greenhouse gas emissions', Hon Michael Wood, Minister of Transport. Now is the time to act to ensure the inevitable transition can be well structured and managed, social and economic benefits balanced, and future developments integrated and co-ordinated.

Yours sincerely

Roger Blakeley
Chair
GWRC Transport Committee

Thomas Nash
Chair
GWRC Climate Committee

Greater Wellington
Te Pane Matua Taiao

By email

3 August 2021

100 Cuba Street
Te Aro, Wellington 6011
PO Box 11646
Manners Street
Wellington 6142
T 04 384 5708
F 04 385 6960

Clerk of the Committee
Environment Committee
Parliament Buildings
WELLINGTON

Email: en@parliament.govt.nz

Tēnā koutou

Submission on the Natural and Built Environments Bill exposure draft

1. The Greater Wellington Regional Council (**Council**) wishes to make a submission to the Environment Committee's Inquiry on the Natural and Built Environments Bill exposure draft (**the exposure draft**), as it will have a fundamental effect on Council's activities.

2. We are supportive of Taituarā's submission, and the joint submission from Wellington councils. This submission represents the view of Greater Wellington Regional Council.

3. Council's submission is structured to address our key areas of interest as follows:

    a. Overall impressions of the exposure draft
    b. Purpose and related provisions
    c. National Planning Framework
    d. Natural and Built Environment Plans
    e. Ideas for improving efficiency
    f. Detailed comments on the provisions of the Bill (Attachments 1 and 2)

4. We wish to appear before the select committee.

Overall impressions

5. Council considers that the Government should have addressed the 'elephant in the room' about the future of local government prior to releasing the exposure draft. The exposure draft appears to assume that current local government structures will not change. But it

does recommend a significant shift in decision-making from elected Councils to an appointed Planning Committee, which is entirely inappropriate outside of the review of local government. We consider this change to be a deconstruction of local government by stealth.

6. Questions also remain about how the Strategic Planning Act and regional spatial plans will work, and how they will interact with the Natural and Built Environments Act and Natural and Built Environments Plans (**NBA Plans**). Council is concerned that pushing ahead with this exposure draft without properly considering these matters risks unintended consequences for the environment as legal issues play out and are worked through. We suggest that, to ensure that the three proposed new Acts are aligned, they are considered at select committee as a package. The Minister may wish to consider a bespoke select committee with extended timeframes and Hearings throughout New Zealand.

7. In addition, Council seeks that a national spatial plan (covering major infrastructure and areas for development and protection) is developed alongside the National Planning Framework and the national climate adaptation plan. It is critical that the national policy direction documents are in place before regional spatial plans are developed, which in turn must be in place prior to regional natural and built environment plans.

8. Council's impression of the exposure draft is that it is not as significant a change as we expected, considering the Government has referred to it as "a once-in-a-generation opportunity to make sure our resource management system safeguards the wellbeing of current and future generations." We are concerned that some of the changes in the exposure draft have focussed on the wrong things. Importantly, the parts of the Resource Management Act 1991 (**RMA**) designed to achieve sustainable management of natural and physical resources and protect bottom lines have not been retained. These include sections 6 and 7, and recognition of the Supreme Court of New Zealand's decision in the case of *Environmental Defence Society v New Zealand King Salmon Co Ltd* [2014] NZSC 38(SC), which provides the jurisprudence to clarify the principles in the RMA that protect environmental bottom lines, and rejects earlier Environment Court and High Court decisions[1] that the correct approach was an 'overall judgement' approach. The Bill must not allow decision-makers to go back to their old habits of ad hoc balancing. On the other hand, the exposure draft does not address some of the fundamental problems with the RMA (such as establishing a framework for allocating scarce natural resources in the most efficient way over time). Council considers that it is not clear that the exposure draft will enhance environmental protection, and could in fact result in further environmental degradation.

9. Council considers that the Government has not taken advantage of the opportunity to test some of the basic assumptions of the RMA. For example, the role of the Minister and Department of Conservation in regional coastal planning has not been examined, despite

[1] In particular the judgement in *New Zealand Rail Ltd v Marlborough District Council* [1994] NZRMA 70(HC).

its existence in the Resource Management Act (historically for overseeing Restricted Coastal Activities).

10. The exposure draft establishes high expectations for how councils and mana whenua will partner on natural and built environment issues. We support this approach and acknowledge that a partnership with mana whenua is crucial for future management of natural resources. However, we note the huge demand that mana whenua already experience in working with Councils and central government agencies. Active participation in the new system will exacerbate and compound this demand. New central government funding is required to resource mana whenua to be active Treaty partners in the new system. This would enable them to increase their capacity and develop their own analytical and monitoring positions and frameworks.

11. We consider that a long-term programme to increase the capability and capacity of mana whenua and councils must be put in place. This includes workforce planning and training programmes, and designing guidelines with mana whenua that enables the parties to understand and transition quickly to the opportunities in the new operating environment.

12. It is essential that arrangements uphold:

    - RMA Treaty settlements with iwi and hapū and Marine and Coastal Area (Takutai Moana) Act 2011 arrangements;

    - natural resources arrangements under the RMA that do not arise from Treaty settlements, for example Mana Whakahono ā Rohe and section 33 RMA transfers.

Recommendations

a. Refer the Strategic Planning Bill, Natural and Built Environments Bill and Climate Adaptation Bill to select committee as a package to ensure they are aligned.

b. Revisit some of the core assumptions of the Resource Management Act that were not considered in the Randerson review, such as how resources are allocated and the role of the Minister of Conservation.

c. Recommend that national policy direction documents are in place before regional strategic plans and regional Natural and Built Environment Plans are required.

d. Recommend that a long-term programme to increase the capability and capacity of mana whenua and councils to partner on natural and built environment issues be put in place.

Purpose and related provisions

13. The purpose statement in clause 5(1) needs to provide clear direction about how the two competing sub-clauses (protecting and enhancing the natural environment, and use of the

environment) are intended to be prioritised and the inherent trade-offs that must be made. As drafted, there is too much space for drawn out legal arguments.

14. We support the strengthened 'give effect to' Te Tiriti principles clause which is the highest statutory obligation available and stronger than the current 'take into account the principles of the Treaty of Waitangi'. Councils will have to demonstrate new ways of working in how they plan for and implement the new requirements. Councils that have existing partnerships with mana whenua will have the basic building blocks in place to respond quickly to the new legislative framework. Those that do not will need to address this as a priority in order to deliver the expected outcomes in a timely way. The actions required to implement Te Mana o te Wai in the National Policy Statement for Freshwater Management 2020 will assist councils to give effect to the principles of Te Tiriti o Waitangi. We recommend that the draft Bill includes Te Mana o te Wai in the primary legislation.

15. We recommend that the Crown clarifies whether local government is, or is not, a Treaty of Waitangi partner as part of this reform. Council notes its role specified in section 4 of the Local Government Act 2002 is to support the Crown as the Treaty partner "In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi". Iwi and hapū continue to express ongoing frustration at local government's reluctance to accept its responsibilities as a Treaty partner. Councils' elevated requirement to give effect to the Treaty may raise the expectations of iwi and hapū that Councils will finally accept their role as a Treaty partner. If section 4 of the Local Government Act is not amended to resolve this issue, it will exacerbate the existing tension between Councils and iwi and hapū on Treaty partnership issues. If the Crown does redefine Councils as being Treaty partners, then Councils will require new Crown resourcing to deliver their new responsibilities.

16. We support the Government's commitment to giving mana whenua a greater and more strategic role in the new system. This will require working closely with mana whenua in the design of, transition to and implementation of the new system. One way to give effect to Te Tiriti principles is to provide for opportunities including co-governance, co-management, co-design, co-delivery and co-review at all levels of the new system.

17. We support the adoption of Te Oranga o Te Taiao instead of Te Mana o Te Taiao after it was proposed by the Freshwater Iwi Leaders Group and Te Wai Māori Trust, and agreed to by Ministers. However, we have reservations about the use of Māori terms in legislation such as Te Oranga o te Taiao, mauri, and mana. We acknowledge the need for precise terms in legislation so that parties understand their obligations and the Courts can accurately interpret the requirements. The risks of using te reo terms include the potential for narrow definitions that address the legislation drivers but miss the broad comprehensive use of such terms by iwi and hapū in their everyday lives. The ability of Councils to partner effectively with mana whenua will be constrained if the parties do not have a shared understanding of how te reo terms apply.

18. We are concerned about the use of the term 'Māori' as the Crown's Te Tiriti partnership is with iwi and hapū not Māori.

19. The list of environmental outcomes in clause 8 is large, but does not include all matters currently considered in the RMA through the purpose and roles sections (Part 2 and sections 30 and 31). It loses the clarity and prioritisation of RMA's section 6 Matters of national importance and, by using 'promote', also significantly reduces the likelihood of achieving these matters – promote being 'hopeful' as compared to the strength of 'give effect to' along with the case law associated with this term. It is not clear whether it was intended to be an exhaustive list of matters or whether some matters were unintentionally excluded. Clause 8 also does not establish any priorities between the outcomes, nor acknowledge the hierarchy established in the National Policy Statement for Freshwater Management 2020 through Te Mana o te Wai. In addition, the list is a mix of environmental outcomes and activities that seek to achieve outcomes. In Attachments 1 and 2 we have suggested one way that clause 8 could be reframed (including some additional matters), but recommend that more careful thought and drafting of this clause is done.

