

Session: 7/04/2025

Legal submissions

Speaker: Kerry Anderson & Emma Manohar

Issue: NPS-FM

Kerry –

Principles:

Community engagement

Best available information

Water bodies are improved or at least maintained

TAS are a mandatory requirement, must be set at or above national bottom lines.

NOF – roadmap of NOF

Second half of rebuttal addressing PCC and WCC submissions. Considering achievability and affordability.

Achievability of TAS aren't per se what is required, achievability is dealt with in NPS-FM.

Significant direction in NPS-FM as to what TAS requirements are. Not open-ended discretion.

S32 issues – submissions raised around reasonably practicable. S32(1a) test is around this the most appropriate way to meet the policy. S32(1b) ...

It is important that TAS are objectives so assessed against purpose of the RMA.

Criticisms aren't helpful at this stage of the process. What is sought by the TA's – some seeking that notified TAS remain (HCC). Some (WCC, PCC) seek the updated recommendations of

Issues involved are complex, significant costs involved. This is anticipated by the NPSFM. Ultimately the panel need to consider the plan change test.

C. McGarry – touched on best available information. If uncertainty is not a reason to not make a decision or take action. Does NPSFM provide any guidance on this? Social and economic considerations?

Kerry – clause 1.6 outlines using the best available information. It's saying where there's a small amount or

C. McGarry – is the precautionary approach relevant?

Kerry – not in clause 1.6 itself. Might be in MfE guidance. Is in s32 for requirements talks about risk of acting or not acting if there's lacking information.

C. McGarry – Para 22 suggested there's no ability to not set TAS. Some of Ms O'Callahan's recommendations have moved towards bottom lines.

Kerry – when you've got minimum requirement in place

C. Nightingale – NZFFA have made a point about relationship between NES-CF and NES-FW. It was discussed in first hearing stream. You (Kerry) provided some advice on that. Relationship between two environmental standards. Struggling to understand practical aspect of clause 7 of the NES-FW which says that regulations are subject to NES-CF. Extent to which provisions in PC1

are able to override provisions in the NES-PF. Best way to progress this might be once we've talked with the submitter and Legal can come back.

Another point is from Wellington International Airport, require broader policy lens to be applied with coastal policy statement. They are suggesting that these provisions are taking too broad of a view.

Kerry – if you think tension between two pieces of legislation. Port Otago decision illustrates about two sitting together than one against another.

C. McGarry – NPSUD balanced with NPSFM. Suggested they have equal weight. Does Part 2 come into play at this point?

Kerry – start by deciding if there is a tension or conflict. Then yes look at Part 2

C. Nightingale – WH.01(?) Resource consent applicants need to demonstrate proposed activities align with objectives? Where do these provisions require change in land use or other changes to achieve TAS or other outcomes. Macdonell from HCC queries if this note is ultra vires. Non-complying activity consistency with objective will be relevant for gateway test. Do you think Ms Macdonell is correct? Would this object apply in the same way as any other objective?

Kerry – note added to provide clarity. Objective is like any other objective that is required to give effect. String of case law which talks about bits of the plan which need to be very clear in the plan itself. Clear intent is that its not applied in resource consenting but sets out long term.

C. McGarry – analogy to govt doing right now with ?

Kerry – don't think it's a vires issue, just if you're comfortable it meets the plan change test.

C. Nightingale – encapsulates ambition for wai ora 2100. Is it simply about bringing long term visions from RPS to being in the plan

K – from a legal perspective. You have regard through your resource consent process. Can be quite hard to deal with that through an individual consent.

C. Nightingale – A few submitters have raised the water services bill. That this is going through final stages before panels final recommendation report is delivered. Env standards will prevail over other provisions. May be in amalgamation hearing stream. Interested in your thoughts on transitional requirements. Clause 269 of standards from WSA.

Kerry – its all about timings. Same for national direction which might change through the process. You are correct re. clause 269. Details of standards aren't available at this stage, they are subject to change. Council will be updating panels if there are impacts. Will need to cross that bridge when we come to it.

C. Wratt – comment on achievability. You're presenting there's a specific meaning on achievability. Submissions discuss how feasible it will be to achieve TAS and timings. Important how achieve is being used in context of NPSFM

Kerry – keeping eye on the fact NPS-FM does use achievability in a specific way.

C. Wratt – achievability is used from feasibility, affordability context

C. Wratt – note in 5.11 that mana whenua term is used, where NPSFM uses tangata whenua. Does that create any issues?

Kerry – I'm not the person to answer that. Was using what was in the plan.

Speaker: Ms O'Callaghan

Link to presentation/notes

WIP process provided initial recommendations. RMA plan change process has been followed.

RMA process required council officers to use their judgement on what provisions were notified. New evidence has been considered and Ms Callaghan has used her judgement to inform her recommendations.

