

HS 1 – Day 3

Greater Wellington Regional Council

HEARING STREAM 1

Overarching Matters and Region-Wide Changes: Air Quality; Beds of Lakes and Rivers; Schedules and Threatened Species

Date: Wednesday 6th November 2024

Time: 9.50am

Hearing Stream: One – Day 3

Venue: Greater Wellington Regional Council Chamber
100 Cuba Street, Te Aro, Wellington

Hearing Panel: Dhilum Nightingale (Chair)
Sharon McGarry (Deputy Chair)
Gillian Wratt
Sarah Stevenson
Puawai Kake

Wairarapa Federated Farmers – Ms McGruddy

1

2

3 McGruddy: Greater Wellington Regional Council processes through that period. I did send
4 a brief hearing statement through to Josh just yesterday. I wonder if the panel
5 have had a chance to catch-up with that.

6

7 Chair: Yes thank you Ms McGruddy.

8

9 McGruddy: You have. Great. It is quite brief. I have listened to some but not all of Hearing
10 Stream 1 this week. So before I launch into the statement I will just take it up a
11 level if I may, mainly to actually record some agreements with other submitters.
12

13 To kick off I will just flag that Federated Farmers is a strong supporter of action
14 on the ground partnerships. Greater Wellington Regional Council has a long and
15 strong history of action on the ground partnerships in particular with the farming

16 sector, which is obviously our interests, and I think other areas of the community
17 as well.

18
19 So I just want to record that at the outset. Commissioner Nightingale and
20 Commissioner Wratt might recall that we spoke fairly consistently to that point
21 in the hearings last year, the RPS hearings, and I just noticed that on Day 1 of
22 this Hearing Stream 1 Nigel Corry, GW CEO he made some comments, and if I
23 heard him correctly, he was making comments to the effect that somewhat
24 regrettably a lot of resources, Council and stakeholder resources over recent
25 years, we've been kind of heavy on process, plans and paperwork, and maybe
26 haven't quite had the emphasis on action on-the-ground that we might have had,
27 and we would certainly endorse that. It's not that it hasn't been happening.
28 There's a lot of excellent action on-the-ground partnerships and catchments.
29 There's a lot of catchment groups on the go in the Wairarapa and around the
30 region.

31
32 So it's not that it hasn't been happening, but I would certainly endorse Nigel's
33 thought that the relative balance between the plans, the paperwork and the action
34 on the ground, it would be good to rebalance it.

35
36 The gentleman from Ngāti Toa on Monday, I think I heard him acknowledging
37 that there is a role for regulation, in particular so that things don't go backwards;
38 and alongside that he was emphasising that to go forward, to really look at where
39 are the opportunities for improving - be it the Porirua harbour or elsewhere
40 around the region.

41
42 For going forward it was really a hearts and minds game and I think he again
43 was emphasising the role and the impact that those non-regulatory partnerships
44 can have to make things better.

45
46 So certainly if I heard those gentlemen correctly on Monday I would certainly
47 endorse those points. Those are very similar to the frame that Federated Farmers
48 brings to this game.

49
50 Turning to Hearing Stream 1 and overarching matters, our hearing statement, I
51 will just very briefly step through the points that we've just highlighted here. I
52 know that some of them are similar to points that have been raised by other
53 submitters and in the Council hearing statements, so I will be quite brief.

54
55 Acknowledging the Whaituas: Federated Farmers supported the concept of
56 Whaituas from the get-go and that's now going back quite a few years; and I will
57 just make that overarching point that we acknowledge the work that those two
58 Whaitua committees put in over quite a number of years to develop the Whaitua
59 Implementation Plans which then service the basis of PC1. So I just want to
60 acknowledge that at the outset.

61
62 Alongside that of course the WIP recommendations. They were a package of reg
63 and non-reg recommendations and in particular the regulatory ones have come
64 forward into this plan change.

65 [00.05.05]

66 Of course we are all aware that national settings are on the move. It is awkward
67 and probably inefficient that we are working through this process when we can,
68 I think, be reasonably confident that we are going to have to revisit it perhaps no
69 sooner than when it gets finished.
70

71 I will just briefly make the point there that accepting the honest intent to follow
72 through on those WIP recommendations, there's no impediment to following
73 through on all those non-regulatory recommendations in the partnerships on the
74 ground.
75

76 The next point that we made here is in relation to the NRP. Federated Farmers
77 and a whole raft of other submitters were involved for quite a number of years
78 in the PNRP process and the appeal process. Had quite a retracted mediation
79 process before it finally got made operative just not all that long ago.
80

81 We do have a concern that PC1 is overturning or is unpicking some of that work
82 that only landed relatively recently after very protracted mediation. One area is
83 in relation in definitions. I won't go into the detail here. I don't think it's
84 appropriate in Hearing Stream 1. The matter will come up again next year. But,
85 we do agree with the Council reporting officer in relation to definitions in the
86 National Planning Standards that the most practical way of implementing the
87 National Planning Standards is through a whole plan review process, and we
88 agree with that.
89

90 Operative objectives: I heard some of the discussion about Objective 6 over the
91 last couple of days. I haven't actually understood why the recommendation has
92 been made in this hearing. I think that conversation and resolution belongs in the
93 Hearing Stream 2 objectives next year. But, to the extent it has been considered
94 in this one, I will just record here that we don't agree with the reporting officer
95 that it's inconsistent with the NPS.
96

97 In respect of cost benefit analysis, this is another overarching matter. It was
98 certainly brought up in the Federate Farmers submission and quite a number of
99 other submitters. I have heard the reporting officer this week acknowledging that
100 it is a bit lightweight and that more is to come. I will just flag that that's not ideal
101 because if Council front with some more solid and quantitative and economic
102 analysis that's good and that is to be welcomed; but if we don't see it until next
103 year then the reality is that submitters will only have that quite restricted time,
104 maybe only a couple of weeks to properly consider it. So it is less than ideal.
105

106 There is another issue that Council staff raised and that was in relation to the
107 robustness of evidence and data supporting the provisions. Our submission
108 certainly challenged the lack of ground truth data and monitoring sites at the
109 front end of both Whaitua, both Porirua and Wellington Hutt.
110

111 The Council officer references the NPS suggesting that lack of data is not a
112 reason to delay making decisions and yes that's quite correct, but equally the

113 NPS direct that Councils should take all practicable steps to reduce uncertainty,
 114 and that is a point that we will be returning to in the hearing streams next year.
 115

116 So, in conclusion, Wairarapa Federated Farmers do have overarching concerns
 117 about the efficiency and robustness of the process being followed for PC1.
 118 [00.10.00]

119 Acknowledging that this is an overarching hearing we will be returning to
 120 specific relief in specific future hearing streams.
 121

122 Thank you Commissioners.

123

124 Chair: Thank you very much Ms McGruddy. We shall see who has questions for you.
 125

126 McGarry: Mōrena. I'm just interested in looking at your original submission. In paragraph
 127 11 you talk about waiting to receive information requested from the Council and
 128 that is potentially material for your relief. I'm just wondering if you could
 129 explain there what information you are referring to.
 130

131 McGruddy: There was a chunk of stuff to do with sediment, erosion and sediment. The
 132 context there was that Council relied quite a bit on a body of work that had
 133 happened in the preceding Whaituas. What they ideally would have done but
 134 didn't do was pull together the key elements of the work that they relied on from
 135 the Whaitua into a kind of coherent package to support people engaging with
 136 PC1.
 137

138 So, in the absence of a nice coherent package of all that supporting evidence and
 139 information, we lodged a series of requests. There was a chunk of stuff about the
 140 base papers and base assumptions underpinning the erosion sediment modelling
 141 – that was a chunk of stuff.
 142

143 There's a provision that talks about GW demonstrating excellent practice in farm
 144 parks, and that's a programme of work that's been on the go for several years,
 145 so we requested information about, "Okay guys, how are you going? Because
 146 we know that you've been destocking and replanting your farm parks, and
 147 potentially there's a template there, and learnings that we can bring through to
 148 PC1, and what documentation have you got that we can look at to learn from?"
 149

150 So there were a series of requests and I can report that in the New Year, past the
 151 deadline, they did tidy up all the outstanding requests, so that is all now to hand
 152 – to the extent that we didn't have it when we lodged the submission.
 153

154 We do intend to be referring to it in the topic specific hearings next year.
 155

156 McGarry: Great. So you do now have the information that you need to be able to bring...

157

158 McGruddy: Yes we do, yes we do thank you Commissioner.
 159

160 McGarry: Just one other one. This isn't my view but you could argue, and I'm looking at
 161 your paragraph 26 of your submission here when I ask this question, where you

162 have said that the policy is essentially a policy of managed retreat to attain public
 163 good. I just wondered what your view was that you could argue that it's actually
 164 required to avoid or mitigate the adverse effects of current land use activities and
 165 sort of flipping that argument on its head. I just wondered what your response to
 166 that was.

167
 168 McGruddy: So the counter factual that you're putting to me is just say that again
 169 Commissioner?

170
 171 McGarry: You're saying the regulations is more about attaining a public good, and I'm
 172 saying that you could flip that and say that it is actually required to avoid and
 173 mitigate the adverse effects of the current land use activities.

174
 175 McGruddy: Yep. I will answer that in slightly broader terms if I may Commissioner.

176
 177 The specific proposal that's on the go here in PC1 is that the establishment of
 178 permanent [14.42] vegetation cover on pasture within ten years and 100 percent
 179 by 2040. So the context is that there is what Council considered to be steep and
 180 erodible land that hasn't currently got trees on it, and therefore the onus is on the
 181 current generation of land owners to put them on forthwith.

182 [00.15.05]

183 The longer context, be it the Greater Wellington Region all around the country
 184 is that yes there is steep and erodible land around New Zealand that came out of
 185 forest maybe a hundred years ago, maybe two hundred years ago, maybe five
 186 hundred years ago and over the last couple of hundred years a lot of that
 187 clearance of forest was encouraged and supported by various Crown incentives
 188 and subsidies.

189
 190 It's not generally a case that the current generation of land owners wilfully cut
 191 down all the trees last week or last year. There is a longer context here of public
 192 and private decision-making and in that context I don't support that alternate
 193 view that you've just tested me on.

194
 195 McGarry: Thank you.

196
 197 Wratt: Hello Ms McGruddy. Great to see you again.

198
 199 McGarry: Hello again Commissioner Wratt.

200
 201 Wratt: You've commented that you've listened to some of the previous presentations to
 202 the hearing over the last couple of days, and mentioned the CE of Greater
 203 Wellington Regional Council.