20. Although prioritisation of the outcomes is intended to occur through the National Planning Framework, we consider that it is essential for this to occur in the legislation itself so it can be subject to the Parliamentary process. This will ensure cross-party support and avoid changes to the National Planning Framework to occur every time a new government comes in.

21. We consider that the new legislation should incorporate the emerging legal practice around the rights of nature and legal personhood, as already in place with Te Awa Tupua and Te Kawa o Te Urewera.

Recommendations

e. Clarify how trade-offs between the two competing purpose sub-clauses in clause 5(1) are to be made.

f. Include the principles and hierarchy of Te Mana o te Wai established in the National Policy Statement for Freshwater Management in the Bill.

g. Amend section 4 of the Local Government Act 2002 to clarify whether local government is, or is not, a Treaty of Waitangi partner.

h. Work with mana whenua to review te reo Māori concepts used in the legislation to ensure that their meanings are appropriate and defined as required.

i. Assess the list of environmental outcomes against the matters in Part 2 and sections 30 and 31 of the RMA to ensure all matters are covered.

j. Redraft clause 8 to ensure all outcomes are captured and to establish a hierarchy / priorities for the environmental outcomes in the Bill to guide decision-makers.

k. Incorporate the rights of nature and legal personhood within the Bill.

National Planning Framework

22. Council acknowledges that, even if our recommendation e. above is accepted, not all conflicts between outcomes will be addressed in the Bill. We therefore support the National Planning Framework for this purpose, as well as establishing national limits. The National Planning Framework is fundamental to how the Bill will work, and therefore we consider it essential that a draft of the Framework be available when the Bill is introduced. This will ensure that Parliament and submitters can more clearly understand whether the Bill will be an improvement on the RMA.

23. We are of the strong view that the National Planning Framework needs to be in place before NBA Plans can be made, and that the Bill **must** require this. Otherwise, we will be in the same position as with the RMA where national direction was intended to be made promptly but took many years to be put in place.

Recommendations

l. Require that a draft of the National Planning Framework be available when the Bill is introduced to the House.

m. Amend the Bill to require that the National Planning Framework be in place prior to the Natural and Built Environments Act coming into force.

Natural and Built Environment Plans

24. Council supports the Government's desire for fewer Plans overall, and greater consistency where that is possible. Council notes that a lot of work has been done across the region to develop the existing district and regional plans, and strongly recommends that this work is able to be carried through to the new system. Council considers that it is important that the NBA Plan is integrated across the region, not just a 'stapling together' of the existing plans. We consider it is important that there is the right balance between regional consistency and ensuring local differences are taken into account.

25. It will be important to understand how the proposed NBA Plans will interact with the regional spatial strategies under the Strategic Planning Act. The Wellington Region and Horowhenua District Council have recently completed a spatial plan known as the Wellington Regional Growth Framework which puts us in a good position to establish both the spatial plan and an NBA Plan. We consider the Wellington Region could be used to pilot the new provisions. However, it should be noted that no region has achieved a joint Regional Policy Statement, regional plan and district plan without first being amalgamated.

26. Councils will be expecting to work with central Government on how the transition from the current system to the new system is done to ensure that provisions developed through existing plan-making processes can be carried through, but then for central Government to provide direction through the National Planning Framework to ensure a consistent approach across New Zealand.

27. The exposure draft requires that a Planning Committee be established to make the NBA Plan for each region. The proposed decision-making roles and functions of the Planning Committee are currently undertaken by Councils. The proposed change is an inappropriate shift of power, as Councils are democratically elected, whereas the Planning Committee representatives are not. We consider this change to be a deconstruction of local government by stealth, which should not be considered ahead of and separately from the review of local government.

28. In addition, the Planning Committee must establish a secretariat. All plan writing and advice on the plan is to be provided by the secretariat. The size and expertise of the entity required to undertake this support function should not be underestimated.

Recommendations

n. Suggest that the Wellington Region be used to pilot the new provisions for Natural and Built Environment Plans.

o. Recommend that the Government work with local government on how NBA Plans can be integrated across a region.

p. Amend the roles and functions of Planning Committees so that local government retains decision-making functions on NBA Plans.

Ideas for improving efficiency

29. Council has five recommendations for improving efficiency in the system. Some of these are included in Appendix 2 of the Parliamentary paper.

Recommendations

q. Remove some Environment Court appeal rights to encourage parties to engage through submissions and Hearing rather than waiting until appeals, similar to the Freshwater Planning Process.

r. Provide clear national direction so that arguments are settled once, rather than needing to be negotiated multiple times through (old) Schedule 1 processes.

s. Require Government departments and Crown agents to establish a 'Crown voice' in planning processes to prevent the current situation where multiple agencies submit on a Plan and have competing views.

t. Centralised development, hosting and maintenance of critical databases and systems to appropriately implement the Act and manage the natural and built environment. This could include, for example, tools for consenting, compliance management,

freshwater accounting, recording mātauranga Māori knowledge, ePlanning, and models to inform Housing and Business Assessments.

u. Allow more changes to Plans that implement national direction to be made without the full public process (either through allowing direct insertion of provisions or a more streamlined process).

v. Ensure that, where terms have been defined in the RMA or case law, these are carried through to the NBEA unless there is a compelling reason to change them.

Nāku iti nei

Daran Ponter
Chair
Greater Wellington Regional Council

Address for service:

Fleur Matthews
Team Leader, Policy Implementation
Greater Wellington Regional Council
PO Box 11646
Manners Street
Wellington 6142

T 021 306 951
E fleur.matthews@gw.govt.nz

Encl: Attachment 1: Greater Wellington Regional Council detailed comments and recommendations – Natural and Built Environments Bill exposure draft

Attachment 2: Potential option for revising clause 8 – Environmental outcomes

Attachment 1: Greater Wellington Regional Council detailed comments and recommendations – Natural and Built Environments Bill exposure draft

Provision	Specific comments	Recommendations
Part 1 Preliminary Provisions Clause 3		
Definition of **environmental limits**	Clause 7 creates a different meaning to 'limits' than has been developed (iteratively, over a decade) under the NPS-FM. It conflates two concepts (as the NPS-FM did originally) which creates significant confusion. The two concepts should be differentiated in clause 7 to clarify that there are two types: "Environmental limits / bottom lines" and "Resource use limits / maximum resource use". Environmental limits relate to the state of an aspect of the environment, whereas resource use limits provide direction on how much resources can be extracted (e.g. water takes) or their assimilative capacity used (e.g. discharges).	Amend definition (and/or relevant clauses) to align with the definition of limits in the NPS-FM 2020. That is, to clarify that "Environmental limits / bottom lines" and "Resource use limits / maximum resource use" are two separate concepts. Consideration should also be given to applying more of the conceptual framework of the National Objectives Framework in the NPS-FM 2020.
Definition of **infrastructure**	The definition of infrastructure needs to be consistent across the range of legislation that applies to it, to avoid confusion for the sector. Identifying the assets that fall within the definition is also important. For example, would it include just physical infrastructure, or should social infrastructure and virtual infrastructure be included?	Development of the infrastructure definition should be led by Te Waihanga, guided by the International Infrastructure Management Manual, Lifelines / National Emergency Management Agency and relevant industry bodies. Consideration should also be given to using the RMA definition of infrastructure, and looking to infrastructure-related definitions in existing regional policy statements, and regional and district plans.
Definition of **mitigate**	The proposal interprets offset and compensate measures to be types of mitigation. This is technically incorrect and out of step with national and international best practice. The RMA correctly considers offset and compensate actions to be positive effects which do not directly redress adverse effects at the point of impact. Actions to redress adverse effects should be distinguished from those that offer positive effects. This is	Delete this definition. Replace it with a definition for 'effects management hierarchy' instead. This definition should align with that provided in the NPS-FM 2020 clause 3.21 (with appropriate amendments to apply more broadly than aquatic ecosystems): **effects management hierarchy**, in relation to natural inland wetlands and rivers, means an approach to managing the adverse effects of an activity on the extent or values of a wetland or river (including

Provision	Specific comments	Recommendations
	important because the provision of positive effects (through offset and compensate actions) are far less likely to result in beneficial outcomes for the environment than the mitigation of adverse effects. In our view, lumping offset and compensate measures into the mitigate category is highly unlikely to align with the purpose of this Act to protect and enhance the natural environment. Clearer application of the internationally-recognised effects management hierarchy, however, likely will further the purpose of the Act.	cumulative effects and loss of potential value) that requires that: (a) adverse effects are avoided where practicable; and (b) where adverse effects cannot be avoided, they are minimised where practicable; and (c) where adverse effects cannot be minimised, they are remedied where practicable; and (d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, aquatic offsetting is provided where possible; and (e) if aquatic offsetting of more than minor residual adverse effects is not possible, aquatic compensation is provided; and (f) if aquatic compensation is not appropriate, the activity itself is avoided.
Definition of **natural environment**	Not sure that the definition of the natural environment should include introduced organisms – this definition is too wide and would currently include all livestock as well as pests and unwanted organisms.	Reconsider whether introduced organisms should be considered part of the natural environment.
Definition of **water**	Excluding water in pipes, tanks and cisterns has made it difficult to consider stormwater or piped streams in an integrated / holistic way.	Consider whether the definition of water should include water within a pipe, tank, or cistern to promote integrated management of water.
Definition of **well-being**	Support that the well-being definition integrates the four wellbeings from the Local Government Act. Support that the definition includes health and safety.	Retain the well-being definition.
Part 2 Purpose and related provisions		
Clause 5 Purpose of this Act	We strongly oppose defaulting to the RMA wording of 'avoid, remedy or mitigate'. These terms, and their apparent sequence, are dated and are out of step with national and international	Amend clause 2(c) to read: "any adverse effects on the environment ~~of its use~~ must be ~~avoided, remedied, or mitigated a~~<u>addressed by applying the effects management hierarchy</u>."