Confirming there were 565 submissions.

Some existing NRP objectives no longer apply, because new PC1 objectives will replace them.

Some provisions are similar between Te Whanganui a Tara and TAOP. TWT have more complex groundwater, and has lakes.

Objectives for coastal objectives were also set. Sediment and enterococci were set.

Context from Dr Greer. Updated rebuttal evidence with yellow highlighting reflect changes from today.

Speaker: Dr Greer

Presentation:

Purpose to summarize evidence. Will touch on current state of water quality as well.

Pg 59 of evidence. Has been a displacement issue on that page. Row applies to Kawai not fish (?).

PC1 defines TAS for compulsory attributes in NPSFM as well as some specific attributes recommended in Whāita.

Starting point for TAS are objectives published in TWT and TaOP WIP.

PC1 TAS achieve – definition of aquatic ecosystem health. Predominantly life attribute states. MCI is best for rivers and streams.

In lakes submerged native plants are best.

TAS seek a good level of ecosystem health in

C. Nightingale – when you said the end point for the TAS. Is it right that if the end point for MCI is high it means general ecosystem health is generally good?

Michael – MCI does provide general state of health.

-----

Do require improvement in most FMUs. Not only require improvement but seek that unswimmable rivers become swimmable.

C. Nightingale – submitters who are seeking swimmable rivers. Understand values incorporated into objectives. But its not directly included in objectives.

Michael – swimmable was introduced into NPFM in 2017 (?). it references the campylobacter and E.coli.

C. Nightingale – Van Berkel's submission. He is talking about primary contact issues. If you describe it as swimmability its easier to relate to. Related to request for swimmable days.

Michael – effectively redundant? A-C would be 80% swimmable.

C. Stevenson – will check with Mr Van Berkel if that satisfies his points.

-----

Number of TAS not being met. Suggests most attributes with insufficient data are being met. And that there hasn't been a significant degradation from 8 years ago when recommendations were made.

C. S – What safeguards are in place to ensure monitoring will improve?

Michael – will be a policy matter. Amanda Valois has provided statement for monitoring in her evidence. That GW monitoring team has a plan for monitoring.

C.N – Ms Ocallaghan, are we still continuing with technical evidence?

Mary – yes

C. McGarry - Pg 59 table correction. Greater than 260, greater than x – these apply for E.coli not fish.

Michael – will provide an amended table

C.Nightingale – question around 39% of that the TAS proposed in PC1 known to be met.

Michael -

C. Stevenson – Mangaroa clarity issue?

Michael – need to correct was identified. Dr Valois can speak to this more. Colour has been factored out, proposed amendment in Ms O'Callaghan's recommendations to reflect this. Proposed amendment from C to D state.

C.Nightingale – TAS across TWT rivers. Is this saying that baseline state. How TAS are referred to in terms of baseline and current state

Michael – baseline is 5 years prior to 2017. In evidence Dr Greer did a

Comparing baseline state to the targets and then comparing current state to the targets.

C.McGarry – in most FMUs there hasn't been a degradation? Is that correct?

Michael – there has been improving trend.

C. McGarry – more people and pressures on resources. What's driving improvement without much change?

Michael – not everything relating to human activities. Cant explain the exact cause or nature of the improving trends.

C.McGarry – large events likely still affecting baseline? But we haven't had those in the period of 2017 to now?

Michael – large 2016 storm was included in baseline. Baseline and current period do include storm events. Another in 2017 with a large number of slips.

C. McGarry –

Michael – can't answer how individual events were contributing to visual clarity issues.

C.McGarry –

Michael – coastal is a depositional environment as opposed to amount of sediment in suspension in base flows for rivers. In low energy spring fed system you can have very good clarity where there isn't the energy to lift sediment.

C. McGarry – how do we know the baseline represents a 'normal' baseline? An improvement from the baseline might not be representative? Difficulty to understand key drivers.

Michael – no strong evidence of degradation, but neither is there evidence of links between land use and improvement trends. Dr Ton Snelder, has undertaken method to factor in climate. 2019 report which takes out climate factors.

C. McGarry – would like a copy of the report and summary.

C. Kake – in terms of scope, with respect to climate change. Para 79 talks about how issue of flood volumes might be out of scope for PC1. Wants clarity on modelling.

Michael – Mr Blyth could comment on modelling for Porirua. For TWT expert process undertaken on various scenarios which did take into account climate change. Large increases in winter flooding on western rivers, which was factored into recommendations.

James – for Porirua Whaitua there was no specific climate change model. Primary model was a source model which was calibrated to baseline data. No additional climate change data added into that modelling.

C. Kake – how objectives have been drafted to consider effects of climate change. Seeks clarity how cc has been taken into account.