204
 205 Your comment in your speaking notes and in your submission that the Wairarapa
 206 Federated Farmers, as I understand it, is opposed to continuing with the PC1
 207 process at the moment. You haven't really quite repeated that in your spoken
 208 presentation today. I guess I'm just wondering, considering the comments that
 209 came from Mr Corry and also the legal submission from the counsel for the
 210 Council whether that is still your view, that Wairarapa Federated Farmers still

- 211 considers that the PC1 process should be put on hold at the moment. I guess in
 212 the context of the comments that have been made around the process to date and
 213 commitment of those involved in the process, and the history of changes in the
 214 NPS-FM over [18.20] some years ago.
 215
- 216 McGruddy: I will just flag Commissioner that in our original submission we didn't actually
 217 call for it to be stopped, which is partly why I haven't over emphasised that point
 218 here. But, of course, since PC1 was notified and the change of government, I'm
 219 not saying anything that everybody is not aware of.
 220
- 221 I can certainly understand the Council position. Of course the government
 222 changes, and whichever government is in, there will be a succession of changes
 223 at the national level and so on.
 224
- 225 I understand the context. I understand the motivation to keep going with the work
 226 that those Whaitua committees did. But, having said that, it's also my
 227 understanding, and I stand to be corrected, that this government has made it very
 228 clear that their intention is to amend the current version of the NPS, and I think
 229 this NRP PC1 process might be the only plan around the country that's intending
 230 to give effect to the current latest version of the NPS 2020. I stand to be corrected
 231 on that, but if we're the only one.
 232
- 233 [00.20.00] So in answer to your question Commissioner, I understand the Council's reasons
 234 for proceeding. I perhaps am not confidently anticipating that you folk are going
 235 to pack your bags prior to Christmas. But, unfortunately it does mean that I think
 236 we are going to have an awkward process in the coming year, to do it and then
 237 probably redo it.
 238
- 239 Wratt: Thank you. That explains your thinking. Thank you.
 240
- 241 Chair: Ms McGruddy and yes just to echo Commissioner Wratt's comments, it is very
 242 good to see you again. Thank you for continuing to engage with us and the
 243 Council through the planning instruments.
 244
- 245 Wairarapa Federated Farmers sought that objective 02 be retained for all
 246 Whaitua.
 247
- 248 McGruddy: Yes.
 249
- 250 Chair: You say in your speaking notes at paragraph 9 – so the S42A reporting officer
 251 agrees that objective.
 252
- 253 McGruddy: Yes.
 254
- 255 Chair: But, does not agree that Objective 06 should remain and that it should not apply
 256 to the two Whaitua.
 257
- 258 So you say that you don't agree with that, because the use of water is a matter
 259 which is aligned with the NPS-FM.

- 260 McGruddy: Yes.
261
- 262 Chair: Are you able to explain that a bit further? I don't know if you've seen the S42A
263 reporting officer's rebuttal evidence which responds to Meridian's submission
264 on this point, because Meridian also sought that Objective 06 applies to all
265 Whaitua. The officer says that retaining it for Te Whanganui-a-Tara and Te
266 Awarua-o-Porirua is at odds with the hierarchy of obligations expressed through
267 Te Mana o te Wai," and I think part of that is because the sub-heading to
268 Objective 6 is beneficial use and development.
269
- 270 So I think the point the officer is making is that if that is retained for all Whaitua
271 that could put this objective at odds with the objectives that are Whaitua specific.
272 My head is not around those yet, but that they provide different direction that
273 gives better effect to the hierarchy and Te Mana o te Wai.
274
- 275 Just any comment on first of all if you have any response to the officer's rebuttal,
276 which I think starts at about para-14.
277
- 278 McGruddy: The officer's rebuttal in essence repeated the officer's S42A. Happy to speak to
279 this Commissioner.
280
- 281 The officer repeated her position and I continue to disagree. Reasons for
282 disagreeing is that the NPS for freshwater does not preclude use and
283 development of water. At the back of the NPS it's got the various values of water,
284 which include in-stream values, the in-stream life the bugs, fish and so-on and
285 so-forths, and out-of-stream values including primary production and
286 commercial uses.
287
- 288 The NPS includes the range of values. Yes indeed it has got a hierarchy and
289 within that hierarchy is use and development.
290
- 291 [00.25.00] So what's principally at issue - and there was a little conversation about this -
292 but what's principally at issue is the officer saying that it's not that it conflicts
293 per se with the NPS-FM, it's that it potentially conflicts with the package and the
294 weight of the objectives that have come through from the Whaitua into RPS PC1.
295
- 296 So, where should we be having that conversation? Unquestionably in HS2 next
297 year, and not try to pick this one out separately.
298
- 299 I anticipate that when we have that proper conversation next year, lining up 06
300 and 02 alongside the Whaitua specific ones, I anticipate that we will still find 06
301 to be appropriate and not inconsistent, but that will be the time to have that
302 proper conversation.
303
- 304 Chair: Thank you Ms McGruddy, that's clearly put. Thank you.
305
- 306 McGruddy: One final thing: the reporting officer Mary O'Callahan she indicated that she had
307 omitted to consider the fact that one of the Whaitua has got provisions for water

- 308 take and the other one hasn't, and therefore that... and I don't think that makes
 309 any difference. I think it's the detail. I don't think it's at all material.
 310
- 311 Kake: Tēnā koe Ms McGruddy. I've just got a couple of questions. The first one is just
 312 following on from what Commissioner McGarry was asking with respect to
 313 managed retreat. I'm just wanting to clarify: are you talking about the definition
 314 under the national adaptation plan?
 315
- 316 McGruddy: Short answer: no. More broadly that concept Commissioner.
 317
- 318 Kake: Thank you. Just with respect to Wairarapa Federated Farmers, just in terms of
 319 context and information around membership, there are a couple of paragraphs
 320 with respect to lot size and farmers. I know we will get into that discussion next
 321 year, so I don't want to go down that rabbit hole too much, but could you just
 322 briefly explain in terms of the membership of Wairarapa Federated Farmers?
 323
- 324 McGruddy: Yes, absolutely. Are you perhaps thinking about some of those provisions for
 325 the lifestylers Commissioner? Is that partly where your question comes from?
 326
- 327 Kake: Correct.
 328
- 329 McGruddy: Federated Farmers Wairarapa, the province is pretty much the GWRC. As I'm
 330 sure the Commissioners will appreciate, most of the farm land in the Greater
 331 Wellington Region and in the Wairarapa Province is indeed in the Wairarapa.
 332 We have less farm land and less membership, as you might expect Kapiti,
 333 Porirua and Wellington Hutt – that side of the hill, more on this side of the hill.
 334
- 335 The province membership we've got around 400 members. It is voluntary
 336 membership. Our members voluntarily pay each year to belong to Federated
 337 Farmers. Our traditional and core membership is what I will call the commercial
 338 pastoral farmers. Sheep, beef and dairy are the backbone of this region's farmers
 339 and Federated Farmers membership.
 340
- 341 To a lesser extent we have arable growers, horticultural growers and lifestylers.
 342 So we do have a membership bracket which is for lifestylers, and we do have
 343 lifestylers within our membership.
 344
- 345 Kake: Thank you. Just one final question: with respect to the comment in your opening
 346 statement that there has been discussion as you mentioned around non-regulatory
 347 methods. Without again going into too much detail, because we will pick up on
 348 this next year, just any particular methods I suppose that stand out to you.
 349 There's a few in your submission, but just so we can look into this going forward.
 350
- 351 McGruddy: Commissioner, do you mean things that Council have been doing years past and
 352 on the ground, or do you mean methods within RPS PC1?
 353
- 354 Kake: Both.
 355 [00.30.00]
 356

357 McGruddy: Okay. I can unreservedly take my hat off to Greater Wellington Regional
 358 Council because they've actually been doing awesome work in this region for
 359 over fifty years. For a lot of that time, and I'm going right back last century,
 360 three generations of farmers ago, I would highlight perhaps two things: it was
 361 hill country erosion programme for over fifty-odd years where very much a
 362 three-way partnership between central government, Regional Council and
 363 landowners, targeting erosion of hotspots, in particular in the Eastern Wairarapa
 364 hill country. The framework was erosion farm plan and poplar planting, and this
 365 thing and that thing.

366
 367 Very long-standing partnerships there, as I say, through multiple generations of
 368 farming families.

369
 370 If I wind back maybe ten years or so ago, the question came up acknowledging
 371 those very good partnerships prioritised two hotspot areas and catchments in the
 372 [31.18] hill country. Why didn't Council do that in the rest of the region?
 373

374 To their absolute credit, they actually did. They rolled that model down firstly
 375 into the Wairarapa Valley and then over the hill into areas like Porirua and
 376 Kapiti.

377
 378 To their credit they did that. Then another development on that same frame has
 379 been catchments. Again I forget – a sure sign I've been here probably too long
 380 when I forget how long ago it was, but a number of years ago the catchment
 381 thing really started to take off. Again, I know Commissioners Wratt and
 382 Nightingale are familiar with this, but we've had an explanation of catchment
 383 groups around the country and most definitely in this region. In the Wairarapa
 384 we've got 20 or more. I just forget the numbers. It's very much that thing of
 385 people ground-truthing their own patch and takin ownership for their own river;
 386 taking ownership of the problems if there are problems; and taking ownership
 387 of the solutions.

388
 389 I take my hat off to the work that Greater Wellington... and I've forgotten what
 390 they call them, but the lead management officers or some such title. They've
 391 been doing awesome work on the ground working alongside.

392
 393 So, there's a really long history of that stuff that's been happening. A wonderful
 394 platform that we've got to springboard off.

395
 396 Then turning to NRP HS1 there were quite a few methods that we supported,
 397 and all that stuff around the action plans; and in fact we want it beefed up,
 398 because we want to continue to be in that place where catchment communities
 399 know and understand their own river, their own water, and where their
 400 opportunities and priorities are for improving it.

401
 402 Kake: Thank you.

403
 404 Chair: Thank you very much Ms McGruddy. We appreciate your time and look forward
 405 to talking more about these issues next year.

- 406 McGruddy: Thank you very much panel.
407
- 408 Chair: Do we have the Chinese Forest Group?
409
- 410 **China Forest Group Company New Zealand – Mr Richards**
411
- 412 Kia ora. We welcome submitters from China Forest Group Company.
413 [00.35.00]
414 Good morning. Welcome. Is it Mr Richards?
415
- 416 Richards: Yes, that's correct.
417
- 418 Chair: Good morning. We are the panel hearing submissions on Proposed Change 1.
419 Would you like us to do some introductions, or were you online when we did
420 that the start?
421
- 422 Richards: No I wasn't. I have seen the brief information on the web about the panel, so
423 happy to pass that, unless you wish to go into more detail.
424
- 425 Chair: If you're comfortable then that's all fine. Have you got a team with you Mr
426 Richards, or are you presenting?
427
- 428 Richards: I'm just presenting on behalf of.
429
- 430 Chair: Thank you. We've read your submission. If there are any specific points you
431 would like to make particularly in relation to this overarching matters topic,
432 please go ahead and we'll ask questions after you have presented.
433
- 434 Richards: The only thing I am unclear of at the moment is are you able to see the power
435 point presentation, or have you got a hard copy in front of you?
436
- 437 Chair: We can't see a power point presentation on screen. I'm also not sure if we have
438 a hard copy.
439
- 440 Ruddock: Apologies Mr Richards, I will put that up now.
441
- 442 Richards: We can move straight into the introduction, the next page. I am just covering as
443 per the classifications from Greater Wellington, those submission points from
444 our submission from 1 to 17 which we will classify as being general comments
445 and general comments plantation forestry. I have restricted at this point the scope
446 to that.
447
- 448 The objective really is to provide I guess a flag of the issues that we will be
449 seeking to develop through the subsequent hearings.
450
- 451 Just a wee bit of background though: Chinese Forest National Group they
452 actually purchased the cutting rights to all the exotic plantations that were
453 previously owned by Greater Wellington Council in the catchments of interest.
454 The forests are located in the Upper Hutt and Porirua, but they also have cutting

455 rights to forests in the Wairarapa which presumably will be going through a
456 similar process at some future date.