Provision	Specific comments	Recommendations
	best practice effects management. The wording and hierarchy should be aligned with that used in the NPS-FM 2020. The NPS-FM effects management hierarchy directs consent applicants to avoid adverse effects in the first instance, then minimise what cannot be avoided, then remedy the residual. Where this is not possible, residual adverse effects may be offset or compensated if it is appropriate to do so. Sub-clause (3)(c) currently does not include people or the built / modified environment. But the natural environment cannot be separated from the rest of the environment, and therefore the interconnectedness of all parts of the environment should be incorporated in Te Oranga o te Taiao.	Acknowledge in the Bill that in some situations the use of the full effects management hierarchy is not appropriate, and that some effects should be avoided. Amend Part 1 to include a definition for 'effects management hierarchy' that aligns with clause 3.21 of the NPS-FM. See comments about definition of "mitigate". Amend sub-clause (3)(c) to read "the interconnectedness of all parts of the ~~natural~~ environment" to acknowledge that the built environment and the people in it are interconnected to the natural environment.
Clause 7 Environmental Limits	Clause 7 creates a different meaning to 'limits' than has been developed (iteratively, over a decade) under the NPS-FM. It conflates two concepts (as the NPS-FM did originally) which creates significant confusion. The two concepts should be differentiated in clause 7 to clarify that there are two types: "Environmental limits / bottom lines" and "Resource use limits / maximum resource use". Environmental limits relate to the state of an aspect of the environment, whereas resource use limits provide direction on how much resources can be extracted. There are two additional matters that should be considered for compulsory limits: - greenhouse gas emissions - light pollution	Amend definition (and/or relevant clauses) to align with the definition of limits in the NPS-FM 2020. That is, to clarify that "Environmental limits / bottom lines" and "Resource use limits / maximum resource use" are two separate concepts. Make any consequential changes to the rest of Clause 7 to ensure there is not confusion between the state to be achieved and the limit on people's use of environment to achieve that end. Consider adding two matters to the list of compulsory limits: - greenhouse gas emissions - light pollution.

Provision	Specific comments	Recommendations
Clause 8 Environmental outcomes	The list of environmental outcomes in clause 8 needs significant redrafting and more analysis. The current list is large, but does not include all matters currently considered in the RMA through the purpose and roles sections. It is not clear whether this is intended to be an exhaustive list, or whether some matters were unintentionally excluded. Clause 8 also does not establish any priorities between the outcomes, nor acknowledge the hierarchy established in the National Policy Statement for Freshwater Management 2020 through Te Mana o te Wai. In addition, the list is a mix of environmental outcomes and activities that seek to achieve outcomes.	Redraft clause 8 to ensure that all outcomes are captured and to establish a hierarchy / priorities for the environmental outcomes in the Bill to guide decision-makers. In addition, we consider the following changes should be made: - A separate clause incorporating Clause 8 matters that are matters of principle that are not environmental outcomes per se but still critically important. - A separate clause incorporating Clause 8 matters that are related specifically to the approach to the built environment/land use change/development. - Underline the criticality of ensuring planning appropriately reduces contribution to, mitigates effects of, and adapts to climate change. - Make links to spatial planning and transport planning that are not yet expressed in the draft Bill. - Remove the division between 'urban and rural'. - Separate cultural landscapes from built heritage, as the level of protection of each should be different. This may require a change to the definition of cultural heritage. - Current clause 8(d) should include reference to biodiversity corridors. - Current clause 8(j) should be linked to the targets in the Climate Change Response Act. - Clause 8(k) should include reference to green space. - Current clause 8(n) contains an inherent conflict and how this is to be balanced needs to be resolved. We seek that the priority is on protection rather than sustainable use. - Clause 8(p) should separate natural hazards and climate change because, although climate change is exacerbating natural hazards, not all hazards are affected by climate change. Natural hazards also encompass seismic, volcanic, tsunami hazards that may not be exacerbated by climate change.

Provision	Specific comments	Recommendations
		Attachment 2 provides a potential option for further consideration and refinement. In addition, we recommend that the environmental outcomes be used to direct decision-making for resource consents, designations and other approvals, to give certainty and help mitigate potential tensions and conflicts.
Part 3 National Planning Framework		
Clause 12 Environmental limits	Allowing limits to be prescribed qualitatively could make it difficult to determine whether the limits had been reached, and what evidence would be required to determine them.	Clarify how qualitative environmental limits could work in practice and how it would be determined whether they had been reached.
Clause 13 Topics that national planning framework must include	We support including direction about greenhouse gas emissions in the national planning framework. Any direction should ensure it is aligned with other greenhouse gas emissions assessments to avoid duplication and inconsistencies. We support the national planning framework providing national direction on urban areas, including the role of transport links and infrastructure. We suggest that Waka Kotahi's One Network Framework classification (aimed at providing a common language for the integration of land use and transport in planning and design) in included in the National Planning Framework.	Ensure that any direction on tools, assessment criteria etc for assessing greenhouse gas emissions is aligned with greenhouse gas emissions assessments required in other contexts (for example, for transport infrastructure investment decision making). Ensure that direction on urban areas includes transport links and infrastructure, including Waka Kotahi's One Network Framework classification.

Attachment 2: Potential option for revising clause 8 – Environmental outcomes

8. To assist in achieving the purpose of the Act, the national planning framework and all plans must promote the following environmental outcomes:

(a) The protection, restoration or improvement of:
   a. the quality of air, freshwater, coastal waters, estuaries, and soils:
   b. the mana and mauri of the natural environment:
   c. ecological integrity:
   d. outstanding natural features and landscapes:
   e. areas of significant indigenous vegetation and significant habitats of indigenous fauna, and including the biodiversity corridors necessary to support the integrity of these significant areas:

(b) in respect of the coast, estuaries, lakes, rivers, wetlands, and their margins,—
   a. the protection and enhancement of public access to and along them; and
   b. preservation of their natural character:

(c) reduction of greenhouse gas emissions and the increase of the removal of those gases from the atmosphere in accordance with any relevant targets/requirements of the Climate Change Response Act:

(d) the protection and sustainable use of the marine environment. [noting our submission point about this matter]

8A. To assist in achieving the purpose of the Act and environmental outcomes in Clause 8, the national planning framework and all plans must:

(a) protect and restore the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga:

(b) identify, protect and sustain cultural heritage, including cultural landscapes through active management that is proportionate to its cultural values:

(c) recognise protected customary rights:

(d) reduce the significant risks from natural hazards: and

(e) improve the resilience of the environment to natural hazards and the effects of climate change: and

(f) recognise the effects that climate change and related impacts on the environment including change in rainfall patterns, storm event intensity, flooding, erosion and sea level rise and take this into account in:
   a. spatial planning
   b. subdivision, use and development
   c. development and use of rural and marine areas and resources

(g) recognise and provide for the role of ecosystems in attenuating and mitigating the effects of climate change and impacts from natural hazards.

(h) ~~promotes the~~ protect~~ion of~~ highly productive land from inappropriate subdivision, use, and development.

8B. To assist in achieving the purpose of the Act and the environmental outcomes in Clause 8, the national planning framework and all plans must promote:

(a) urban areas that are well-functioning and responsive to growth and other changes, including by—
   ~~enabling a range of economic, social, and cultural activities; and~~
   i. ensuring a resilient urban form with good transport links within and beyond the urban area:

ii. [something that underlines value of use of natural systems and approaches like water sensitive urban design]
iii. [something that ties to spatial planning, land transport planning and emissions reductions targets]
iv. [something that values the role of green space]
v. [something about built heritage]

(b) housing supply that—

~~(i) provide choice to consumers; and~~

i. contributes to the affordability of housing; and
ii. meets the diverse and changing needs of people and communities; and
iii. supports Māori housing aims:

(c) ~~in relation to rural areas,~~ land use, land use change and development in rural and urban areas ~~is pursued~~ that—

i. enables a range of economic, social, and cultural activities; and
ii. contributes to the development of adaptable and economically resilient communities; and

(d) supporting the well-being of people and communities through the ongoing provision of infrastructure services by supporting—

(i) the use of land for economic, social, and cultural activities:
(ii) an increase in the generation, storage, transmission, and use of renewable energy.