Michael – probably more relevant to provisions component.

hasn't been a process where targets have been adjusted for climate change. But has been factored into provision development.

C. Nightingale – question on E.coli. Might be better addressed tomorrow. Steve Hutchinson evidence for WWL. Where he says that contribution of wastewater to TAS is not well understood. How is it possible to trace source of contaminants that are trying to address through TAS?

Michael – in Porirua wastewater source of E.coli was derived from literature and calibrated in the modelling. There are methods to identify where human E.coli is coming from human sources (fecal source tracking). Dr Greer's evidence does outline where urban landcover is linked to higher E.coli levels. No doubt that urban wastewater contamination in those rivers is a factor. Don't see those concentrations off pasture.

C. Wratt – fecal source monitoring which identifies human source, there is not other source than the wastewater system?

Michael – yes it can only be from one source.

C. McGarry – there has been fecal source?

Michael – yes from my time as an officer there was a fecal source tracking.

C. McGarry – would that be available to WWL?

Michael – there was an excel spreadsheet, not sure if it was publicly available or available to WWL.

C. McGarry – that information would be helpful. Thinking about cross-connections or that side of issue. Struggling to see how broken pipes fit into the upgrade category? Seems to be just maintenance issues. Could that fecal study be helpful.

Michael – believe they were mostly collected in wet weather conditions. He understands WWL are aware of when overflow is the issue from wet weather.

C. McGarry – trying to distinguish between upgrade requirements vs compliance issues. Want to understand costs associated with improvements vs maintenance.

Michael – dry weather overflows are the primary issue.

C. Kake – clarity around engagement with mana whenua with regard to striking out schedule b? Note this might be better addressed in mana whenua submissions.

Mary – my understanding, I haven't engaged, but I have read the evidence of the planner from Ngāti Toa and understand they are happy with those changes.

C. Kake – Ngāti Toa stated they were comfortable. There will be further questions on this.

*Break for morning tea*

Speaker: Megan Melidonis – marine ecological science

C. Nightingale – in table 8.1, the officers rebuttal version. Can you explain to me, muddiness, the unit there – greater than 50% mud – is that an indicator of estuarine health?

Megan - in table 8.1 there is a range of different attributes which appear to indicate a similar thing when looking at muddiness we will be looking at the percentage of mud that is over 50% in the extent of the mudflats. We wouldn't look at one of these measures we would look at multiple locations

C. Nightingale – are you wanting to have more mud or less sediment. Not sure how the muddiness parameter relates to sediment loading?

Megan -

C. Nightingale – if there's no data on the current state for muddiness, and the target is to maintain, how do you know what you're maintaining if there's lack of information?

Megan – it is difficult whether its being maintained if you don't have the data

Might be a question we come back to Ms Ocallaghan on

C. McGarry – so you're talking about fine particles there, so you're trying to avoid very fine particles being deposited and smothering, and the other issue is sediment being transported in the water column?

Megan- yes that's right fine sediment has a different effect on different species

We don't measure the turbidity in coastal environment, not necessarily reflective of inputs.

C. McGarry – muddiness is ...

Megan – measuring systems of concern in terms of excessive inputs and if we can see an impact on the ecological state

C. McGarry – real difference between notified and what we're seeing now, we're taking into account the natural rate. In terms of info council has on sedimentation. You talk about what is monitored? You've said its annually, wondering what rate it has been monitored?

Megan- We have technical documents which summarize this information visually we have 2 decades of information

C. McGarry – is there any dredging activity in Porirua?

Megan – there is dredging around the Porirua marina, there is frequency dredging in that area

C. McGarry – you talked about a combination of stressors, what are they?

Megan- some of the stresses might be sedimentation coming down from land based sources and land use. Climate change factors in, water temperature, PH different measures related to water quality. Boat movement

C. McGarry – sediment plate monitoring. If there's a large event that comes through during that period, would that send you off to monitor?

Megan- we have in the past conducted targeted investigations into sites of concern after events, we are looking to move toward more responsive monitoring sediment movements to inter tidal

C. Wratt – I notice in tables 8.1 and 9.1, 9.1 doesn't include those attributes for TaOP, and for TWT they've been removed?

Megan- doctor O'callahan evidence is being removed from the plan in a lot of instances there no baseline to develop an understanding

C. Wratt – question from scientific perspective, there's no baseline state. How do you implement without baseline state. Attributes that are there are sufficient attributes?

Megan- when assessing the applicability, it would have been easier to address different estuaries as

C. Nightingale – the crest model, which Mr Oldman discusses in his evidence. Do you have reasonable level of confidence that if land use changes are made that will minimize sediment from land use activities (housing) and that is going to result in improvements in coastal marine environment?