457
458 The area impacted by the current PC1 is about 3,600 hectares and it is managed
459 locally by a forest management company, Forest 360, who are based in Porirua,
460 Feilding and in Masterton.

461
462 The CFG themselves are moderate sized land owner for a forest owner
463 throughout New Zealand with about 30,000 hectares in total.

464
465 Just as a matter of orientation the geographical situation or distribution of the
466 forests: the dark green represents the CFG cutting rights that were previously
467 Greater Wellington's and the lighter green represents other private forest
468 ownerships within the two catchments, and the pink is the overlay of the higher
469 erosion hazard as defined by Greater Wellington Council.

470
471 As you can see, there is only a relatively small part of their estate is in Te
472 Awarua-o-Porirua with the rest being in Te Whanganui-a-Tara.

473
474 There are three major themes that will be effectively the focus of our detailed
475 submissions in future hearings. The first, which is very much a matter of
476 principle and I think perhaps has been referred to by the previous speaker as well
477 – is there is a huge concern regarding the lack of consultation with the industry.

478 [00.40.00]

479 The second is that we believe the rules that have been promulgated in PC1 are
480 actually not at all well supported by the data available in respect of impacts of
481 forestry on water quality.

482
483 And finally that we believe that there has been a serious failure to properly
484 identify the true costs and benefits and liabilities to the commercial forestry
485 sector of the rules as they are currently being promulgated.

486
487 Moving onto those themes: the first theme, the concern is that the understanding
488 of the sector and CFG in particular was that the work of the Whaitua committees
489 was meant to be the primary platform by which the community had
490 representation to engage in the plan development process.

491
492 The industry had no representation on one of the committees and partial early
493 representation in one of the others – the committee's work going on for quite a
494 number of years. But, notwithstanding that, it wasn't a problem in terms of the
495 outcomes of the committee's deliberations.

496
497 Their recommendations would not cause any great concern. They were
498 reasonable and measured and from an industry perspective they would be what
499 one would expect.

500
501 But, that is a huge variance to the rules that have subsequently been
502 promulgated.

503

504 I won't read them out in detail as they are there with you, but the outcome of
505 both committees was different words but similar tenor, and that was that the
506 committees did not see that there was a need for added or significant added
507 stringency to the regulatory regime that was already in place through the
508 National Environmental Standard as it was then plantation forestry and is now
509 commercial forestry.

510
511 What they did see as being required quite justifiably was a focus on assuring
512 compliance with those standards and education, and where necessary
513 enforcement.

514
515 Both of them, as I say, had a similar tenor but different words.

516
517 The important thing though is that the rules now as promulgated are a material
518 divergence from that work.

519
520 Our view is that while this can't be turned back, it's where it is and we are now
521 in the process and we recognise the Council wishes to proceed down that track,
522 we are concerned that if there is to be further change, and we hope there will be,
523 there needs to be a very considerable engagement with the industry – because
524 what is the outcomes that have been reached so far are significantly divergent
525 from the signals coming from the Whaitua Committee's work.

526
527 Next slide: again that's Te Whanganui-a-Tara's summary of recommendations
528 in respect of forestry.

529
530 Next page: The second theme was about the data support for the rules as they've
531 been promulgated. Within CFG there are six forests or areas of forests that serve
532 catchments that are monitored by five long-term monitoring sites that have been
533 monitored over many years by the Wellington Regional Council. We looked at
534 that data. It's all publically available data.

535
536 Next slide: We can see I guess at the highest level summary that there isn't
537 exactly a good correlation between forestry presence and activity and water
538 quality. We have two catchments in particular – the Horokiwi and Maungaroa,
539 both of which have had either little forestry activity at all, or in the case of the
540 Horokiwi there is a forestry presence but through a different range of ownerships
541 the actual exposure to the two sediment generating activities of forestry – that's
542 the earthworks in preparation for harvesting and the harvesting itself – has been
543 little more than on average about 1.6 percent over the last twenty years.

544
545 [45.08] Yet despite that, and the fact that the catchment overall is about 3,000 hectares,
546 the national objective framework clarity is bad and many of the other measures
547 as listed there are somewhere in the poor to average condition.

548
549 Maungaroa is a similar situation. A big catchment and actually a small presence
550 of forestry and forestry activity. Low condition.

551

552 At the other end of the scale we have Whakatiki and Akatarawa, both of which
553 are large catchments. They do have large areas of indigenous forest in the
554 headwaters, but they also have reasonable areas of forest that has been actively
555 harvested over the last number of years, and they're maintaining very good
556 condition.

557
558 Pākuratahi is similar. The only outlier to it is that its macro invertebrate indices
559 seem to be a bit low for reasons that are particularly obvious.

560
561 Next slide: We are unsure on what has driven the move towards the much higher
562 stringency as currently envisaged in PC1. There are a number of suggestions and
563 texts within the plan and also the cost benefit, that there is a concern about the
564 total forest extent, and that is true in the sense that forestry is an extensive
565 industry. But, as we can show in terms of total contribution of area within the
566 major catchments, it's not actually that big.

567
568 We also suspect there's been a failure to recognise the temporal nature of
569 forestry at any one time, depending on the [47.09] distributions, the area that is
570 subject to harvesting and earthworks is actually quite small.

571
572 It is well recognised in research that after those disturbance events baseline water
573 quality often returns very closely back to normal, i.e. [47.28] after about four to
574 five years.

575
576 Just therefore to illustrate that a bit if we move to the next slide. We can see here
577 in the Maungaroa catchment on the left very roughly outlined in red is the total
578 extent of the catchment with the main stem of the Maungaroa in blue, but there
579 are a large number of tributaries, particularly coming from the East in the
580 Remutaka Ranges, which of course is all indigenous forest.

581
582 On the right the same roughly represented extent and you can see again to the
583 East the indigenous forest. The red dots represent all the exotic plantations that
584 could be identified relatively easily from aerial photography, and there has only
585 been harvesting relatively recently in one small part of that total catchment; yet
586 the catchment conditions as illustrated in the water quality monitoring data are
587 poor.

588
589 Occupancy in this catchment doesn't really explain why the conditions are so
590 poor.

591
592 If we move to the next slide: again, just for illustrative purposes, at five year
593 intervals aerial photography of exactly the same area of estate in the Upper Hutt
594 covering land between both the Akatarawa and Whakatiki. This includes both
595 CFG Forests and other private forests.

596
597 The real point is that you can see over time how the areas that have been cleared,
598 harvested and replanted are moving around over time, over what is a reasonably
599 extensive area, but the total exposure at any one point in time over that twenty
600 year period is actually relatively small.

601 Next slide thank you.

602
603 The final theme that we wanted to touch on was the concerns about the costs and
604 the implications of the erosion zoning or the higher risk of erosion zone. All the
605 forests under the National Environmental Standard plantation forests or
606 commercial forests are currently zoned for erosion susceptibility as only
607 medium risk. This relates particularly because of the underlying grey whacky
608 geology.

609 [00.50.10]

610 The issue if the rules as currently promulgated come into pass is that for CFG
611 alone, on average about nine percent of their estate will have to be retired, and
612 in one forest up to 18 percent will have to be retired. That is laid out in the table
613 in this slide.

614
615 The costs of that, in writing off of such land, is quite significant. They have also
616 have downstream effects on future wood flows and so on. But, the biggest
617 impact really is what we have termed the pixilation of the estate.

618
619 If we look at the next slide, we've illustrated this by overlaying at a much layer
620 scale the high risk erosion zones as defined in the proposed plan.

621
622 You can see on the left at the lesser end of the scale there is, as described, a
623 complete pixilation of the estate. There's lots of tiny little fragments of land that
624 in theory are going to have to be retired.

625
626 The complexity that that creates, in some cases almost an impossibility for
627 roading, for harvesting, costs of consenting for what are very small fragmented
628 areas that if one goes into the technical details about the method in landslide
629 predicting capabilities of the method used, we think are completely unjustified.

630
631 At the other end of the extreme, in another forest you can see with the red lines
632 representing what are in effect the haul lines used by cable haulers to harvest
633 that area when it was harvested. The lines are actually very vaguely visible still
634 in places.

635
636 You can see with the super imposition of the higher erosion risk that forest is
637 basically unworkable. So theory of writing off a certain proportion based on the
638 area of the high erosion zones grossly underestimates the reality of the effect,
639 which is that whole forest areas will simply become quite untenable and will be
640 walked away from.

641
642 Next slide: the issues are ultimately as mentioned, is that in a technical sense,
643 which we will go into in other hearings, is that the erosion zone, as calculated,
644 is a very poor predictor of land sliding which is the main form of sediment
645 generation coming from forestry, if it does happen at all. The pixilation and the
646 write-offs resulting from it are grossly underestimated.

647
648 The patches, and particularly when they are very small patches will be prone to
649 weave, wind and edge damage, so their value in terms of creating the objective

650 or meeting the objective will be very low in many cases and whole blocks will
651 likely become non-viable.

652
653 In terms of accounting for the Emissions Trading Scheme, there was no mention
654 of that made anywhere in the planning documents, but forests that are retired
655 have to be replanted or else you are exposed to the liabilities of the Emissions
656 Trading Scheme and those can amount to tens of thousands of dollars per
657 hectare.

658
659 The only way out of that is to keep it in woody vegetation which can be native
660 vegetation, but it must reach certain criteria which includes tree species that will
661 meet the height of five metres by year twenty, and a certain percentage of canopy
662 cover. Now, that may or may not be achievable in some cases. In some parts of
663 the estate native natural regeneration may well achieve that, but given the very
664 exposed ridges and upper slopes in many of these areas and fairly skeletal soils,
665 it's equally likely that you'll get shrub species or even weed species – gorses and
666 broom, that will take over those sites. Controlling those an enabling a native
667 understory to develop to meet the criteria will be very expensive and very
668 difficult.

669
670 [00.55.00] Finally, amounting to the final part of where this all leads to is, who is going to
671 pay for this added cost? The management of these small patches will be ongoing
672 and costly, including pest and predator control. There is the ongoing risk of
673 increased weed control and fire risk that the forest owners will face. The Council
674 has talked about rates relief, but or private owners who actually own their land
675 in many cases their land will be severely devalued by the retirement
676 requirements, so the rates relief they can expect will be commensurately poor.

677
678 The only other pointer from Greater Wellington to Council assistance is all the
679 core subject to policy and long-term plans are not locked in, and the current state
680 of council finances suggests that it's a very uncertain situation for forest owners.

681
682 CFG believes, I guess as a final statement, that because of the lack of
683 justification and data, and the lack of evaluation in the S32 Report about the
684 costs and benefits, that the recent results from the sector challenge to Canterbury
685 Regional Council over their water plan will be relevant looking forward to the
686 future hearings, where the ruling was that stringency over and above the
687 requirements of the NES was not properly justified, and that the S32 did not
688 adequately deal with the costs and benefits.

689
690 Next slide: so effectively, just concluding we believe that the signals from the
691 Whaitua have been deviated from significantly and we question why and why
692 the lack of consultation if they were intended to deviate significantly. We do not
693 believe that there is sufficient justification to call on Regulation 5 of the NES-
694 PF to incorporate significant added stringency over and over the controls of the
695 NES, and we believe that all these matters ultimately culminate in the issue of
696 the S32 and allows some justification of the data, which is what we will be
697 bringing up in the future hearings.