Submission on Exposure Draft of Natural and Built Environments Bill 2021

To the Environment Committee

1. This is a joint submission from officers of the councils of the Wellington Region listed below and Horowhenua District Council:

    - Carterton District Council;
    - Greater Wellington Regional Council;
    - Hutt City Council;
    - Kāpiti Coast District Council;
    - Porirua City Council;
    - Upper Hutt City Council.

2. The councils are partners with iwi/Māori and Government on the Wellington Regional Growth Framework, delivered as part of the Government's Urban Growth Partnership programme. Horowhenua District Council is a partner in the Wellington Regional Growth Framework due to strong transport, housing, social and economic links with the Wellington Region.

3. Thank you for the opportunity to submit on the Exposure Draft of the Natural and Built Environments Bill 2021.

4. We note the Committee's Terms of Reference are as follows:

    1. The purpose of the inquiry is to provide feedback to the government on the extent to which the provisions in the exposure draft of the Natural and Built Environments Bill will support the resource management reform objectives to:

    (a) protect, and where necessary, restore the natural environment, including its capacity to provide for the well-being of present and future generations

    (b) better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure

    (c) give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori

    (d) better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change

    (e) improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.

    2. The select committee is asked to pay particular attention to objective (e) when providing their feedback on point 1.

    3. The select committee is also asked to collate a list of ideas (including considering the examples in the parliamentary paper) for making the new system more efficient,

more proportionate to the scale and/or risks associated with given activities, more affordable for the end user, and less complex, compared to the current system.

5. This submission presents:

- Overview comments, with references to the resource management reform objectives;
- Comments on specific draft provisions, with references to the resource management reform objectives;
- Ideas for system improvement, including comments on some of the examples in the Parliamentary Paper.

Overview

6. We support resource management law reform and welcome Government's intention to work closely with iwi/Māori and local government to achieve a robust and effective new system.

7. Our comments at this point are relatively brief, reflecting the level of information and clarity provided by the exposure draft. At times we have taken the opportunity to express our views on matters raised in the RM Review Panel report but not yet set out in draft legislation.

8. We generally endorse the submission of Taituarā.

9. We support the five key resource management reform objectives listed in the Committee's Terms of Reference.

10. We accept that Government intends to progress resource management reform via three new Acts; the Natural and Built Environments Act, the Strategic Planning Act and the Climate Change Adaptation Act. We support the natural and built environments being managed in an integrated manner in a single piece of legislation. We support introducing requirements for spatial planning and climate change adaptation.

11. Resource management reform must also be aligned with related areas of reform including Three Waters and the Future for Local Government. The new legislation and structural frameworks must integrate cohesively.

12. The new resource management legislation to implement the objectives needs to be a strongly integrated package, with relationships and priorities clearly set out and clear pathways for decision-making. The new system should not be rolled out in a piecemeal fashion, with uncertainty around timing, sequencing, roles and responsibilities and transitional provisions. NBA plans need to be developed with regional spatial strategies and a comprehensive National Planning Framework already in place – "as early as possible" in the words of the Parliamentary Paper (paragraph 66). This should be mandated in the Act. As intimated in the Parliamentary Paper (paragraph 65) we have learned the hard way through the implementation of the RMA that without higher level direction in place, plan making, implementation and outcomes are inefficient and ineffective, and matters are continually

relitigated at the regional and local level across the country, often through the consent process.

13. Having a comprehensive NPF and regional spatial plan in place would provide a strong framework to support the development of NBA plans including for issues that have proven difficult to resolve at the local level, such as biodiversity identification and protection, residential intensification and response to coastal hazards. The NPF also needs to set out how conflicting outcomes will be resolved, for example, competing priorities for housing growth and protection of wetlands or heritage buildings.

14. We support clear and well-tested national direction being incorporated into plans without undue administrative burden. Again, we have seen the fallout of national direction and guidance being unnecessarily relitigated at a regional and local level.

15. Local government needs to be closely engaged in the preparation of the NPF so that national direction is fit for purpose. As applied practitioners there is a wealth of knowledge and experience to draw on.

16. We support the requirement for a combined regional NBA plan and are well placed to move forward in a new system. We collaborate extensively across the region as evidenced by, for example, the Wairarapa Combined District Plan and the Wellington Regional Growth Framework (which includes Horowhenua District due to strong transport, housing, social and economic links. We suggest a "region" should be able to be defined by its housing and employment market not water catchments). Our collaboration includes our partnerships with iwi/Māori and Central Government agencies.

17. Despite our strengths and experience in working collaboratively, there will be significant challenges ahead to deliver a combined plan that reflects and is owned by iwi/Māori and our diverse and widespread communities, and has the support of Government. There will also be challenges to establish and implement consistent capability in resource consent processing, development engineering and compliance with the desired focus on outcomes.

18. We understand that Government is looking to work closely with a region that is ready and willing to model the new approach. While there are risks in being an early adopter, we would welcome the opportunity to discuss collaboration with Government and iwi/Māori on this. Such collaboration would need to be underpinned by clarity in respect of the Strategic Planning Act and regional spatial strategies, the Climate Change Adaptation Act, the National Planning Framework and the Future Development Strategy requirements of the NPSUD.

19. We support the new focus on outcomes and look forward to a regime where the emphasis for planners is on adding value to environmental outcomes rather than on administrative processes. We note the list of outcomes is extensive and prioritisation has not been provided at this stage. Prioritisation will be critical to the success of the new system.

20. We are of the view there is also an opportunity for Government to resolve integration issues with existing legislation including the Building Act and the Heritage NZ Pouhere Taonga Act.

Plan-making

21. The move to a combined regional NBA plan will provide for opportunities for local solutions to local problems, supported by clear national direction. The process needs to enable broad and meaningful community involvement, which is the best path to a robust, collective vision for the management of high quality environments. Such involvement is time- and resource-intensive and needs mechanisms that empower communities to engage.

22. The new combined plans are each to encompass a 'region', but how input on the content of plans will be enabled from territorial authorities and their communities is not clear. There is the potential that regionalisation will reduce opportunities for local input into decision-making. There may also be less local willingness to engage due to perceptions of complex, regional processes run by a remote organisation that lacks local knowledge and understanding. Releasing a draft plan is now commonplace in the plan making process in an effort to start engagement conversations early. Porirua City Council's Plan Change 18 and Proposed District Plan and Horowhenua District's Proposed Plan Change 4 processes have found making available a "Friend of Submitters" well received by, and of great assistance to, lay submitters.

23. At a technical level, local authority staff not only have specific expertise on regional, district and urban planning matters, they also hold a wealth of local knowledge about issues and conditions for developing and refining plan content that is practical, relevant and locally workable. From the scope and level of detail in the exposure draft do not make clear what functional arrangements may need to be put in place to supporting the proposed Planning Committee and its secretariat in providing adequate opportunities for local input at the plan development stage. There are not yet any details on the scope of function and duties of the secretariat, which will need to operate in a collaborative, effective and efficient way, with minimal duplication across local authorities.

24. Encouraging and empowering participation in the preparation of spatial plans under the Strategic Planning Act will also be critical to subsequent community support of NBA plans and consent processes. Landowners will need to understand that their key opportunity to influence say the location and extent of six storey residential development may be in the spatial plan process rather than the NBA plan development or consent process, if the NBA plan is required to give effect to the spatial plan (as we recommend). The spatial planning process will need merits appeal rights and efficient processes to resolve appeals. Our current experience (including with the recently prepared Wellington Regional Growth Framework) is that achieving meaningful community involvement in strategic or spatial planning exercises is even more challenging than district planning processes because people do not perceive sufficient direct relevance to them.

25. We welcome a strengthened role in the system for iwi/Māori. We support the RM Review Panel's recommendation that direction will be required on how to give effect to the principles of Te Tiriti. This should include explicit clarification of how local authorities relate to the role of the Crown as partner.

26. To achieve resource management reform objective (e), Government will need to invest in both local government and iwi/Māori to build shared understanding and capacity and capability in engagement, plan making, governance, implementation and monitoring that reflect partnership. Iwi that have yet to complete Te Tiriti settlements are often significantly

disadvantaged in their ability to participate at a partnership level, even with the efforts of councils to support them. The new system should enable all Iwi to participate and not further marginalise those that are yet to settle.

27. We support the RM Review Panel report's recommendation that plan making follows the Auckland Unitary Plan process, with appeals being essentially limited to matters where the planning committee departs from the recommendation of the independent hearing panel. In the Wellington region, we have seen the advantage of this approach with the Streamlined Planning Process used for Porirua's Plan Change 18 Plimmerton Farm. The 'no appeals' process provided submitters with the impetus to 'put their cards on the table' during the pre-Hearing and Hearing processes, rather than wait until appeals as some may otherwise have done.

28. We see strengths and weaknesses in the proposal that the panels be chaired by Environment Court judges. A judge may increase the robustness of recommendations and limit appeals, as participants perceive that they are already before the Court-level authority. On the other hand, the proceedings would inevitably become more costly, more formal and less accessible to lay submitters. Evidence thresholds would likely be higher. We also have reservations about the availability of judges and capacity of the Environment Court to deal with combined plans for the entire country at the same time. A possible alternative is to use the PCC Plan Change 18 approach, in which the Minister for the Environment required the chair to be a senior RMA legal practitioner with extensive experience as chair, supported by a panel of qualified, independent commissioners covering a range of specifically required skills including Te Ao Māori and mātauranga Māori.