Megan- the way the crest model was set up, the purpose was to reflect under different scenarios it is a model and not reality but was set up to understand what the potential impacts could be

Speaker: Tim Sharp

C. nightingale

There has been quite a few submissions about the 2040 timeframe for achieving the objectives but from understanding of the implementation of the documents, 2040 is the timeframe is the recommendation of the engagement process but there might be challenges. Somewhere between the delivery of the WHPs and the PC1 did the timeframes come back to whaitua

Tim – no that didn't come back to the whaitua. Was considered later through development of PC1. Timeframes were considered by committee, not 2060 specifically. Achieving any future state is acknowledged to be uncertain. Was considered feasible by expert advice the committee received at the time.

C. nightingale- so this goal of achieving these targets by 2040 was that set in mind that the PC1 process would take 5-6 years

Tim – Perhaps not. 2040 was a date in the NPSFM that was taken into account. It seemed a reasonably long time away. Committees did talk about generations, being 25 years. There was discussion around going to 2050.

C. Wratt- in paragraphs 25-26 you talked about how you went of the community model rather than stakeholder model, business owners and infrastructure didn't think they had the opportunity to engage in the WHP process

Infrastructure companies felt they hadn't had opportunity to engage. That's where pushback on targets are coming from.

Tim – Members of the a

C. – Wratt the territorial authorities WCC- had some push back

Tim – they attended every meeting and had staff on the project team. There were ample opportunities to question. Some of the pushback that things have gone too far.

C.- Sarah engagement related heard from Bob Anchor of rural communities could you comment for how the 4-20 hector blocks were engaged in the WHP process

Tim – I'll keep my response to just TWT. The co-chair worked for MPI and was well connected with Fed Farmers and farming community. Did a fantastic job of connecting with rural communities. Had a hall meeting at Mangaroa Hall around a year into the process. Many in Mangaroa community were present. Raised issues to use and develop their land. Recommendations for rural community were thought through by the committee.

C.- Kake a timeframe to determine mana whenua outcomes -

Tim – reference is to a generation. Could ask committee later in the week.

C.- Kake how was information shared with the Ngāti toa? How well they were included in the process of WIP

Tim – the Ngāti toa were on the Porirua committee for three years and stepped aside in the last 9 months. Reason being they were concerned about being asked to agree in a consensus model to setting C states. They wanted to step aside and develop their own statement with their aspirations to achieve Wai Ora. At the time the relationship wasn't in a place to resolve their concerns with the committee.

A lot of drafting of WIP had already been done when they stepped aside. They were a signatory of the WIP.

C. Kake

Data and information shared with mana whenua how's that done? Did mana whenua want to use their own observations and methods and have the opportunity to do that?

Tim – Yes te mahere wai presents te orongo mai as a framework for matauranga to establish targets and future states. Recommendation in te mahere wai is that its further developed.

C. – McGarry

Is the generational 25 year target a better target?

Tim – would be good to ask mana whenua during the week particularly given their concerns with 2040 date. Understand D state is in the recommendations in the s42a

C. McGarry - you said the NPS FM made the 2040 goal but you think the focus is actually on that 25 year generational goal?

Tim – That's right, with Porirua the WIP being completed in 2018 some of those dates were agreed in 2017. Setting timeframes is inherently uncertain. Using 2040 as the target seemed reasonable to use a round number. The 2100 Wai Ora vision is where the committee wanted to get to, but its pretty unhelpful without any pathway. There was discussion around a 10 year target to stop decline. At the time there was understanding of ongoing decline. That was recognizing the current state around degradation of urban water bodies.

C.- Mc Garry would it be fair to say the WIPS have information to suggest there has been a decline water quality on most attributes

Tim- Yes that's true, the information that was presented by the science team was that across the board there was declining water quality across the board. Huge concern to mana whenua was wastewater and E.coli. During TWT process there was a major pipe burst in town. It would be interesting if that has changed.

Michael – E.coli is the one attribute that is still consistently degrading.

C.N - I wanted to ask the report did consider economic issues, do you know if this WIP and whether the economic benefits of

Do you know what kind of analysis went to understanding the economic benefits

Tim – not a lot. Non-market valuation is difficult, often subjective. Very difficult to quantify things like mauri. There wasn't significant work done into the value of restoring waterways. The impact (cost) of not having those values, the cost of degradation. Has been some non-market valuation across the country but not specifically in my whaitua.

C.N- it doesn't seem right that we has national direction which sets outcomes and the end of it at the planning provisions which say its going to be too expensive

Tim – I agree, it is a bit of a philosophical discussion. There was a lot of talk about national bottom lines and there had been decades of discussion. But bottom lines had to be set for human health and ecological health which have been debated over the years. Of course feasibility and cost do come into it, but that those had swayed the conversation for too long.