698

699 That's it from me. Thank you.

700
701 Chair: Thank you very much Mr Richards for explaining that so thoroughly. It has
702 certainly given us lots of information to reflect on as we go into Hearing Stream
703 2 next year.

704
705 I have questions but I'm sort of not sure. I mean, part of me thinks that maybe
706 having a better understanding of this context that you have given could be
707 helpful as we go into our preparation for Hearing Stream 2, but at the same time
708 I am conscious as well that I'm not familiar at this stage with the forestry
709 provisions.

710
711 I will ask some of these questions, but if you think that it's better to talk in more
712 detail about these when you present in Hearing Stream 2 then please just say and
713 we can come back to it.

714
715 I didn't quite follow your comment, that if these more stringent rules become
716 operative in the regional plan why is it that whole forest areas, I think you said,
717 would become untenable? I mean, aren't the restrictions on afforestation? That's
718 certainly what we looked at with the submitter yesterday, NZ Carbon Farm.
719 Restriction on afforestation. So if the trees are already planted can't they just
720 remain and wouldn't that then not trigger any ETS liability?

721
722 Richards: My understanding was that earlier on there was an error and that there was an
723 intention that they wouldn't be able to replanted those areas as well. So you
724 could harvest the current forest but you would not be able to replant those areas.
725 I think that was communicated by email. I can't remember the date off hand.
726 But, there was an email record that that was to be brought up by Council during
727 the hearing process.

728 [01.00.20]
729 So you're quite right, you will be able to harvest the existing forest, but under a
730 considerable increase in stringency and rules. But, you won't be able to replant
731 those areas that are within the zones.

732
733 Chair: And, that's what triggers that ETS liability?

734
735 Richards: Yes, correct.

736
737 Chair: Thank you. Is that also your comment about those particular areas then having
738 to be retired, because you can't plant [01.00.51]?

739
740 Richards: Correct, yes.

741
742 Chair: I understand you're I think making a link between there's water quality
743 monitoring data. I think you talked about two areas in particular and you're
744 saying there's a small amount of harvesting going on in those areas and you
745 can't necessarily attribute the quality of water to forestry activities. Is that right?
746 Was that the point that you were...

747

- 748 Richards: Yes, certainly you can't make that direct attribution. In the background is this
749 fairly well established trend throughout the country that in terms of most of the
750 water quality and attributes you have an order of basically deteriorating quality
751 through from native forest to plantation forest to pastoral agriculture, dairying
752 and urban. That's the general trend. Within the forestry component the impact
753 occurs almost entirely during that period of harvesting and earthworks, and
754 returns to their natural baselines generally around most parts of the country
755 within a short period of time.
756
- 757 So if you take that component and then also look at the total area contribution
758 on an aerial basis relative to the total proportions of the catchments involved, it's
759 not surprising then for instance that for the Whakatiki and the other major
760 catchment with a large proportion of the indigenous forest are not much other
761 land use associated with it, other than forestry and maybe a little bit of urban
762 down the bottom end. The water quality is good in those catchments, but for
763 much more highly modified catchments, despite forestry being a fairly small
764 component of the catchments, the quality is bad.
765
- 766 Chair: Thank you. I will see if anyone else has questions.
767
- 768 McGarry: Thanks Mr Richards. I've got a lot of questions for you too, but I'm going to
769 save them for the next hearing stream because I suspect they're a bit too detailed.
770
- 771 But, just a supplementary on Commissioner Nightingale's one then: would you
772 agree that the potential for suspended sediment discharges into waterways are
773 more of a potential, like a slug or an intermittent type discharge, and that the
774 kind of data that's in the reports, which is more regular sort of state of the
775 environment type water quality monitoring is unlikely to reflect those potential
776 periods of suspended sediment inputs?
777
- 778 Richards: Yeah, that's correct. It will come through over a short time period, under the
779 normal operational conditions, if it is does happen at all. But, there are regulatory
780 tools within the NES to try and mitigate that and ensure that that's not happening
781 in an uncontrolled method.
782
- 783 McGarry: The way to get more data and information on the magnitude of those potential
784 sort of slugs that come through the system, attached to the harvesting, you would
785 need to do some quite targeted monitoring wouldn't you, to understand the
786 impacts?
787 [01.05.03]
- 788 Richards: Yes you would. I think that's a problem facing probably much of the water
789 quality monitoring around the country and not just locally in Wellington. The
790 original monitoring setup was not designed to be able to deliver the attribution
791 that is now being sought across land uses. There is still a lot of interpolation
792 going on.
793
- 794 McGarry: Thank you Mr Richards I look forward to continuing this line of questioning
795 when we see you next year. Thank you.
796

- 797 Wratt: Commissioner Wratt Mr Richards. Just exploring that temporal issue a little
798 more, what I'm understanding or what you're presenting is that the risk and the
799 sediment flow is just during that harvesting period. I understood that there was
800 also a higher risk if there were storm events for some period after harvesting, in
801 that you've got a period if you're replanting where you've got young trees with
802 small root areas, and you've got the stumps left from old trees with the root areas
803 disintegrating essentially. So you still have a risk, and I may not have the time
804 period right, but a sort of four or five year time period after harvesting where
805 there's still quite a high risk around landslides on more erosion prone areas.
806
- 807 Richards: That's correct, the time period is about the same. If replanting goes ahead then
808 after about four to five years that risk is substantially reduced again. But, what
809 you are then talking about is certainly landslide risk and that's what the NES
810 erosion hazard system or erosion susceptibility layer was designed to principally
811 target. It was looking at landslide risk.
812
- 813 So because of the geology, particularly in this part of the Wellington Region the
814 landslide risk was assessed in the medium range out of a four scale range. So a
815 range goes from low, medium, high to very high. So all these forests in terms of
816 landslide risk, which is the biggest source of sediment that will come out of a
817 forest, was assessed at the end that allowed for permitted activities subject to
818 conditions for management.
819
- 820 But, you're quite correct, on the bigger scale there's that window of vulnerability
821 until the replanted trees pick up again.
822
- 823 Wratt: But, what I'm hearing from you is you're saying that the now NES-CF does
824 address that?
825
- 826 Richards: Yeah, the whole point of that erosion susceptibility layer was to create a rule
827 framework around that susceptibility.
828
- 829 Wratt: Thank you. One other question: you talked about retiring larger areas of forestry
830 where you have small patches of high erosion risk land. We hear these days a
831 little bit about less, about changes in practice away from sort of wholesale
832 logging of large areas, and more logging of smaller areas. I guess the question
833 in my mind, and obviously I'm not a forester, is are you really going to retire
834 those large areas, and it's not feasible to log around those small erosion prone
835 areas?
836
- 837 Richard: Not on steeper country. There is certainly big changes in technology that provide
838 a greater flexibility than they did in the past, but it's still not feasible at the highly
839 fragmented or pixilated scale that is illustrated there. If it was all relatively flat
840 land, yes you could, but not on steeper hill country.
841
- 842 I would point out though that in relation to that general theme, none of these
843 forest would have had much in the way of, for instance, riparian setbacks at the
844 time they were established. But, riparian setbacks are now a regulated part of the
845 NES.

846
847 [01.10.00] Equally many forest owners, there are bits in these estates, because as you
848 suggest they were just blanket-planted without consideration much for the
849 future. Land owners will look at that. Forest owners will look at that after harvest
850 and say, “Which bits caused us grief? Which were highly expensive?” and
851 actually merit the difficulty. They will retire those often in a voluntary sense,
852 and that is quite visible, but they will work to logical rational boundaries that’s
853 enabled a working estate wherever possible.
854
855 And, I think that points to one of the underlying issues, is that if there was a way
856 through it would be more focused on looking at each area of land and saying,
857 “What can we as an owner in the Council do to improve the next round of
858 planting?” It’s very visible on my experience within some of those very forests,
859 that there has been areas that have been retired, almost invariably throughout the
860 industry.
861
862 In fact, areas that are being retired increase after every harvest, because of that
863 rationalisation in looking for safer and less risk options and more economic
864 options for the future; but simply semi randomly imposing a whole lot of reserve
865 retirement areas over the estate will be an extremely difficult situation to manage
866 in a useful way.
867
868 Wratt: Thank you for that detailed response. As other Commissioners noted we’ll look
869 forward to further conversation in a future hearing. Thank you for your clear
870 presentation and response to those questions.
871
872 McGarry: What’s the mechanism for doing that Mr Richards? Would that be a resource
873 consent process in terms of ensuring that there’s some vigour around that
874 process of assessing what areas may not be appropriate for replanting?
875
876 Richards: It could be, or it could be just by maintaining a more interactive relationship
877 with the Council. Under the NES, as I mentioned the medium hazard for erosion
878 susceptibility, is actually enables in a permitted basis harvesting and earthworks,
879 but they are now objective standards including discharge standards, and the
880 requirement to lodge management plans with the Council prior to operations
881 starting, the management plans are quite detailed. Although the Council can’t
882 refuse that, it does give them the option to then go back of they had concerns; to
883 go back and say, “We don’t think this is a good idea.”
884
885 Of course, a land owner or forest owner could reject that, but if they then
886 transgressed and weren’t compliant, and particularly if they weren’t compliant
887 with the standards and were subject to enforced action they could expect what
888 they should have anticipated.
889
890 That’s the way the control circuit was developed under the NES. The next level
891 up at high risk you do need consents for earthworks. There’s strict limitations
892 on the amount of earthworks before you need a consent. At the high risk there’s
893 very high restrictions and consenting required for harvesting and earthworks in
894 particular.

- 895 Again, for Wellington, or this part of Wellington, it's a relatively robust geology.
896
- 897 Chair: The forest that your company owns or has the cutting rights to, is that plantation
898 forestry or is it exotic continuous forest cover?
899
- 900 Richards: It's all plantation based on a clear-fell patchwork regime. The typography does
901 lead almost invariable to a patchwork anyway. It is a clear-fell regime, but as
902 you can see from the picture in the presentation in terms of the temporal
903 distribution, it does form patchworks. On the second rotation those patchworks
904 are usually even more fragmented than the first time around, because it takes
905 longer to harvest than it does to plant. You can expect that with a combination
906 of retirements and breaking up the age class distribution that these areas do
907 become slightly more fragmented. But, the boundaries of that fragmentation
908 being rational become all the more important.
909
- 910 Chair: The cutting rights that you mentioned, that's harvesting as well as the right to
911 plant? It's your company's forest and you can manage it as you see fit?
912
- 913 Richards: That's correct. There are a number of conditions, which I haven't got in front of
914 me. I am unable to remember them either, but there is quite an extensive list of
915 conditions coming with the cutting rights about management of the state and
916 also it's interaction with the natural forest around, which of course remains
917 within greater Wellington's management jurisdiction.
918
- 919 Chair: Is that the 3,600 hectares?
920
- 921 Richards: Yes, correct.
922
- 923 Chair: Sorry, just one final one and we are at time. I didn't understand. There was a
924 sentence on page-12 of your submission, if you have that there. It's right at the
925 very top, where you say, "It is noted that replanting on nominated high risk land
926 is not included in the notified plan as a non-complying use, but this is intended
927 and will aim to be rectified by way of submissions, by the Regional Council.
928 And, you refer to I think an email from the Regional Council.
929
- 930 Can you just explain what is meant by that sentence, if you have that there?
931
- 932 Richards: You're correct in that the plan as it was notified did not cover the issue of
933 replanting, so at that point, in terms of the plan, you could replant these areas,
934 but subsequently there was a clarification and it was by email I'm pretty sure
935 that said, "No, that was a mistake," and the intention was that replanting would
936 not be able to be undertaken, and that mistake or that error would be corrected
937 through the hearings process.
938
- 939 I will be able to find that. I can't lay my hands on it directly but I'm sure I can
940 find that if required.
941
- 942 Chair: Thank you. It's probably really something we need to come to in Hearing Stream
943 2. That seemed like quite a big change to be... but I probably won't comment,

944 or it's best to not comment further on that now, because he officer will no doubt
 945 cover that in the S42A Report at the time.