Capacity and Capability

29. We support Government's intention to appropriately staff and resource the Ministry for the Environment to lead resource management reform and participate in the new system including in national guidance, regional spatial planning and monitoring.

30. Government investment will be required to achieve the objective of appropriate Māori participation in the new system. This goes beyond funding alone to training and capacity development in iwi/Māori. The Wellington Regional Growth Framework has a project exploring options to assist in building long term people/skills capacity in local tangata whenua/mana whenua organisations. Government collaboration in this work would be timely if our region is chosen to test application of the new model.

31. In our experience, there are widespread general capacity and capability shortages in the resource management sector and competition to secure skilled people. These shortages are likely to be exacerbated in the development and implementation of the new system. Government (in partnership with professional bodies) will need to invest more broadly in training and development across the resource management/planning sector to not only ensure understanding of the new laws and planning framework, but also to deliver on the step change needed in planning practices from practitioners to implement the intended outcomes on the ground. This needs to be a full capability building programme targeting all practitioners rather than a limited, short-term rollout focussed only on local government. As

the Parliamentary Paper notes (paragraph 67) "culture change will be essential to the transformation required".

32. Another practical response for Government would be to set timeframes in legislation, for example for the delivery of regional spatial strategies and combined plans, that recognise the capacity and capability shortages in the sector. Providing realistic and practicable timeframes for implementation is a point that holds true across the Government's entire programme of change.

Comments on Specific Draft Provisions

Part, Section	Provision	Specific comments
Part 1 - Preliminary Provisions		
Section 3	**Interpretation –** In this Act, unless the context otherwise requires **–**	• We suggest that careful attention is paid to the terms used. RMA terms that are well established, well understood and often well traversed in case law should be continued unless there is good reason to depart from them to establish new terms. For example "adverse effects" on the environment is a well-established term. The exposure draft introduces several new equivalent terms including "stress" and "harm". The definition of 'limit' is also different from that used in the 2020 NPS-FM. Given that all regional councils will be introducing freshwater limits by 2024 this could be immensely problematic and open new rounds of litigation to test the meaning of these terms • The exposure draft also uses apparently interchangeable terms such as "improve" and "enhance". A single term should be chosen and used consistently throughout unless different, defined meanings are intended.
	abiotic means non-living parts of the environment	
	biotic means living parts of the environment	
	coastal water means seawater within the outer limits of the territorial sea and includes— (a) seawater with a substantial freshwater component; and (b) seawater in estuaries, fiords, inlets, harbours, or embayments (retained RMA definition).	
	cultural heritage — (a) means those aspects of the environment that contribute to an understanding and appreciation of	• This definition should include cultural landscapes and clarify whether "surroundings associated with those sites" are or are not cultural landscapes.

	New Zealand's history and cultures, deriving from any of the following qualities: (i) archaeological: (ii) architectural: (iii) cultural: (iv) historic: (v) scientific: (vi) technological; and (b) includes— (i) historic sites, structures, places, and areas; and (ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with those sites	
	district, in relation to a territorial authority, means the district of the territorial authority as determined in accordance with the Local Government Act 2002	
	ecological integrity means the ability of an ecosystem to support and maintain— (a) its composition: the natural diversity of indigenous species, habitats, and communities that make up the ecosystem; and (b) its structure: the biotic and abiotic physical features of an ecosystem; and (c) its functions: the ecological and physical functions and processes of an ecosystem; and (d) its resilience to the adverse impacts of natural or human disturbances	• Consistency: • How does 'support and maintain' relate to 'protect and enhance/improve' (s8) • Is "natural diversity" the same thing as "biological diversity"? • This states "biotic and abiotic *physical features* of an ecosystem". Compare to "living parts" and "non-living parts" in the definitions of *biotic* and *abiotic*. S7 says "biophysical means biotic or abiotic physical features".
	ecosystem means a system of organisms interacting with their physical environment and with each other	• We support this amended definition, which excludes 'people and communities'.
	environment means, as the context requires,— (a) the natural environment: (b) people and communities and the built environment that they create: (c) the social, economic, and cultural conditions that affect the matters stated in paragraphs (a) and (b) or that are affected by those matters	• 'Urban form' is defined. How does 'urban form' relate to 'built environment'? A definition of 'built environment' instead may be more appropriate and would relate directly to the title of the Act. • We support deleting 'amenity values' and 'aesthetic' conditions on the basis that the components of amenity, such as noise, odour and light, are able to be considered directly as effects to ensure that appropriate outcomes are achieved, whereas the more nebulous concept of 'amenity' is often used by opponents of a proposal.
	environmental limits means the limits required by section 7 and set under section 12 or 25	• Needs to align with the terminology in 2020 NPS-FM.
	environmental outcomes means the outcomes provided for in section 8	

	fresh water means all water except coastal water and geothermal water (retained RMA definition).	
	geothermal water— (a) means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and (b) includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena.	
	infrastructure [placeholder]	• Network infrastructure such as roads and pipes are fundamentally different to and should be defined separately from social or community infrastructure.
	infrastructure services [placeholder]	
	kaitiakitanga means the exercise of guardianship by iwi, hapū and whanau of an area in accordance with tīkanga Māori in relation to the natural and built environment.	• The RM Review Panel's report included 'whānau' repeatedly but this has been discontinued by the exposure draft except in this definition. We suggest 'whānau' is also removed from the definition.
	lake means a body of freshwater that is entirely or nearly surrounded by land.	
	land— (a) includes land covered by water and the airspace above land; and (b) includes the surface of water	
	mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991	
	Minister means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act	
	Minister of Conservation means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Conservation Act 1987	
	mitigate, in the phrase "avoid, remedy, or mitigate", includes to offset or provide compensation if that is enabled— (a) by a provision in the national planning framework or in a plan; or (b) as a consent condition proposed by the applicant for the consent	• Effects-management hierarchies (for example, in the NPSFM) deal with offsetting and compensation on the basis that they are not mitigation of effects – they kick in to deal with residual effects after *avoid, remedy, mitigate* have been exhausted. There are differing views among the councils on whether or not the simpler approach proposed here is better.
	national planning framework means the national planning framework made by Order in Council under section 11	
	natural environment means	

	(a) the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and (b) ecosystems and their constituent parts	
	natural hazard means any atmospheric or earth or water related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment (retained RMA definition).	
	person includes **—** (a) the Crown, a corporation sole, and a body of persons, whether corporate or unincorporate; and (b) the successor of that person	
	plan — (a) means a natural and built environments plan made in accordance with section 21; and (b) includes a proposed natural and built environments plan, unless otherwise specified	
	planning committee means the planning committee appointed for a region for the purpose of section 23	
	precautionary approach is an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty	• This is not defined in the RMA. The NZCPS uses: "Adopt a precautionary approach towards proposed activities whose effects on the coastal environment are uncertain, unknown, or little understood, but potentially significantly adverse". • Should the precautionary approach cover both taking action and not taking action?
	public plan change [placeholder]	• A definition of private plan change would also be useful.
	region, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002	• Needs to align with Local Government Reform. Is this definition still fit for purpose? For example, Horowhenua District is a participant in the Wellington Regional Growth Framework.
	regional council — (a) has the same meaning as in section 5 of the Local Government Act 2002; and (b) includes a unitary authority	
	regional spatial strategy, in relation to a region, means the spatial strategy that is made for the region under the Strategic Planning Act 2021	
	river— (a) means a continually or intermittently flowing body of freshwater; and (b) includes a stream and modified watercourse; but	

	(c) does not include an irrigation canal, a water supply race, a canal for the supply of water for electric power generation, a farm drainage canal, or any other artificial watercourse	
	structure— (a) means any building, equipment, device, or other facility that is made by people and fixed to land; and (b) includes any raft	
	territorial authority means a city council or a district council named in Part 2 of Schedule 2 of the Local Government Act 2002	
	unitary authority has the same meaning as in section 5(1) of the Local Government Act 2002	
	urban form means the physical characteristics that make up an urban area, including the shape, size, density, and configuration of the urban area	
	water— (a) means water in all its physical forms, whether flowing or not and whether over or under the ground: (b) includes freshwater, coastal water, and geothermal water: (c) does not include water in any form while in any pipe, tank, or cistern	
	well-being means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety.	
Section 4	**How Act binds the Crown** [Placeholder.]	
Part 2 Purpose and related provisions		
Section 5	**Purpose of this Act** (1) The purpose of this Act is to enable— (a) Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment; and (b) people and communities to use the environment in a way that supports the well-being of present generations without compromising the well-being of future generations. (2) To achieve the purpose of the Act,—	• The Bill moves away the RM Review Panel report's suggested use of Te Mana o te Taio to Te Oranga o te Taio. The concept of Te Oranga o te Taiao is central to the purpose of the Act, therefore its meaning should be clearly set out rather than leaving that inevitable task to the Environment Court. *Incorporates* (s5(3)) implies there is more to the concept than stated. Avoiding setting out the meaning would work against resource management reform objective (e) of reducing complexity - it would in fact increase complexity. By way of example, the NPSFM initially introduced the concept of Te Mana o Te Wai without adequate description, later