C. N- the non regulatory recommendations- there are various recommendations which don't rely on planning provisions-

Can you tell me about the process of this

Tim – It is a big question. Regional council has a whaitua implementation reporting program. Report 6 monthly. Our most recent report we worked with WCC and WWL to provide a detailed update on the recommendations. Significant investment has gone into infrastructure, particularly for drinking water.

C. N - in terms of these provisions the work that's required for infrastructure for waste and drinking water, is it possible to as for an update

Update on progress of infrastructure commitments to carry out network upgrades and timeframe.

Tim – really good point. You may be able to get that info from WWL. What is their current level of funding, how far its going to get them. I'm aware its not going to get them anywhere near. There are network improvements underway and treatment.

C.N I am interested in in terms of commitments of the WIP and the non-regulatory recommendations of the WIP

Tim – A lot of non-reg recs would be required to achieve the reg provisions. Appears there is less certainty about what they've signed up to. Again, none of those things were dreamt up by committee members, they had direction from WWL.

C. Stevenson

What maintenance and renewables were already in place to meet current requirements how much of the compliance and cost were associated with PC1

Tim – No, I can't really answer that. There were definitely programs in place i.e. WWL has a stormwater management strategy in place as a result of PC1 requirements.

C Nightingale – is that also your view – narrative or numeric – do you think that they are objectives

Ms O'Callahan – Yes

C Nightingale – reason I am asking this is that clause (3)(11) of the NPS-Fm in order to achieve the environmental outcomes included as objectives the council must set TAS. I don't think that I am disagreeing with you but I just want to confirm your view.

Ms O'Callahan – Yes, under PC1 they have been drafted as objectives, but are you asking if they need to be objectives under the NPS-FM.

C Nightingale – Notes that the headings of the tables vary a little bit. Becomes relevant when assessing these under s.32

Ms O'Callahan – in my view they are setting the outcomes for the plan change and should be considered objectives – they set the outcome sought in the numeric term.

Ms McGarry – not applicable objectives, have you seen this done else where

Ms O'Callahan – the challenge with this plan is that there is no other content in the plan change re: introduction, long term goal etc. The note added to O1 was a simple way to show that this objective was unrealistic in a consenting objectives. I did not want the focus in consenting to be met by wai ora and I wanted the focus for consenting to be the medium term outcomes. Plan drafting is clear that it is a long term vision rather than a consenting objective.

Ms Mc Garry – wondering if the second sentence is the issue – reworded in away...what you are saying is that you are not expecting that on a consent by consent basis to achieve this...moving in

the right direction in the general sense. Rewording to say it applies but not achieved on a consent by consent basis. Issue with the second sentence. You would not want to the contrary to this objective but then you would be contrary to the other objectives

Ms O'Callahan – yes agree would be contrary to the other objectives

C Nightingale – looking at RPS Change 1 – I think they are expressed as objectives and are beyond challenge. I can't see a provision in PC1 that gives effect the RPS objectives

C Nightingale – does it also apply to the TAS timeframes – would they also be seen as objectives

Ms O'Callahan – yes that this correct

C Nightingale – interested in interim targets. Do interim targets need to be called interim targets

Ms O'Callahan – Clause 3(11)(6) it say if you have long term targets then you need to set interim targets. I do not consider 2040 particularly long term.

Ms O'Callaghan – did the whitua NPS-FM have interims?

Dr Greer – TWT had three time steps towards wai ora.

Chair Nightingale – I think then it is entirely up to the Council if they want to have environmental outcomes as objectives including time frames set as objectives as they see appropriate to achieve the 2100 vision. This level of direction is not provided by the NPS-FM

Ms O'Callahan – No I don't think that the plan is about the long term visions the plan is setting targets to achieve the environmental outcomes. Strictly O1 do not have to be in the plan as they are already in the RPS. This is another option I would be comfortable with – the focus for the plan is the 2040 objectives. I don't think you need a cross reference as the RPS applies in any case.

C McGarry – time taken to get to the plan change – any view on whether you need to recalibrate because of the length of the process.

Ms O'Callahan – doesn't hold much weight to me. The evidence prepared for this hearing has been prepared now.

C McGarry – they expected they had the time from the plan change but you are saying they were part of the WIP process and should have known this is coming.

Ms O'Callahan – Yes, they signed up to the WIPs they should have started planning from then.

Issue 1 – no questions

Issue 2 – General comments across the whole report

C Nightingale – New method – 2036 timeframe where did it come from? has it come from a submitter

Ms O'Callahan – I have suggested a date to the panel. I think it is important to focus on the 2040 objectives first and then think about the long term. Have it in place by 2036 so you have a plan for the post 2040 work.