946
 947 Thank you very much for your time Mr Richards. We have lost your video...

948
 949 Richards: My fault. I clicked on the icon accidentally. My apologies.

950
 951 Chair: Thank you very much. The presentation was really helpful – the images, maps
 952 and all of that are very useful in terms of deepening our understanding of this
 953 issue. We will talk more next year.

954
 955 Richards: Okay. Thank you.

956
 957 Chair: We're going to take a break until 12.40pm. We will be back in half an hour.
 958 Thank you.

959
 960 [Break taken 01.19.10 – 01.49.57]

961
 962 **Meridian Energy Limited**

963
 964 Chair: Kia ora Ms Foster. Welcome to hearings on the proposed Change 1, the Regional
 965 Plan. Would you like us to run through some introductions?

966
 967 Foster: I did listen online this morning so I've heard you introduce yourselves thank
 968 you.

969
 970 Chair: Thanks very much. We've read Meridian's submission and obviously your
 971 evidence as well but we'll just pass over to you as to how you would like to
 972 present. Thank you.

973
 974 Foster: Kia ora koutou. I will perhaps pass over to Andrew Feierabend who is here
 975 representing the company, Meridian – he's online and Josh will magic him up
 976 for you.

977
 978 Feierabend: Kia ora koutou. My name is Andrew Feierabend. I have appeared in front of a
 979 number of the members of this panel, so am familiar with them.

980
 981 I would just like to make a few introductory comments before I pass over to
 982 Christine Foster who is representing Meridian in the context of planning
 983 evidence.

984
 985 As I said, my name is Andrew Feierabend. I am a Statutory Advocacy Manager
 986 with Meridian Energy and Christine Foster is our Planning Expert. We have a
 987 number of renewable energy assets in the Greater Wellington Regional Council
 988 area including the Brooklyn Turbine, Mill Creek West Wind and Meridian is
 989 currently consenting a windfarm at Mt Munroe, which is just south of
 990 Eketahuna.

991

992 In terms of Plan Change 1 and Meridian's primary concern in relation to this
 993 plan change is the potential impact it has with respect to impacting on the
 994 company's development aspirations and existing assets.

995
 996 I guess in terms of getting engaged in this process we do have this reservation
 997 concern around the nature of this plan change in the context of a process that the
 998 company engaged in through the development of the Regional Plan and the
 999 potential for this plan change to unwind some of those provisions.

1000
 1001 In terms of our further submissions we did seek to have the plan change
 1002 withdrawn but in real terms it is our intention to engage positively with the
 1003 change and bring evidence to the panel with respect to potential impacts, with
 1004 respect to provisions and the number of changes that are being promoted through
 1005 it.

1006
 1007 One thing I would like to just kind of draw to the panel's attention, and I'm sure
 1008 you're aware of it, the coalition government is currently undertaking substantial
 1009 resource management reform and again one of the concerns of the company is
 1010 taking into account this reform, and particularly the changes with respect to
 1011 National direction across fourteen National Policy Statement Instruments, which
 1012 are expected to come out within the next twelve months. The potential impact
 1013 that this may have with respect to this change, and particularly from the point of
 1014 view of efficiency of process, I'm sure the panel members are aware of that, but
 1015 I think it's really important to reinforce from a company perspective that one of
 1016 our concerns in terms of engaging in this process in a way that's meaningful,
 1017 what we are concerned about is the risk that the Greater Wellington Regional
 1018 Council may have to come back as a consequence of changes in national
 1019 direction and either do a variation to this plan change, or do a completely new
 1020 one post the decision-making process.

1021
 1022 On that basis, I will leave it there, other than to reinforce that Meridian will
 1023 engage positively with the process. It will bring Ms Foster to you in the
 1024 upcoming months and on that basis I will turn you over to Christine – unless you
 1025 have any questions of me – from the perspective of addressing the evidence that
 1026 Meridian has lodged with you.

1027 [01.55.13]

1028 Thank you.

1029
 1030 Chair: Thank you Mr Feierabend. We might have questions maybe after Ms Foster's
 1031 presentation. Thanks.

1032
 1033 Foster: Ngā mihi nui. Kia koutou katoa. Ko Christine Foster ahau. Thank you for that
 1034 introduction.

1035
 1036 Really it was important to Meridian certainly and to me to be here at Hearing
 1037 Stream One, your overarching hearing. It was important to get a vibe for you all,
 1038 and to just introduce the issues generally that Meridian will have at future
 1039 hearings.

1040

1041 The first point really, that I've highlighted in the evidence, was the point that in
1042 the topic specific hearings that follow it is my view that there is a broad scope
1043 for exploring solutions to specific challenges that Meridian has raised in its
1044 submissions and exploring alternative ways of addressing that – because of
1045 Meridian's first position through its further submissions supporting in-part
1046 submissions that sought withdrawal entirely of Plan Change 1.

1047
1048 I just wanted to reassure you about that. That was intended in a constructive way
1049 and I hope that's how it will play out.

1050
1051 There were really three matters. That was the first of them in my evidence. The
1052 second was about the two objectives 02 and 06 in the Operative RPS settled
1053 recently. Ms O'Callahan responded on Objective 2 and has agreed that it should
1054 remain relevant for all of the Whaitua, and not be deleted or excised from
1055 applying in the Te Whanganui-a-Tara and Porirua Harbour Whaitua.

1056
1057 With respect to 06, I heard some questions. I'm sorry, I wasn't able to participate
1058 and hear, or observe Monday's and Tuesday's sessions. I had other
1059 commitments but I did hear this morning Ms McGruddy's presentation to you
1060 and questions to you. Just anticipating that there might have been one on
1061 Objective 06 and why I disagree with Ms O'Callahan, which I do, about her
1062 recommendation to you.

1063
1064 I anticipate that the substance of Objective 06 is scheduled to be considered at
1065 Hearing Stream 2, so I wasn't sure how much you wanted me to probe into it,
1066 but I've done some initial. I will call it that initial thinking anyway at this stage.

1067
1068 Just picking up the point that Mr Feierabend made about the statutory
1069 framework, the higher policy documents, and legislative framework for your
1070 decision-making: your hearings are scheduled to conclude I think in October
1071 next year. We are told there is a lot of change that is going to come before that
1072 time. None of us is privy to exactly what or when. The officials are being very
1073 tight lipped about it. They are not playing ball at all, so we don't know. We do
1074 expect there may be very little or no engagement with people about what's in,
1075 for example, an amended NPS-FM. We will know when it's gazetted. It was a
1076 message somebody gave me the other day.

1077
1078 It's a very unsettled framework but the timeframe suggests that by the time that
1079 you have to conclude or determine your consideration of submissions and
1080 evidence, and determine a recommendation for the Council, there may be a quite
1081 different framework.

1082
1083 The short point I wanted to make about that is that Ms O'Callahan's reliance on
1084 the Te Mana o te Wai, the hierarchy of obligations and the possibility that parts
1085 of Objective 06 might be threatening that, I don't agree that they do. But, if they
1086 are it seems a rather thin basis on which to reject the submission point, or to
1087 excise Objective 06 from its application in all Whaitua of this region, in a context
1088 where we don't know whether that's going to prevail at the time when you have
1089 to make your recommendations on submissions.

1090 So substantively I don't agree with the point because the use and development
1091 of water is a legitimate valid use of value, as Ms McGruddy pointed out to you,
1092 under the NPS-FM, and within the hierarchy of the obligations. It's not the first
1093 one but it's there in 02 and 03.

1094
1095 Objective 06 does not seek to prioritise those, it seeks to recognise those.

1096
1097 So what I will commit to you to do before Hearing Stream Two is to look in
1098 detail at the ways in which Objective 06 either prioritises or simply reflects the
1099 hierarchy of obligations. I think that's an interesting question and I would hope
1100 that you will get some evidence from officers on.

1101 [02.00.12]

1102 I would hope you might also either get... because I haven't seen it yet. I've seen
1103 the blanket approach, and it's correct. Ms Anderson's advice to you is that you
1104 have to make a decision. We have to consider the NPS-FM, the upper framework
1105 as it stands for us today, and when you make your determinations whatever it is
1106 at that time, that's the kicker for you. So I'm interested in perhaps a more subtle
1107 nuanced advice around how does this play out in terms of not just for your task,
1108 but on behalf of the region, for submitters and communities who will be dragged
1109 through a process that doesn't necessarily end with your recommendation?

1110
1111 I think I would be heartened if you are interested in that question. I look forward
1112 to seeing some evidence from officers perhaps about how they think it will play
1113 out, because there is law at the moment – there's a couple of bits of law recently
1114 introduced by the very energetic coalition government that stuck it to the Otago
1115 Regional Council. This Council is not committed to publically notify any
1116 freshwater planning instruments, for the other three Whaitua that don't have
1117 them in this region.

1118
1119 So this plan change sits apart for the foreseeable future in that respect.

1120
1121 The other piece of law is that even if the words that mirror the hierarchy of
1122 obligations, which is what the Regional Council has done, and they are seeking
1123 to do in the District Plans in the regional as well, to imbed those words, even if
1124 they're imbedded, applicants for consent and decision-makers are not able to
1125 take into consideration that wording in the NPS-FM. So that's the recent change
1126 to s.104 of the Act.

1127
1128 It's not the case that whatever is in the Regional Plan isn't valid. A decision-
1129 maker will still be required to consider that. But, it's identical wording to
1130 wording that the government has just said in legislation – that a decision-maker
1131 is not able to consider.

1132
1133 Ms McGruddy described it as an awkward situation in which you are required
1134 to make decisions and I think that's fair. But, it's also potentially costly if you
1135 set up conflicts for future decision-making.

1136
1137 The other point I would make is that certainly in respect of water – and I didn't
1138 have a chance to look at all the other provisions, the provisions in Plan Change

1139 I that relate to water – have immediate legal affect. So they sit now and they
1140 have the effect that they have.

1141
1142 My question would be, how does it play out, what is lost by waiting to see what
1143 comes in the very near future? It's a conundrum for all Regional Councils.

1144
1145 I do a bit of work for Horizons Regional Council who are exploring exactly this
1146 question there. Their council, as this council was in 2023, was concerned about
1147 continuing to make progress and then having the pushback of “But, things are
1148 going to change. We need to stop.” Well, I don’t agree that things or the
1149 processes should stop, because there have been numerous NPS-FMs and there
1150 will be numerous other policy changes, and push-pull directions and legislative
1151 changes. You have to keep going. But, that’s the work that needs to keep going
1152 and not necessarily the determining things.