	(a) use of the environment must comply with environmental limits; and (b) outcomes for the benefit of the environment must be promoted; and (c) any adverse effects on the environment of its use must be avoided, remedied, or mitigated. (3) In this section, **Te Oranga o te Taiao** incorporates— (a) the health of the natural environment; and (b) the intrinsic relationship between iwi and hapū and te taiao; and (c) the interconnectedness of all parts of the natural environment; and (d) the essential relationship between the health of the natural environment and its capacity to sustain all life.	requiring an amendment to that document to better spell it out. • Te Oranga o te Taiao should be clearly reflected in the provisions of the Bill. For example, is *ecological integrity*, a key element of environmental limits (s7(1)(a)), incorporated in Te Oranga o te Taiao? • The purpose of the Act does not adequately reflect the title of the Act: *natural* and *built* and immediately fails to deliver resource management reform objective (b). While (1)(a) is squarely and appropriately about the natural environment, (1)(b) needs to more explicitly cover the built environment. • Terms need to flow consistently through the Act. (1)(a) uses *protecting and enhancing.* Section 8 uses *improved* rather than *enhanced*. The definition of ecological integrity means the ability of an ecosystem to *support and maintain.* (1)(a) uses *upheld,* Sections 8, 18 and 22 use *promote.*
Section 6	**Te Tiriti o Waitangi** All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.	• We support the RM Review Panel's recommendation that direction will be required on how to give effect to the principles of Te Tiriti. This should include explicit clarification of how local authorities relate to the role of the Crown as partner. Central Government will need to invest in both local government and iwi/Māori to build capacity and capability in engagement, plan making, governance, implementation and monitoring that reflect partnership.
Section 7	**Environmental Limits** (1) The purpose of environmental limits is to protect either or both of the following: (a) the ecological integrity of the natural environment: (b) human health. (2) Environmental limits must be prescribed— (a) in the national planning framework (see **section 12**); or (b) in plans, as prescribed in the national planning framework (see **section 25**). (3) Environmental limits may be formulated as— (a) the minimum biophysical state of the natural environment or of a specified part of that environment: (b) the maximum amount of harm or stress that may be permitted on the natural environment or on a specified part of that environment. (4) Environmental limits must be prescribed for the following matters: (a) air:	• There are differing views on whether councils should be able to set environmental limits that are more stringent than national limits. There may be some environmental limits that should be set nationally, e.g. limits to soil contaminants, and others that are appropriately set in the context of local catchments or areas. • Local government should be involved in the setting of environmental limits through the National Planning Framework. We support the Parliamentary Paper's (paragraph 168) intention to provide for early engagement with local government. • Discussions on environmental limits invariably use water quality as an example. Limits can clearly be prescribed at a catchment level, monitored, and used to inform decision making. Less clear is how limits can be prescribed for the other matters listed, especially at a macro scale, and how they would be monitored and used to inform decision making. More information is required to understand how environmental limits would be developed and applied and used in decision making for the full range of matters listed.

	(b) biodiversity, habitats, and ecosystems: (c) coastal waters: (d) estuaries: (e) freshwater: (f) soil. (5) Environmental limits may also be prescribed for any other matter that accords with the purpose of the limits set out in **subsection (1).** (6) All persons using, protecting, or enhancing the environment must comply with environmental limits. (7) **In subsection (3)(a), biophysical** means biotic or abiotic physical features.	
Section 8	**Environmental outcomes** To assist in achieving the purpose of the Act, the national planning framework and all plans must promote the following environmental outcomes: (a) the quality of air, freshwater, coastal waters, estuaries, and soils is protected, restored, or improved: (b) ecological integrity is protected, restored, or improved: (c) outstanding natural features and landscapes are protected, restored, or improved: (d) areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected, restored, or improved: (e) in respect of the coast, lakes, rivers, wetlands, and their margins,— (i) public access to and along them is protected or enhanced; and (ii) their natural character is preserved: (f) the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected: (g) the mana and mauri of the natural environment are protected and restored: (h) cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values: (i) protected customary rights are recognised: (j) greenhouse gas emissions are reduced and there is an increase in the removal of those gases from the atmosphere: (k) urban areas that are well-functioning and responsive to growth and other changes, including by—	• We support the range of outcomes for environmental protection and use and development., with some specific comments made below. • The outcomes need to be written as such – they read as a mixture of overarching statements and sometimes direction; they are not the same size and they do not have equal weight. No attempt has been made at prioritisation. • A telling criticism of RMA plans is that the opposing sides of a resource conflict can each find support for their positions somewhere in the plan, leading to difficult and protracted arguments at the time of resource consent. Without clear direction in the new system, this longer list of outcomes will perpetuate that problem. The NPF and NBA plans will not be able to foresee and determine all outcome conflicts that may arise but they will need to expressly provide direction for how such conflicts should be assessed and resolved in differing spatial areas, zones and circumstances. We support the intention that the full Bill will "provide mechanisms for decision-makers to resolve conflicts at the consenting stage" (Parliamentary Paper paragraph 122). • We note that only 9 of the 16 outcomes is required by s13(1) to be set out in national direction. All outcomes need to be set out in national direction and included in directions for prioritisation and conflict resolution. • (c) should be nationally or regionally outstanding, not just locally outstanding. • (e) Why is natural character 'preserved'? While this is a carryover from the RMA, why is it not 'protected, restored or improved' like other matters? • (e)(i) should be 'protected or improved' not 'enhanced' unless 'improved' and 'enhanced' have different meanings.

	(i) enabling a range of economic, social, and cultural activities; and (ii) ensuring a resilient urban form with good transport links within and beyond the urban area: (l) a housing supply is developed to— (i) provide choice to consumers; and (ii) contribute to the affordability of housing; and (iii) meet the diverse and changing needs of people and communities; and (iv) support Māori housing aims: (m) in relation to rural areas, development is pursued that— (i) enables a range of economic, social, and cultural activities; and (ii) contributes to the development of adaptable and economically resilient communities; and (iii) promotes the protection of highly productive land from inappropriate subdivision, use, and development: (n) the protection and sustainable use of the marine environment: (o) the ongoing provision of infrastructure services to support the well-being of people and communities, including by supporting— (i) the use of land for economic, social, and cultural activities: (ii) an increase in the generation, storage, transmission, and use of renewable energy: (p) in relation to natural hazards and climate change,— (i) the significant risks of both are reduced; and (ii) the resilience of the environment to natural hazards and the effects of climate change is improved.	• (f) should be 'protected and restored' so the order is the same as with other matters. • (g) The Bill moves away from the RM Review Panel report's suggested use of Te Mana o te Taio to Te Oranga o te Taio. We support this change. We are unsure whether the use of *mana* and *mauri* in relation to the natural environment is deliberate. • (h) The Heritage NZ Pouhere Taonga Act needs to be aligned with the NPF. Built heritage identified and assessed under the HPT Act as worthy of protection (subject to it being a rigorous process with community involvement) should have that protection conferred without having to rely on NBA plan provisions and an NBA plan change to schedule the building or place. • (j) We support the focus on greenhouse gas emissions rather than the effects of climate change because applicants for consent and processing councils will be able to evaluate the emissions generated by a proposed activity and ways to reduce them. In contrast, evaluating the effects on climate change of a particular activity would be problematic. Tools to support the measuring and monitoring of emissions would be useful. • The Building Act should be amended to encourage greenhouse gas emission reduction through building design and selection of building materials – without increasing the financial risk to consenting local authorities. • (k) We support having outcomes for well-functioning urban areas, presuming this incorporates high quality urban design and approaches such as Crime Prevention Through Environmental Design. We support 'resilient urban form' and 'good transport links' but are unsure why the concepts are linked, which seems to diminish both concepts. Good transport links go well beyond resiliency alone, and the resilience of an urban area involves more than just the transport network. • (m) Development should be 'enabled' rather than 'pursued'. We are unsure why (m)(i) and (ii) apply to rural areas only when they appear relevant to all areas. • (n) How does (n) relate to fisheries legislation, biosecurity legislation? • (o) We support having outcomes for "ongoing provision of infrastructure services to support the well-being of people and communities. The on-going provision of infrastructure services' does not suitably identify or prioritise the essential

		role that infrastructure services provide in supporting a range of social, economic and cultural outcomes. The singular focus on renewable energy in (ii) prioritises renewable energy over all other essential infrastructure. • (p) National direction needs to provide clear direction on what level of risk can be tolerated in areas vulnerable to natural hazards (including earthquake hazard) and what land use responses are appropriate. (p)(ii) may require the explicit mention of 'built environment'.
Part 3 National Planning Framework		
	Requirement for national planning framework	
Section 9	**National planning framework** (1) There must at all times be a national planning framework. (2) The national planning framework— (a) must be prepared and maintained by the Minister in the manner set out in **Schedule 1**; and (b) has effect when it is made by the Governor-General by Order in Council under **section 11**.	• This needs to set a date for the first iteration of the NPF. NBA plans need to wait for the NPF to be completed. • The preparation of NPFs needs to be timebound. • NPF content should be concise and focussed. • NPFs need to be evidence-based with careful assessment of regulatory impact. The approach to assessing regulatory impact should be set out in the Act. We support the intention (Parliamentary Paper paragraph 168) for a s32-type requirement.
Section 10	**Purpose of national planning framework** The purpose of the national planning framework is to further the purpose of this Act by providing integrated direction on— (a) matters of national significance; or (b) matters for which national consistency is desirable; or (c) matters for which consistency is desirable in some, but not all, parts of New Zealand.	• We support the requirement for "integrated direction". As noted in the Parliamentary Paper (paragraph 131) conflicting national direction under the RMA has led to inconsistent approaches and unresolved conflict.
Section 11	**National planning framework to be made as regulations** (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make the national planning framework in the form of regulations. (2) The regulations may apply— (a) to any specified region or district of a local authority; or (b) to any specified part of New Zealand. (3) The regulations may—	