C Nightingale – I think if this is the only time the long term visions are used in PC1. Should this method refer to long term visions? We do not need a response on this now

C Nightingale – I understand what you are saying in response to F&B relief – re: degraded vs deteriorated. There could be unintentional consequences. Do you see the same problems arising when using degraded in O2.

Ms O'Callahan – O1 includes coastal and O2 is just freshwater so can used degraded.

C McGarry – where practicable vs where possible. Practicality is cost focused, where possible is more physical possible. Do you have a view. Where possible is more limiting than where practicable?

Ms O'Callahan – In terms of its use in WH.O2 – generally I prefer the term 'where practicable'. I am thinking about natural character – the streams here are piped – it would be possible to daylight the streams but is it practical? Up to the Panel though.

C McGarry – not practicable seems like a low bar. I am getting back to the modelling which assumed that riparian planting would happen where it could.

Ms O'Callahan – this is the problem with the long term vision.

Ms O'Callahan – I was following the same wording in the RPS – 'not compromised'

C McGarry – error take the whole of © out

C Kake – WH.O1 the listing of the freshwater bodies in the chapeau. You mentioned something about water in pipes. I am interested in definitions. Freshwater bodies is it limiting the objective when stating rivers, lakes, wetlands etc. – does this include piped streams?

Ms O'Callahan – From my perspective it could be limiting but from a practical perspective it is not as the pipes end up in the coastal marine area. Freshwater bodies is not a defined term. Perhaps an undefined term is not a problem in a long term objective that is not applicable to consenting.

Ms Kake – Removal of schedule B – I am not seeing the values in the TAS. Wai Tai is that the only value that applies?

Ms O'Callahan – I did not think Schedule B was helpful. Somethings in Schedule B do not relate to water. I have recommended some draft that help prioritize – as a starter for 10 – human health is the priority which is what I have heard from mana whenua.

Ms Nightingale – page 13 rebuttal – F&B have sought including natural form and character. You do not support the wording that they are seeking. Can I please just check I understand your reasoning – did you also consider narrative as well as numeric objectives – are there narrative objectives relating to natural form and character – did you only consider in relation to numeric objectives

Ms O'Callahan – there are existing objectives that still apply in the NRP. My understanding is that these submitters are seeking an inclusion of a natural character index.

Issue 3 – Definitions

Ms Nightingale – can Riverstone give you a good perspective of the water quality at the Hutt confluence?

Ms Nightingale – new ones can not be added unless they are added through a plan change.

MS Callahan – Council does not need a plan change to monitor but to go in Table 8.3 does need a plan change

Dr Greer – Riverstone and Hutt confluence are basically the same place but it is not a primary contact site so does not have the same monitoring requirements i.e. not weekly over summer. GW updates their monitoring network when there is increased usage of a site.

C Wratt – 80% to the target state by 2040. So the sites that that would apply to are those in Table 8.3.

Dr Greer – If it references primary contact sites then it is only those in Table 8.3

C Wratt – would it be possible to add the Riverstone sites

Dr Greer – Yes but it would not have the baseline state and no real way to understand the level the TAS should be set other than a maintain, and a significant burden on council to monitor.

C Nightingale – harbour sediment is reduced to a more natural level

C McGarry – natural present in those environment – I wonder if it would be better if it would be where naturally occurring /Found – I just want to accommodate when a species is not there but could be there.

Ms O’Callahan – I agree – “where they would naturally have occurred” conferred with Dr Greer over the break

C Nightingale – WH.O10 – these are coastal and freshwater?

Ms O’Callahan – they are freshwater only

C Nightingale – WH.O10 – expect a naturally occurring process. Is that defined in the NPS-FM? I am just thinking about the implementation of that first interim target – no deteriorating trend unless occurring because of a naturally occurring process – is that the suspended sediment or are there others?

Ms O’Callahan – I don’t know would have to defer to scientist. I draw your attention to the note. Have we stopped that negative trend and it would be different for different attributes.

Dr Greer – they will all be dictated by some naturally occurring process form or another – particularly climate.

Ms Wratt – could the note on O9 but put on O1 – where it can be demonstrated that TAS can be met.

Ms O’Callahan – You could do that I think it is clear with either wording. I

C Nightingale – Second half note on O10 on both (a) and (b)

Ms O’Callahan - no just (a)

C Nightingale - so (b) is relevant to consent applications

Ms O’Callahan - needs to be half way there

C Nightingale – O10 clause (b) consent applications how would you assess consistency with this objective – one that might have very little impact on the receiving environment compared to a larger application?