1153
1154 So that’s just really I suppose more questions than evidence or answers for you.
1155 But, that’s a reality I think that’s unavoidable for you.

1156
1157 That was a long answer to a slightly short question about potentially 06.

1158
1159 I’m happy to leave it there, but to answer any questions you may have.

1160
1161 Chair: Thanks very much Ms Foster. We do have questions.

1162
1163 I will start. My question was about Objective 06. In Ms O’Callahan’s rebuttal
1164 evidence, she addresses your rationale for having the objective continue to apply
1165 to the whole region in paragraphs 14 and 15 of her rebuttal.

1166
1167 [02.05.00] My question relates to Ms O’Callahan’s view, paraphrasing, that Objective 09
1168 is adequate and would meet Meridian’s needs. My reading of 09 is that while it
1169 recognises the benefits of infrastructure and renewable energy generation
1170 activities, that’s not specific to water.

1171
1172 Can you talk a bit about is there a gap. Only relying on Objective 09 for the
1173 activities that Meridian carries out now or want to carry out, is there a policy or
1174 an objective gap if Objective 06 didn’t apply to the two Whaitua?

1175
1176 Foster: [02.05.52 – nil audible]

1177
1178 McGarry: Thanks Ms Foster. I am just interested in what you have said in terms of how
1179 this plays out and what’s lost by waiting in proceeding, and the integration of
1180 other Whaitua processes with these ones going forward. Would you agree that
1181 those are matters that are outside of the scope of our decision-making, and that
1182 those are matters for the Council to determine?

1183
1184 Foster: [02.06.58 – nil audible]

1185
1186 McGarry: Thank you.

1187

- 1188 Stevenson: Kia ora. Thanks Ms Foster and Mr Feierabend on line. In lieu of questions,
 1189 noting that a lot of the detail as you rightly state will sit in Hearing Stream 2, I
 1190 just wanted to acknowledge that I will have questions. I didn't want my silence
 1191 to be taken as a lack of engagement, but they do primarily relate to the matters
 1192 in Hearing Stream 2. Thanks for also clearly setting out Meridian's position and
 1193 their operational detail in the submission. It's been very useful.
 1194
- 1195 Chair: The point you make Mr Feierabend about lots of emerging direction coming
 1196 through, we've known that there could be a replacement or quite substantial
 1197 amendments to the NPS-REG for some time, and yet I had heard probably two
 1198 years ago that that was imminent, and then last year as well, I think, the reason
 1199 why the NPS-IB had that gap, because the NPS-REG, the new version was
 1200 coming and we're still yet to see that.
 1201
- 1202 I guess it's just a point about there must come a time when we're all working in
 1203 the context of continual change. If we just say we're going to wait because
 1204 there's going to be something that we're going to need to implement next year,
 1205 it's always like this with plans. Councils always have to respond to new
 1206 direction.
 1207
- 1208 The plan was notified. The legal advice from the Council's lawyers is that there's
 1209 nothing preventing it from progressing.
- 1210 [02.10.00]
- 1211 Basically, we can't withdraw it. You're not the only submitter who has said,
 1212 "We're in this period of flux and maybe everyone should just pause." But, I'm
 1213 not really sure...
 1214
- 1215 Feierabend: I take your point Madam Chair. I guess if I take Minister Bishop's latest
 1216 commentary into account, and when you look at the latest amendment which
 1217 was made to the Act with respect to freshwater plans and basically new plans
 1218 not being able to be notified until a new NPS-FM chapter is in place, I think it's
 1219 interesting looking at that provision, which basically says either the new NPS-
 1220 FM is in place or the 30th of December 2025 occurs.
 1221
- 1222 So that gives me some heart that this government is on a reform path which we
 1223 will, and you as a panel will have visibility hopefully not only to a new NPS-
 1224 FM, and if it's not in place by December 2025 it will be nearly in place I would
 1225 have thought, and hopefully a new NPS-REG which if those two new
 1226 instruments were in-play and there was a line of sight to those being made
 1227 effectively operative, then I would hope that this panel is agile enough to move
 1228 with the flow in terms of what those changes might mean from the point of view
 1229 of decision-making on this plan change – if that makes sense.
 1230
- 1231 I'm not saying you can't forever put off decision-making to make on this plan
 1232 change until everything new is set in place, but if the government is true to its
 1233 word then I would expect to see some of these instruments coming into being
 1234 relatively quickly, along with the new reforms. They're talking about new
 1235 legislation being in place by the end of 2026, which will clearly be too late for
 1236 this plan change process.

1237 So, I guess all I would reinforce to you is from Meridian's point of view
1238 hopefully the kind of overlap that Ms Foster referred to before is sufficient; that
1239 any new instruments that come into being can be effectively taken into account
1240 as part of your decision-making.
1241

1242 Foster: Could I just add that to me it comes down to a question of whether you have
1243 enough evidence about whatever changes have occurred, if they do, by that time.
1244 Might be struggling but let's see. It's a question of whether you'll have the
1245 information in front of you and what process. That's the only bit that you can
1246 control I think, is the process by which you put questions about and what will
1247 help you to make decisions at that time. And, I'm committed on behalf of
1248 Meridian in participating in that. But, I think it will need to be a configured
1249 process if significant change happens.
1250

1251 Chair: Yes, process and also opportunities for everyone who then wants to be able to
1252 input into that, so that's also a very challenging part of bringing in new changes.
1253 We saw that with the NPS-IB you will recall from the RPS hearings.
1254

1255 Ruddock: Kia ora Madam Chair. I have been informed that for the last two questions
1256 directed at Ms Foster her microphone was turned off. I just wonder if we could
1257 potentially summarise those again for the transcriber.
1258

1259 Foster: Thank you. I thought about that. That was my answer to Commissioner
1260 McGarry's question, which was not the matters that I've raised about timing of
1261 other instruments out of this panel's control, and I suggested yes they are but
1262 you may have an opinion on it and it's up to you whether you voice that through
1263 that your decision recommendations.
1264 [02.15.06]
1265 The second question was...
1266

1267 Chair: I think you were making a comment on what Mr Feierabend said about...
1268

1269 Foster: Yes, just that it is a question of evidence and the process by which this panel
1270 assures itself it has answers to the right questions. If there are changes in policy
1271 instruments it happened before you were required to determine your
1272 recommendations.
1273

1274 McGarry: Mr Feierabend, I'm interested in the comments about the RPS-REG. I just
1275 wondered briefly if you could give us a flavour of what anticipated changes or
1276 direction of change that you would be hoping that to be travelling in. What are
1277 the key issues for you there?
1278

1279 Feierabend: [02.16.04 – 02.16.28 - nil audible]. Apologies for that.
1280
1281 I think what Meridian's expectations and hopes are, is that there will be better
1282 reconciliation between NPSs with respect to enablement of renewable electricity
1283 generation.
1284

1285 So we've got this kind of tension, if you think the NPS freshwater and the NPS-
 1286 REG as it stands is that the preamble in terms of the NPS-REG effectively
 1287 creates a tension with respect the management of freshwater and allocation of
 1288 freshwater resources.

1289
 1290 It would be really useful I think and particularly in the context of existing assets
 1291 and hydro-assets that that those tensions or conflicts were better reconciled,
 1292 because there's a certain amount of... it's difficult at the moment to reconcile
 1293 those issues.

1294
 1295 The other thing I think where there needs to be better alignment is with respect
 1296 to if you think about the NPS-IB and natural resource in terms of s.6 matters in
 1297 relation to landscape and natural character for example. It would be helpful if
 1298 again where there's conflict between the respective instruments that conflict is
 1299 better reconciled. I think about the New Zealand Coastal Policy Statement and
 1300 all the law that's come from that with respect to avoidance, and that has created
 1301 I guess from a point of view if I look back at other policy instruments that I've
 1302 been involved in, that creates a substantial hurdle with respect to renewable
 1303 energy or renewable electricity generation development in those kind of
 1304 environments.

1305
 1306 Long story short: I would hope that some of those tensions through a new NPS-
 1307 REG will be better articulated, so it gives decision-makers like yourselves better
 1308 direction with respect to these conflicts in terms of natural resource use, and can
 1309 be better suited from the point of view of giving better direction – particularly
 1310 given the importance of renewable energy development with respect to climate
 1311 change and reduction of greenhouse emissions. That's kind of the root to Rome
 1312 in terms of dealing with probably fifty percent of our emissions from the point
 1313 of view of heat process and use of substitution fossil use, etc. etc.

1314
 1315 [02.20.05] Sorry, that's a bit of a long-winded answer, but I guess long-story-short, better
 1316 reconciliation of how natural resources and renewable energy can be better
 1317 enabled.

1318
 1319 McGarry: Thank you for explaining that. That's the tensions really. I guess your comment
 1320 in terms of the NPS-IB and the carve-out there from the NPS-REG is that an
 1321 area that you're hoping to see that sort of back-filled? At the moment, we're just
 1322 relying on going back to the higher order instruments, in the absence of the NPS-
 1323 IB applying?

1324
 1325 Feierabend: Yeah, definitely. There's a draft RPS which hasn't been taken any further, which
 1326 does try to do that I think in part. But again, I think it potentially can be better
 1327 articulated, but it's a case of I guess of we'll have to wait and see.

1328
 1329 Stevenson: Interesting kōrero and [02.21.22] around the changing landscape of national
 1330 direction. It's something that we as a panel are very live to. Also something that
 1331 several submitters have addressed in previous submissions. It's highly likely that
 1332 changes will be announced through the course of these hearings and Nigel Corry,

1333 Chief Executive of Greater Wellington Regional Council noted that we may
 1334 have clarity early 2025, or at least in time for Hearing Streams 4 and 5.
 1335

1336 Around about way of saying given submissions have addressed the issue of
 1337 changing national direction, whether there is scope or not it is a matter that is
 1338 before the panel and I would really welcome Meridian's thoughts on the current
 1339 suite of national direction and more detailed concerns that you've just outlined
 1340 Mr Feierabend. And, at the same time we'll be thinking about the cascade of
 1341 provisions from existing national direction and what any changes might mean.
 1342

1343 Again going back to the matter of scope, but just an invitation to keep thinking
 1344 and document in future hearing streams what's coming through.
 1345

1346 **Feierabend:** We will bring that back either through company evidence or through Christine
 1347 Foster. As I reiterated at the beginning of this hearing, Meridian will engage
 1348 positively through this process, and endeavour to be helpful to the panel rather
 1349 than unhelpful.
 1350

1351 **Foster:** The only thing I would add is that I think the devil will really very much be in
 1352 the detail. There will be no blanket way of responding. It will require some
 1353 picking through the detail. I think we live in interesting times and that is the
 1354 challenge for all of us to be quite demanding about analysing just exactly what
 1355 changes there are and what they mean. I don't think there's a one-size-fits-all
 1356 response. That's what I'm looking forward in these exciting times.
 1357

1358 Thank you.
 1359

1360 **Chair:** Ms Foster thanks for saying that when you come back to present I think in
 1361 Hearing Stream 2 you will look further at Objective 06 and give us more
 1362 information on why you think that needs to continue to apply to the two Whaitua.
 1363