	(a) set directions, policies, goals, rules, or methods: (b) provide criteria, targets, or definitions. (4) Regulations made under this section are secondary legislation (see Part 3 of the Legislation Act 2019 for publication requirements).	
	Contents of national planning framework	
Section 12	**Environmental limits** (1) Environmental limits— (a) may be prescribed in the national planning framework; or (b) may be made in plans if the national planning framework prescribes the requirements relevant to the setting of limits by planning committees. (2) Environmental limits may be prescribed— (a) qualitatively or quantitatively: (b) at different levels for different circumstances and locations.	
Section 13	**Topics that national planning framework must include** (1) The national planning framework must set out provisions directing the outcomes described in— (a) **section 8(a)** (the quality of air, freshwater, coastal waters, estuaries, and soils); and (b) **section 8(b)** (ecological integrity); and (c) **section 8(c)** (outstanding natural features and landscapes); and (d) **section 8(d)** (areas of significant indigenous vegetation and significant habitats of indigenous animals); and (e) **section 8(j)** (greenhouse gas emissions); and (f) **section 8(k)** (urban areas); and (g) **section 8(l)** (housing supply); and (h) **section 8(o)** (infrastructure services); and (i) **section 8(p)** (natural hazards and climate change);. (2) The national planning framework may also include provisions on any other matter that accords with the purpose of the national planning framework, including a matter relevant to an environmental outcome provided for in **section 8**. (3) In addition, the national planning framework must include provisions to help resolve conflicts relating to the environment, including conflicts between or	• We note that only 9 of the 16 outcomes is required by s13(1) to be set out in national direction. All outcomes need to be set out in national direction and included in directions for prioritisation and conflict resolution. • The national planning framework must go further than providing 'help' to resolve conflicts between competing environmental outcomes. It must provide clear direction on how plan users should resolve such conflicts in plan making and resource consent processes. • While the NPF content 'may also include provisions on any other matter', the key drivers are the environmental outcomes set out in the higher order purposes and principles (specifically section 8), and the terminology used to describe the intended outcomes. This appears to be limiting for some environmental outcomes. For example, the NPF content on Infrastructure Services 'must set out provisions directing the outcomes described in' s8(o), which are confined to 'seeking the ongoing provision of infrastructure services'. This is not particularly aspirational or enabling given the essential nature of infrastructure services. It also suggests that s8(o) needs more consideration.

	among any of the environmental outcomes described in **section 8**.	
Section 14	**Strategic directions to be included** **The provisions required by sections 10, 12, and 13 must include strategic goals such as—** (a) the vision, direction, and priorities for the integrated management of the environment within the environmental limits; and (b) how the well-being of present and future generations is to be provided for within the relevant environmental limits.	• Strategic direction needs to link to giving effect to regional spatial strategies which need to be completed before NBA plans.
Section 15	(1) The national planning framework may direct that certain provisions in the framework— (a) must be given effect to through the plans; or (b) must be given effect to through regional spatial strategies; or (c) have direct legal effect without being incorporated into a plan or provided for through a regional spatial strategy. (2) If certain provisions of the national planning framework must be given effect to through plans, the national planning framework may direct that planning committees— (a) make a public plan change; or (b) insert that part of the framework directly into their plans without using the public plan change process; or (c) amend their plans to give effect to that part of the framework, but without— (i) inserting that part of the framework directly into their plans; or (ii) using the public plan change process. (3) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.	• Directive provisions of the national planning framework should not ever have to be given effect to through plans using the public plan change process because that would be likely to lead to different provisions in different plans, which is one thing the national planning framework is seeking to avoid or limit.
Section 16	**Application of precautionary approach** In setting environmental limits, as required by section 7, the Minister must apply a precautionary approach.	
Section 17	[Placeholders] [Placeholder for other matters to come, including— (i) the role of the Minister of Conservation in relation to the national planning framework; and (ii) the links between this Act and the Climate Change Response Act 2002.]	• As well as the role of the Minister of Conservation, this section may need to set out the role of specific other Ministers, for example, Housing and Transport. This is acknowledged in the Parliamentary Paper (paragraph 170).

Section 18	[Placeholder for implementation principles. The drafting of this clause is at the indicative stage; the precise form of the principles and of the statutory functions they apply to are still to be determined. In paras (b) and (e), the terms in square brackets need to be clarified as to the scope of their meaning in this clause.] [Relevant persons must]— (a) promote the integrated management of the environment: (b) recognise and provide for the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori]: (c) ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue: (d) promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act: (e) recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao]: (f) have particular regard to any cumulative effects of the use and development of the environment: (g) take a precautionary approach.	
Part 4 National Planning Framework	**Natural and built environments plans** *Requirement for natural and built environments plans*	• We support the move to fewer plans for the region. While this will use plan making resources more efficiently in the long term, it will require additional resources in the short term and place additional demands on a sector already under pressure. • Clear transitional arrangements for existing plans, resource consents and designations should be worked out with local government. • Is 'region' defined by current regional council boundaries, which are largely based on water catchments rather than communities of interest or can other arrangements be made? Horowhenua District Council is a participating council in the Wellington Regional Growth Framework due to strong transport, housing, social and economic links. We suggest a "region" should be able to be defined by its housing and employment market not water catchments. There would also need to clear direction on how cross-boundary issues are to be managed.
Section 19	**Natural and built environments plans** There must at all times be a natural and built environments plan (a plan) for each region.	
Section 20	**Purpose of plans** The purpose of a plan is to further the purpose of the Act by providing a framework for the integrated management of the environment in the region that the plan relates to.	
Section 21	**How plans are prepared, notified, and made** (1) The plan for a region, and any changes to it, must be made— (a) by that region's planning committee; and (b) using the process set out in Schedule 2. (2) [Placeholder for status of plans as secondary legislation.]	

	Contents of plans	
Section 22	**Contents of plans** (1) The plan for a region must— (a) state the environmental limits that apply in the region, whether set by the national planning framework or under section 25; and (b) give effect to the national planning framework in the region as the framework directs (see section 15); and (c) promote the environmental outcomes specified in section 8 subject to any direction given in the national planning framework; and (d) [placeholder] be consistent with the regional spatial strategy; and (e) identify and provide for— (i) matters that are significant to the region; and (ii) for each district within the region, matters that are significant to the district; and (f) [placeholder: policy intent is that plans must generally manage the same parts of the environment, and generally control the same activities and effects, that local authorities manage and control in carrying out their functions under the Resource Management Act 1991 (see sections 30 and 31 of that Act)]; and (g) help to resolve conflicts relating to the environment in the region, including conflicts between or among any of the environmental outcomes described in section 8; and (h) [placeholder for additional specified plan contents]; and (i) include anything else that is necessary for the plan to achieve its purpose (see section 20). (2) A plan may— (a) set objectives, rules, processes, policies, or methods: (b) identify any land or type of land in the region for which a stated use, development, or protection is a priority: (c) include any other provision.	• (d) Plans should be required to 'give effect to' regional spatial strategies, not merely 'be consistent with'. Spatial consideration and identification of areas for protection and areas for infrastructure and development will be a key way in which competing environmental outcomes can be prioritised, limits can be achieved and cumulative effects can be managed. • (g) Plans should be required to contain clear direction for how conflicts between environmental outcomes are to be resolved when they arise. • 2(c) Allowing 'any other provision' leaves room for uncertainty and unnecessary variation between plans. The RM Review Panel suggested the new system should standardise as much as possible – this open-endedness seems at odds with that. • Currently, only rules relating to historic heritage and natural resources have immediate legal effect upon plan notification. We suggest that proposed plans in their entirely have legal effect upon notification, as per the current approach with regional plans.
	Planning committees	
Section 23	**Planning committees** (1) A planning committee must be appointed for each region. (2) The committee's functions are—	• Members of planning committees should be required to have an appropriate level of training in resource management so they clearly understand their role, functions and responsibilities.