Ms O’Callahan - O10 clause (b) in reality will only apply to the network consents

Issues 6 and 7 WH.O2 and P.O2

C McGarry – coastal marine area vs coastal water – is the use of this language deliberate

Ms O’Callahan – Are you talking about WH.O1,P.O1 – I might have to come back to you on that one. CMA includes more than coastal waters. Mary has amendments written down

C Nightingale – the health needs of people that you are recommending get added into P.O2 – this is a defined term in the operative regional plan. A lot of discussion in the RPS hearings. I am not sure if the two definitions are the same.

Ms O'Callahan – This is my response to WWL submission to retain existing O5. My view is that O5 does not fit well with TMotW so I have recommend the change to P.O2 instead. So it is in WH.O2 because of the drinking supply and putting it in P.O2 recognises that people are probably taking water for human health in Porirua. Livestock drinking water covered by the social and economic use benefits.

C. Wratt – WH.O2 and P.O2 – a couple of clauses at the end of P.O2 that links the freshwater to the coastal water but nothing in WH.O2 – why is that?

Ms O'Callahan – I will come back to you. This is deliberate. I have missed an 'and' at the end of the new (h). contributing to the outcomes for the coast is important to Porirua. It does not fit under the chapeau at the top. The second clause (j) is probably redundant – not clear what significant values it is talking about – I suggest deleting (j), then could have one sentence at the end.

C Wratt – what about TWT estuaries

Ms Callahan – My understanding that Ngāti Toa requested this link. The issue for Wellington is the enterococci rather than the ecosystem health. My understanding is it maybe an issue in Makara but not other areas.

C Wratt – do you have any views Dr Greer

Dr Greer – not to the same extent as Porirua

C McGarry – something is wrong with the formatting of P.O2

Ms O'Callahan – I think that this is deliberate – I can come back to you

C Stevenson – P.O2 (j) should the word be 'with' rather than 'within'

C Nightingale – the natural form and character point. You have recommended in WH.O1 and WH.O2 and the equivalent Porirua – the term natural form and character. But there is a definition of natural character in the NRP. NPS-FM refers to natural form and character. Should it be natural form and natural character then it would retain the definition of natural character that is currently in the NRP. Might help address F&B

Ms O'Callahan – the submitter asked for natural form and character from the NPS-FM – you could just leave it as notified.

C Kake – clarification of second bullet point – restoring mauri is important vs water quality to a more natural level.

C. Stevenson – third bullet point WH.O1 – where they would have naturally occurred. Is there enough information to understand where taonga species and threatened species would have occurred?

Dr Greer – freshwater fish species data bases that go back to the 1960s. Difficult to prove beyond doubt but we do have some methods to estimate

Issue 13

C McGarry – highlights in yellow are what you have revised.

Ms O'Callahan – yes

C McGarry – note on O9/O6 'objectives are met' is that better wording.

C McGarry – is there an 'and' on the end of clause 2

Ms O'Callahan – yes it does

C Kake – clause (e) is it better to say in partnership with mana whenua

Ms O'Callahan – probably not needed at all should just be the Council

C Kake – what about monitoring aspirations of mana whenua

Ms O'Callahan – then yes could say in partnership. The concern was that we want to make it clear that consent applicants are not required to do the monitoring.

C McGarry – so what you are really saying is it is the Council responsibility

Ms O'Callahan – yes and this is consistent with the NPS-Fm and the s35

C Wratt – E.coli TAS have been reduced from B's and C's to D's on several sites. No primary contact sites in Porirua. But there is still Appendix 3 of the NPS-FM – fourth order of greater.

Is this consistent with the TAS states of D in Taupo, Wai-o-Hata, Porirua.

Ms Callahan – my understanding is there aren't any

Dr Greer – there will be plenty of fourth order streams in Porirua my understanding is that the intention is that every river must improve an attribute state so all rivers will be more swimmable but not every river will be swimmable. The 80% is a nationwide target not a whitua target. Our sites are the most impacted sites in the catchment – the modelling is 80% of the river network itself not the most impacted.

C Wratt – Taupo at Plimmerton Domain is D but up stream will be better.

Dr Greer – Yes

C Nightingale – WH.O9 – water quantity in the chapeau – I understand that the PC1 provisions are not addressing water quantity provisions. Is water quantity appropriate there.

Ms O'Callahan – the objectives do cover water quantity as we have objectives on groundwater. Water quantity can impact these objectives. The intention of the plan change is to set the objectives. There are quite comprehensive provisions in the operative plan that manages water allocation. But there is some more work to be done whether the water allocation provisions need to be amended.

C Nightingale – In table 8.3 – baseline now compared to the notified version. Can not do a baseline state as no data at 2017.

C McGarry – paragraph 289 s42A report.

Ms O'Callahan – addressed in Dr Valois evidence.

Dr Greer – Dr Valois has stated that GW has done some spot monitoring to determine high risk sites to be monitored over the next 4 years.

C Nightingale – Table 8.4 – DIN – for Wellington Urban – baseline state is 1.29 – Snelder/Greer recommend a reduction to 1.