1364 Could you also as part of that talk about the RPS freshwater relevant objectives
 1365 and policies. Ms O'Callahan said on Monday that because there are no High
 1366 Court appeals on the freshwater planning instrument there, that in her view those
 1367 provisions are beyond challenge.
 1368

1369 I take that as being that the panel can give them quite a lot of weight. So as part
 1370 of that whole picture, it would be useful to bring those relevant policies in as
 1371 well.
 1372

1373 If it is that the RPS is able to carry or provide for, or recognising the benefits of
 1374 taking or using water, then that does mean that Objective 06 maybe isn't needed
 1375 as much?
 1376 [02.25.15]

1377 Something that you could maybe come back to.
 1378

1379 **Forrest:** I've put it on the list Chair.
 1380

- 1381 Kake: I'm hoping and intending to get further evidence next year as we progress
 1382 through the hearings and in particular around the detail. I'm conscious that the
 1383 submissions around the Objectives that are there in the evidence, that we're
 1384 hearing today, but there are some operational matters I suppose that I do have
 1385 further questions around. In particular it would be thinking of threatened species
 1386 and what-not, and just really anticipating for the discussions around that.
 1387
 1388 So more of just a comment I suppose at this point in time. I look forward to
 1389 seeing further evidence in discussions as we go through the process. Kia ora.
 1390
 1391 Chair: I think those are all the questions that we had. Thanks very much for your time.
 1392 Have a good afternoon and we will see you next year. Thank you.
 1393
 1394 Feierabend: Thank you.
 1395
 1396 **Environmental Defence Society**
 1397
 1398 Chair: We have our last submitter for the afternoon – the Environmental Defence
 1399 Society. Are you online? We are one minute ahead of time.
 1400
 1401 : Thank you Chair. We can see John is in there – Mr Commissaris is in there at
 1402 the moment. We have been advised that they were not able to start ahead of time,
 1403 but we'll just see if they unmute – otherwise maybe.... thank you.
 1404
 1405 Commissaris: Good afternoon. How's everyone doing?
 1406
 1407 Chair: Good thank you. How are you? Would you like us to run through who we are,
 1408 or are you happy that you know our names?
 1409
 1410 Commissaris: Sure. I think just given Chair that I am attending remotely it would be helpful
 1411 just to run through some introductions.
 1412
 1413 Chair: Absolutely. Ko Dhilum Nightingale tōku ingoa. I'm chairing the freshwater
 1414 panel and the Part 1 Schedule 1 Panel, and hearing Commissioner and Barrister.
 1415 I will pass over to the Deputy Chair.
 1416
 1417 McGarry: Kia ora my name is Sharon McGarry. I'm an Independent Commissioner based
 1418 out of Canterbury. I've got a Science background.
 1419
 1420 Kake: Kia ora Commissioner Kake. Planner by trade based out of Te Tai Tokerau in
 1421 Northland.
 1422
 1423 Stevenson: Kia ora John. Sarah Stevenson, Independent Planner and Commissioner based
 1424 in Te Whanganui-a-Tara Wellington.
 1425
 1426 Wratt: Kia ora Mr Commissaris, Gillian Wratt. Independent Environment
 1427 Commissioner with a science background based in Whakatu, Nelson.
 1428

- 1429 Commissaris: Kia ora. I'm John Commissaris. I am the legal advisor for the Environment
1430 Defence Society here to just present on a couple of points today. I think most of
1431 our submission points are covered in later hearing streams. I think I will just run
1432 through a few of our main concerns relating to this stream – those being Rule
1433 R.128, Policy WH.P28 and Schedule 01, and then a couple of points on the
1434 definitions and objective.
1435
1436 I understand I only have ten minutes, but I should be able to get through
1437 relatively quickly.
1438
1439 Are there any questions just before I start, or does that sound like an appropriate
1440 place to begin?
1441
1442 Chair: We did a submitter scheduled up [02.29.53] so feel free – don't feel you have to
1443 rush. Thanks.
1444 [02.30.00]
1445 Commissaris: Just starting with Rule R.128, if you have that in front of you. With this rule it's
1446 a permitted activity relating to the beds, lakes and rivers. I think just to begin, I
1447 think like any permitted activity rule it's really important to have a good
1448 understanding of the effects of the activities that you're permitting. You need to
1449 know the effects well enough to be able to permit them. I think some of the
1450 activities that are covered in this rule perhaps aren't well enough understood,
1451 and potentially have effects that are not just low. Things like the longitudinal
1452 structures could even have higher adverse effects in some cases, be it from
1453 fragmentation or so on. I understand that we're not presenting evidence on that,
1454 but I think you as the Commissioners need to be comfortable that this rule, that
1455 you understand the effects of the activities that you're permitting through this
1456 rule.
1457
1458 It's unclear how the effects of these activities have been assessed. If we look at
1459 the S32 Report and the S42A Report, it's sort of deemed that the effects of these
1460 activities is low, but it's not clear on what basis. And, given the nature of some
1461 of the structures and activities that are permitted, they may not be appropriate in
1462 some areas – for instance, outstanding waterbodies in Schedule A.
1463
1464 There is also some misalignment with the NPS-FM, specifically policies 7, 8
1465 and 9. If we go there, like Policy 7 of the NPS says that the loss of river extent
1466 in values is avoided to the extent practicable; Policy 8, the significant values of
1467 outstanding waterbodies are protected; and Policy 9, the habitats of indigenous
1468 freshwater species are protected.
1469
1470 So on that basis I think there needs to be some amendment to this rule, and EDS
1471 considers that the activities specifically should not be permitted in Schedule A
1472 areas – so outstanding waterbodies. They should not be permitted in Schedule F
1473 areas – those significant habitats with indigenous biodiversity values. And, if the
1474 Commissioners are not minded to that, in that light, there could be room to have
1475 conditions referencing some of the relevant policies already contained in the
1476 NRP. I draw your attention to Policy 30 and 31 that deal with indigenous

1477 biodiversity values and ensure that, or seek to ensure that the adverse effects on
 1478 significant values is avoided.
 1479

1480 I just think there needs to be some touch-ups there, just to make sure that that
 1481 rule is not in contradiction with the policies of the NPS-FM, and it is not going
 1482 to be permitting activities that could have more than minor adverse effects.
 1483

1484 Just finally on that rule, the issue of target attribute states that EDS understands
 1485 that issue is possibly to be canvassed in more depth in Stream 2, and we will
 1486 likely address it further there. But, just to scratch the surface, I think while EDS
 1487 acknowledges that target attribute states are not designed to be met immediately,
 1488 there is a moral argument to be had that activities permitted as of right should
 1489 meet those targets.
 1490

1491 I think that's as much as needs to be said on that for now.
 1492 [02.35.00]
 1493 So that's the essence of EDS's submission on that rule. If I can move now onto
 1494 Policy WH.P28 – unless you have any questions on that rule specifically;
 1495 although possibly those questions may be at the end. I am not sure what the
 1496 Commissioners would prefer.
 1497

1498 Chair: If you are happy to take questions now that might be...
 1499

1500 Commissaris: Yep, that's fine.
 1501

1502 Chair: Rule 128 at the moment it does have an exclusion or [02.35.52] the activity
 1503 doesn't occur with intense [02.35.57] mana whenua sites, and doesn't occur in
 1504 certain Schedule F1 habitats. So you would want there to be an additional
 1505 condition that applied to Schedule 8 and all Schedule F sites?
 1506

1507 Commissaris: Yes, so Schedule A and Schedule F sites. I think that's justified based on those
 1508 policies that are already in the NRP that I referenced as well as the policies of
 1509 the NPS-FM.
 1510

1511 Chair: Because just looking at EDS's submission, which said "ensure activities avoid
 1512 loss of river extent, and values and habitats of indigenous species are protected."
 1513 I just want to be sure in terms of the actual wording, that you would be seeking
 1514 here.
 1515

1516 Let me ask that again. Have you provided the specific wording that you would
 1517 want to see here, or is it just what you've described as...
 1518

1519 Commissaris: No, we haven't provided the specific wording. Just given I think the length of
 1520 the rule and so on, just the way it works I think will be up to the Commissioners
 1521 obviously to determine. The points are no less important to include and I think
 1522 as you've noted there, there is examples already in the rule of exclusions to
 1523 specific scheduled sites and I think that could be mirrored or widened to ensure
 1524 that those outstanding waterbodies are protected from these activities, and those

- 1525 significant biodiversity habitats and ecosystems are also protected. But, no
 1526 specific wording. We haven't provided any specific wording.
 1527
- 1528 Thank you. I will move on then to Policy WH.P28 and this is the policy relating
 1529 to forestry and high erosion risk land.
 1530
- 1531 Chair: I just want to check that this is actually within the scope of this hearing stream.
 1532
- 1533 Commissaris: Yes, I had a question about that. It was included in the Schedule that Council
 1534 had prepared, but I noted it wasn't in the S42A Report and perhaps it is better
 1535 dealt with in Stream 3. I just wanted to raise it just in case it was something to
 1536 be considered in this stream, or whether it was for Stream 3.
 1537
- 1538 Chair: [02.39.12 – inaudible] this policy within scope, or is it one of the icon removal
 1539 issues.
 1540
- 1541 O'Brien: My understanding is that is not one of the ones that's [02.39.32 – inaudible].
 1542
- 1543 Commissaris: No problem. Thank you. That's good clarification.
 1544
- 1545 Chair: Where did you say that you had seen that Mr Commissaris? Was it in the S42A?
 1546 Can you remember where you did?
 1547
- 1548 Commissaris: Yes, I will just bring it up now. In the 'Guide to Allocation of Provisions to
 1549 Hearing Streams and Topics, September 2024' that I found on the Council
 1550 website, Policy WH.P28 is in Hearing Stream 1.
 1551 [02.40.10]
 1552 It has under the S42A Report name it has 'null' so I was a little bit confused, but
 1553 thought I would raise it just in case.
 1554
- 1555 Chair: I've got PC1 here. Have you got a page number?
 1556
- 1557 Commissaris: Yes, one moment. It's in not the operative version but the version with the
 1558 amendments, the plan change version. It's page-79 I believe.
 1559
- 1560 Chair: Yes, okay so forestry.
 1561
- 1562 We have heard this morning already from a submitter about forestry, but
 1563 acknowledging as well that that's a hearing stream three issue. If there are any
 1564 points that you would like to make about that, by all means go ahead, but just
 1565 know that we probably can't really [02.41.25] that policy. But, if you [02.41.30]
 1566 to reflect on before that hearing stream, feel free if you do want to raise it now.
 1567
- 1568 Commissaris: Thank you Madam Chair. No, I think it's probably best to leave it until that
 1569 Hearing Stream 3.
 1570
- 1571 So I will move on then to the next issue which is Schedule A2, which is the lakes
 1572 with outstanding indigenous ecosystem values.
 1573

1574 [02.41.57 – nil audible]

1575

1576 Does the Panel have that in front of them?

1577

1578 Chair: [02.42.43] 63 of the proposed change? Are we on the right...

1579

1580 Commissaris: I don't have the page number in front of me, sorry.

1581

1582 Chair: [02.42.58] I think we are looking at the same thing, so that's great.

1583

1584 Commissaris: This is an area where EDS's relief seeks to list indigenous fish diversity as a
 1585 value for Lake Wairarapa. You will for Lake Kohangatera and Lake
 1586 Kohangapiripiri it is already listed there. EDS's relief seeks to be included for
 1587 Lake Wairarapa, noting that the S42A Report and the ecological evidence
 1588 prepared by Council since submissions were filed supports that relief, albeit with
 1589 the scope is primarily the issue here – whether it's within scope, the S42A Report
 1590 notes that it possibly isn't. EDS submits that it is, primarily on the basis that it
 1591 is an indigenous biodiversity issue.