	(a) to make and maintain the plan for a region using the process set out in **Schedule 2;** and (b) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and (c) to set any environmental limits for the region that the national planning framework authorises the committee to set (see **section 7**). (3) Provisions on the membership and support of a planning committee are set out in **Schedule 3.**	• The planning committee's membership is to include representatives from iwi/Māori and the Department of Conservation. Central Government needs to provide funding to the committee secretariat to support the committee's breadth of membership and scope of work. • The planning committees should have a wider brief with responsibilities for the regional spatial plan under the Strategic Planning Act, the combined plan under the NBA and the regional land transport plan under the Land Transport Act. A single secretariat could support all of this. The approach would provide for much greater integration, efficiency of processes and alignment between urban planning and transport. A straightforward legislative basis for establishing (and making simple changes to) the committee and its terms of reference would need to be put in place.
Section 24	Considerations relevant to planning committee decisions (1) A planning committee must comply with this section when making decisions on a plan. (2) The committee must have regard to— (a) any cumulative effects of the use and development of the environment: (b) any technical evidence and advice, including mātauranga Māori, that the committee considers appropriate: (c) whether the implementation of the plan could have effects on the natural environment that have, or are known to have, significant or irreversible adverse consequences: (d) the extent to which it is appropriate for conflicts to be resolved generally by the plan or on a case-by-case basis by resource consents or designations. (3) The committee must apply the precautionary approach. (4) The committee is entitled to assume that the national planning framework furthers the purpose of the Act, and must not independently make that assessment when giving effect to the framework. (5) [Placeholder for additional matters to consider.] (6) In **subsection (2)(d), conflicts—** (a) means conflicts relating to the environment; and (b) includes conflicts between or among any of the environmental outcomes described in **section 8**.	• We support the direction given by s24(4) in terms of the cascade from the Act to the NPF to the plan. The direction should be strengthened to read "The committee must assume…" • We presume there will be the kind of evaluation required currently by s32 & s32AA RMA. The RM Review Panel (p255) suggests continuing to use evaluation reports but not as s32 is now worded. We support a simplified evaluation requirement.
Section 25	**Power to set environmental limits for region** (1) This section applies only if the national planning framework—	• Transitional arrangements are key here. Direction is required on the limits that are included in existing plans.

	(a) specifies an environmental limit that must be set by the plan for a region, rather than by the framework; and (b) prescribes how the region's planning committee must decide on the limit to set. (2) The planning committee must— (a) decide on the limit in accordance with the prescribed process; and (b) set the limit by including it in the region's plan.	
Schedule 1	**Preparation of national planning framework** [placeholder	
Schedule 2	**Preparation of natural and built environments plans** [placeholder	
Schedule 3	**Planning Committees** *Membership*	
Clause 1	**Membership of planning committees** (1) The members of a region's planning committee are— (a) 1 person appointed under clause 2 to represent the Minister of Conservation: (b) mana whenua representatives appointed under clause 3: (c) either— (i) 1 person nominated by each local authority that is within or partly within the region; or (ii) [placeholder for appropriate representation if the regional council is a unitary authority]. (1) Despite subclause (1)(c), the same person may be nominated by more than 1 local authority for the purpose of that paragraph.	• Planning committees have the challenge of providing satisfactory representation without becoming unwieldy. Each constituent council needs to feel suitably represented and that the system provides opportunities for the local voice to determine local solutions for local issues. The role of individual councils in contributing to the plan making process including community engagement needs to be clarified. • Councils that feel underrepresented on the planning committee and disagree with the direction of travel of plan provisions may seek to find a voice by lodging submissions to the independent hearing panel or voting against panel recommendations, thereby enabling appeal opportunities. • Central Government involvement in decision making should also include Central Government funding.
Clause 2	**Appointment of member to represent Minister of Conservation** [Placeholder.	
Clause 3	**Appointment of mana whenua members** [Placeholder] This section sets out— (a) how many mana whenua representatives may be appointed to a planning committee; and (b) how those representatives are selected and appointed.	
Clause 4	**Appointment of planning committee chairperson** [Placeholder.	
	Support	
Clause 5	**Planning committee secretariat** (1) [Placeholder] Each planning committee must establish and maintain a secretariat. (2) The function of the secretariat is to provide any advice and administrative support that the committee	

	requires to help it carry out its functions under this Act, including, for example, to— (a) provide policy advice: (b) commission expert advice: (c) draft plans and changes to plans: (d) coordinate submissions. (3) [Placeholder: policy intent is that local authorities support secretariat.]	
Clause 6	**Local authorities must fund secretariat** [Placeholder.]	

Ideas for System Improvement

Example in the Parliamentary Paper	Related Ideas and Comments
Increased central direction and tools, for example: • greater accountability mechanism for councils in exercising governance of their planning functions • centralised digital tools and platforms including providing national data sets, standardised methods and models (eg natural hazard data, water allocation) • developing controls through national standards where these are more appropriate than bespoke planning controls (eg silt control for subdivisions and roads) • developing template standards that are available for councils to adopt as appropriate • standardised methods for assessing significance or determining technical matters (eg the interaction between natural character, indigenous biodiversity and outstanding natural landscapes)	• Council online mapping systems should be set up so they are able to show individual property owners the NBA land use provisions that apply (as current RMA e-plans do) as well as the spatial plan context and desired strategic outcomes for the area the individual property sits in. Up to date monitoring information could also be linked into online maps. • Centralised digital tools and platforms would be efficient and cost-effective and avoid the need for repeated reinventing of wheels. Central tools should include e-plan platforms and Housing and Business Capacity assessment modelling tools. • National standards need to avoid becoming New Zealand Standards that are copyright and paywalled, which work strongly against widespread adoption and access. • We support template standards being available. • We support standardised methods for assessing significance or determining technical matters. • We support having economic instruments available and national direction about their use. They may be more readily employed to achieve environmental outcomes rather than avoid adverse effects. For example, economic instruments may be useful in a suite of methods to protect indigenous biodiversity, by providing landowners with recognition of the public good they may provide in foregoing development opportunities.
Efficiency in NBA plan development and content, for example:	• We support the RM Review Panel report's recommendation that plan making follows the Auckland Unitary Plan process, with appeals being essentially limited to matters where the

• streamlined and more flexible consultation requirements for plan development • requiring written submissions rather than oral • standardised templates for residential zones • limiting detailed amenity/urban design rules such as centres policies and business zone restriction • setting a minimum enabled development capacity within residential zones (eg under the National Policy Statement for Urban Development 2020) • stricter controls on the use of expert evidence • stricter controls on information requirements, including when (RMA section 37 equivalent) requests are used (eg request for further information and time waivers) • robust processes for managing complaints • greater accountability mechanism for councils in exercising governance of their planning functions	planning committee departs from the recommendation of the independent hearing panel. . In the Wellington region, we have seen the advantage of this approach with the Streamlined Planning Process used for Porirua's Plan Change 18 Plimmerton Farm. The 'no appeals' process provided submitters with the impetus to 'put their cards on the table' during the pre-Hearing and Hearing processes, rather than wait until appeals as some may otherwise have done. • The new system needs to also enable minor changes to be made to plans without going through the formal public plan change process. • Plan-making would also be considerably streamlined by removing the further submissions step. • We suggest that proposed plans in their entirety have legal effect upon notification, as per the current approach with regional plans. This would remove the need to apply to the Environment Court. • The Building Act should require residential building floor levels to be above the 1 in 100 year flood event rather than the 1 in 50 year flood event. This would simplify the management of flood hazard in NBA plans by reducing the need for consultative plan-making processes that are often contentious.
Reframing the RMA definition of 'adverse effects', including strengthened proportionality requirements for obligations to avoid, remedy or mitigate adverse effects on the environment	• We support having strengthened proportionality requirements, with clear guidance on assessing the significance of effects.
Enabling simplified resource consent processes, for example: • limits on the information that can be requested in consent applications • deemed permitted activities and less use of discretionary activity status • national consenting pathways • standardising consent conditions • design guidelines and use of urban design panels for medium and high density developments • pre-consented model or multiple-use house/townhouse designs • enabling better evaluation of the national or regional opportunity costs	• The exposure draft does not address resource consent activity status. The RM Review Panel Report recommended the following: permitted, controlled, restricted discretionary, discretionary and prohibited, with non-complying being discontinued. • We support having a reduced number of resource consent activity categories. • Councils often commission review reports on every technical report that accompanies a resource consent application. This adds considerably to timeframes and to the applicant's costs, because they are paying and waiting for the reviews. The processing planner is incentivised to seek such reviews because they shield the planner from responsibility. The reviewer is incentivised to find issues because they need to justify their input. The planner needs to be incentivised to accept, without review, technical reports that are prepared by suitably qualified, accredited professionals using industry-

	standard methodology, at least for simple consent applications. • We support having standard consent conditions to draw from as appropriate.
Enabling more effective dispute resolution and participation, for example: • reviewing the role and processes of the Environment Court and appeal rights in planning and consenting processes • simplifying formal first instance processes such as Board of Inquiry, direct referral to Environment Court, and Freshwater Commissioners • use of inquisitional rather than adversarial proceedings in forums • effective support for iwi, hapū and Māori participation	•
Measures to speed up the delivery of infrastructure, for example: • removing statutory hurdles to designations and consents • classifying specified infrastructure as a 'controlled' activity (eg for climate change mitigation and adaptation, to comply with health and safety requirements) • streamlining the Public Works Act objections process and designations appeal processes • alternative funding mechanisms for infrastructure (wider than development contributions)	•