1592

1593 We will see that if you take the starting point of the legal submissions provided
 1594 by Council which address scope, it sets out what the purpose of PC1 is – which
 1595 is to give effect to the NPS-FM within two of the five Whaitua and then a range
 1596 of region-wide updates, including Schedule F which is the sites and habitats with
 1597 significant indigenous biodiversity values.

1598

1599 [02.45.00] I think given this schedule also concerns indigenous values which are being
 1600 considered as part of that Schedule F review as well, in terms of indigenous
 1601 biodiversity at a region-wide scale, I think it is within scope, and I think it's not
 1602 something that would have been outside of what would have been considered by
 1603 submitters. I think it isn't a policy decision to implement the NOF, the National
 1604 Objectors Framework of the NPS-FM. This is a region-wide correction or
 1605 factual update of the accuracy of those schedules, and I think therefore it is
 1606 within scope.

1607

1608 The evidence is that indigenous fish diversity should be listed, so EDS submits
 1609 that relief should be provided for.

1610

1611 I also note that there's no freshwater symbol on this particular point. I understand
 1612 there's mistakes throughout the plans, and complete reliance on that is possibly
 1613 not the best idea; but it's indicative and I think it affirms what I have just about
 1614 the scope, and I think it affirms that this is within scope.

1615

1616 Happy to take questions on that.

1617

1618 Chair: Thank you very much. That was very clear. I think we had also noted that this
 1619 [02.46.44] schedule that was specific to the two Whaitua. Followed [02.46.51]
 1620 for advice from the Council officer in the right of reply on that. Perhaps also yes,
 1621 whether the freshwater icon needs to be there as well.

1622

1623 Thank you. Any questions? I think that was very clear.
 1624

1625 Stevenson: Kia ora. Thanks Mr Commissaris. Just for my information, could you help me
 1626 with EDS's submission where you've listed a rule and there is [02.47.32] in
 1627 following options. [02.47.38]
 1628

1629 Commissaris: Sorry, you were just cutting out there Commissioner. Could you just repeat that
 1630 sorry?
 1631

1632 Stevenson: I would point you to a specific provision on page-5 of EDS's submission. I just
 1633 want to understand how you construct a submission. For example, on page-5,
 1634 5.4.8, damming and diverting water, where you refer to Rule 151A, just as an
 1635 example, there is no amendment requested and no commentary. It may seem
 1636 obvious but I wanted to ask the question, and that means EDS is not seeking
 1637 changes to that provision through your submission? And, there are a number of
 1638 other examples as well.
 1639

1640 Commissaris: Yes, that's correct, although that specific one that you raised we could comment
 1641 on that. Rule 151A is something and I understand from Forest & Bird's
 1642 submission that they have also covered that rule. If you would like EDS's
 1643 comments on that, that's welcomed, but to answer your question generally, no.
 1644 Where we have left blank is where we don't seek any relief.
 1645

1646 Stevenson: Thanks for that.
 1647

1648 McGarry: Can you just elaborate on that? Where have you covered in your submission
 1649 anything on Rule 151A? Is that what you just said?
 1650

1651 Commissaris: Yes, we haven't covered in our submission Rule 151A, but I understand that
 1652 because it is part of the freshwater plan making process we could comment on
 1653 that through this hearing stream. So if that would assist the Commissioners I'm
 1654 happy to do that.
 1655

1656 McGarry: I guess just a signpost would be for the next hearing, that we did talk quite a bit
 1657 on day one about this rule. We would like to hear more from you in terms of
 1658 firstly how this would operate with Rule 128, because we heard from the officer
 1659 on day one, that 151A is really just for the diversion of water – where it's not
 1660 associated with a structure.
 1661 [02.50.14]

1662 So thinking in our minds that it's diversions created by land disturbance, by
 1663 excavation and then no other structure; but then we've got this other permitted
 1664 activity structure rule. So maybe some thought from you about how those rules
 1665 might work together.
 1666

1667 Secondly, it might be worth you reviewing the transcript from the first day in
 1668 terms of our discussions about not having this list of the 75 diversions that could
 1669 be permitted through this rule, and what that means in terms of your comments
 1670 that you made about Rule 128, in terms of the ability to assess the nature, scale
 1671 and magnitude of those effects, and whether you could put some thought into if

- 1672 there was a list so that assessment could be undertaken; whether some of those
 1673 could potentially be a permitted activity, or whether some would be better dealt
 1674 with maybe through another status. And, there was some discussion around the
 1675 restricted discretionary activity and what those matters of discretion might look
 1676 like if we were head down that path was well. But, as I say, I think you would
 1677 get some better [02.51.32] by looking at the transcript and coming back to us in
 1678 the next hearing streams.
 1679
- 1680 Commissaris: Thank you. That's noted. I will endeavour to do so. Thank you.
 1681
- 1682 Chair: Just coming back to these schedules, can I check where EDS's remaining relief
 1683 on Schedule A, which was you sought to list and map outstanding waterbodies
 1684 in the area that are streams, rivers, wetlands, including [02.52.05].
 1685
- 1686 Commissaris: My understanding is I think that has already been covered. I need to just double-
 1687 check that one, but just on review I don't anticipate pursuing that relief.
 1688
- 1689 Chair: We could maybe ask Mr O'Brien, has that relief been accepted?
 1690
- 1691 O'Brien: What was the submission point number? Do you have that?
 1692
- 1693 Chair: Does anybody have the submission open?
 1694
- 1695 Commissaris: One moment and I should be able to... so, this is in relation to listing...
 1696
- 1697 Chair: Mapping of waterbodies Schedule A. Just your relief – I'm just not sure what
 1698 the officer's position is on that.
 1699
- 1700 O'Brien: Yes, I think my response on S42A was that that had been mapped, but I guess I
 1701 wasn't quite sure what the relief was there, and I might have been
 1702 misinterpreting it. My understanding is that's already been mapped, but if there's
 1703 anything else you could add to that, that would be good.
 1704
- 1705 Commissaris: Yeah, that was my understanding, is why I think that was perhaps an oversight
 1706 that I picked up on coming back to the submission again in preparation for this
 1707 Stream. My understanding is that the streams, rivers and wetlands have all been
 1708 mapped, in the respective A1, A2 and A3 parts of the Schedule A, as indicated
 1709 in the S42A report.
 1710
- 1711 Chair: Thank you.
 1712
- 1713 Commissaris: But, I will say, I'm not sure if the Commissioners have any further questions,
 1714 but I did just want to cover one final point in terms of the definitions, but I can
 1715 come back to that.
 1716
- 1717 Chair: Just one more. Sorry, I'm just tracking your relief. Has that also been addressed
 1718 now - considering including additional detail of habitat requirements of native
 1719 fish species? Do you know if that...
 1720

- 1721 Commissaris: This is in relation to the DoC literature report that has just recently been released.
 1722 It wasn't available at the time of submissions. Our submission point was just to
 1723 flag that that would be coming in the near future and it has now since arrived,
 1724 and suggests that that is something worth reviewing and thinking about in terms
 1725 of those schedules and ensuring that they are accurate and up-to-date with the
 1726 latest science.
- 1727 [02.55.14]
- 1728 Chair: Thank you. So, you're still seeking some changes there to Schedule F?
 1729
- 1730 Commissaris: I unfortunately haven't had the chance to fully review that report. I think it's
 1731 come quite recently, so I will have to park that for now if possible; but mostly
 1732 just flag that as something that the Commissioners may wish to review.
 1733
- 1734 Chair: This is really the opportunity for Schedule F changes. We will be issuing a
 1735 **minute** [02.55.52] anyway with the things that we will be seeking from
 1736 submitters and the Council in relation to this hearing stream. We'll include that
 1737 as well and give you an opportunity to see if there is anything still outstanding
 1738 relating to your Schedule F. If so, the wording that you would like, because I am
 1739 not quite sure from the submission exactly what detail you would be wanting to
 1740 see in there.
 1741
- 1742 Commissaris: Yes, that's no problem. Much appreciated.
 1743
- 1744 Chair: I think that might be all that we have for you, so thank you very much. We will
 1745 look forward to talking more about the PC1 provisions next year with you.
 1746
- 1747 Commissaris: Thank you Commissioner. Sorry, I just have one final point that I wanted to
 1748 cover, if I may, just in relation to definitions and specifically the definition of
 1749 nationally threatened freshwater species. I think that was also part of our relief
 1750 and has been largely addressed in the S42A Report.
 1751
- 1752 Essentially the relief that EDS sought was to align the definition of nationally
 1753 threatened freshwater species with threatened species under the NPS-FM, and
 1754 on review the definitions are in fact identical, other than the fact that the defined
 1755 term is different. So, just from a clarity point of view it may be worth changing
 1756 just a couple of words of that definition of nationally threatened freshwater
 1757 species to say, "Has the same meaning as threatened species in the national
 1758 policy statement for freshwater management 2020."
 1759
- 1760 I think that would just assist with the clarity of the intent behind that.
 1761
- 1762 Chair: Thank you. I'm sorry, I'm looking at the notified definition and I might be
 1763 missing something but doesn't it say...
 1764
- 1765 Commissaris: It says it has the same meaning as in the National Policy Statement for freshwater
 1766 management, but the defined term is different. I just suggest that saying has the
 1767 same meaning as "threatened species" (in quotation marks) in the NPS-FM
 1768 would assist because there is no nationally threatened freshwater species
 1769 definition in the NPS-FM. The definition in the NPS-FM is threatened species.

1770 Chair: Then would you keep the rest of the...
1771
1772 Commissaris: Kept the rest of it the same. Just for clarification, just to make that clear.
1773
1774 Chair: Thank you. That is noted. I am sure Mr O'Brien will [02.59.19] in the reply.
1775
1776 Thanks very much for your time.
1777
1778 Commissaris: Thank you very much.
1779
1780 Chair: That brings us to the end of hearing of submitters for Hearing Stream One.
1781 Thank you very much to everyone who has presented and thank you Counsel,
1782 Mr Ruddock and Anistead, and everyone behind the scenes – the AV and
1783 everything has worked really well, so thank you very much to all the technical
1784 support there.
1785
1786 We will close with a karakia.
1787
1788 Admin: [Māori karakia – 02.59.56]
1789
1790 Whakataka te hau ki te uru,
1791 Whakataka te hau ki te tonga.
1792 Kia mākinakina ki uta,
1793 Kia mātaratara ki tai.
1794 E h ī ake ana te atakura.
1795 He tio, he huka, he hauhū.
1796 Tihei Mauri Ora.
1797
1798 Chair: Kia ora. Thanks very much everyone. Wishing you all a good run up to
1799 Christmas and happy and safe holiday. We look forward to seeing you all again
1800 for Hearing Stream 2 next year. Kia ora.
1801
1802
1803 [End of recording 03.00.35]