Ms O'Callahan – I did not adopt Dr Greer/Dr Snelder recommendation because Dr Greer informed me that it would require significant land use change 100% of the areas to be treated within Wellington Urban area. Conclusion from the planner – this was unachievable.

C Nightingale – DRP – my understanding at para 125 Dr Greer is that 0.035 should be 0.025

Dr Greer – same reason as the DIN and same reason that Ms O'Callahan

Ms O'Callahan – refer to paragraph 320 s42A report.

Dr Greer – it would require significant upgrades to stormwater and wastewater networks not a huge effects basis to implement nutrient mitigations. Not meaningful improvement in ecosystem health.

C Nightingale – WH.O9 (e)(i) – I am not sure I fully understand it. I picked WH.P4 as an example.

Ms O'Callahan – P4 not an activity specific policy. I am talking about the activity specific policies.

Ms O'Callahan – to come back tomorrow with better wording

C Nightingale – this does matter for consenting and applies

C. Kake, C. Stevenson, C. Wratt , C. McGarry, C. Nightingale

Session: 8 April 2025 (AM)	Note Taker: Josie Knight-Maclean
Speaker – Mary O'Callahan	
Questions for Reporting Officer/Wellington Regional:	
C. Nightingale – Yesterday brief chat about policies that were engaged by this clause. Turned to one about visual clarity but it wasn't intended that that would be a policy. Pointed to one about discharges. Question about whether the wording 'specific policies' is clear enough for plan users?	
Mary – Expressed amendment to the	

Session: 8 April 2025 (AM)	Note Taker: Josie Knight-Maclean & Rachel Pawson
Speaker – Dr Michael Greer	
Dr Greer – Offer to do additional analysis on the extent to which specified rivers become more or less swimmable without or without Ms O'callahan amendments.	
C. Wratt – It would be helpful. Appendix 3 NPSFM is specific but hard to connect it back to the plan change provisions.	
Greer – delivered by...	
Consistency of toxicant attributes	
Dr Greer - These TAS still drive an important and are not inconsistent with the MCI requirement in these streams.	

C. Nightingale – Yesterday I was looking at Appendix 1A NPSFM compulsory values – aquatic life which you were just talking about. I just want you to elaborate on what the end point means? Is this about achieving the TAS, of course nothing specific for aquatic life. Please explain aquatic life which is a compulsory value – what are the specific target attribute states that show ecosystem health and then if you can talk about the end point.

Dr Greer – Attributes in the notified version. Rivers – Fish IBI, Fish community health, MCI (all three), periphyton growth. Lakes – Phytoplankton, submerged native plants, arguable whether introduced submerged plants is included. NPS-FM definition of AEH states that everything should be set for aquatic life. End points are what people want to see and everything else is what you need to manage to get to these end points.

C. Nightingale - when you say what people want to see are you kinking this back to the whitua program?

C. Nightingale – so mci, do i need to differentiate between one and two or qmci?

Dr Greer – Yes, based on the whitua. Yes, you can refer to MCI/QMCI as the same.

C. Nightingale – MCI as I understand it is degraded in all monitored catchments. Does that reflect poor aquatic life conditions?

C. Nightingale – In rural they fail to meet the TAS but in urban they fail to meet the national bottom line?

Dr Greer – Two definitions of the degraded below NBL or not meeting TAS. Pattern of most rural part FMU being in the C state but uniformly urban rivers are in the D state.

C. -

C. McGarry – You were silent on fish community health. But yesterday in the hearing you said it is not mandatory under the NPSFM.

Dr Greer – Yes not compulsory

C. Nightingale – Threatened species is not specifically in the scope of this plan change except for benefits that these might have for threatened species. Is that correct?

Ms O’Callahan – Schedule F has been updated to include threatened species

C. Nightingale – Specific questions about periphyton. Is now a good time to ask about periphyton?

C. Wratt - To make sure I have it right (end points), you are saying endpoints are macro invertebrates and fish targets from an ecosystem health perspective. The end point is around human health and rivers. The other TAS, essentially saying everything in Table 8.4 (zinc, copper etc.) are measures associated with those end points?

Dr Greer – Yes they can be considered drivers or stressors that impact the end points. Extent that they influence the end points would vary from river to river

C. Wratt – Do any of those have impacts on the health of the freshwater bodies other than that? I am thinking about human health impacts that aren't E.coli and aren't bacteria related.

Dr Greer – nitrate contaminated water – questionable that we have an issue in the whaitua. Copper and zinc are actually a dietary requirement. Periphyton has an aesthetic value associated with it and this is factored into how it is set.

C. Wratt – So there are also cyanobacteria issues with periphyton on human and animal health?

Dr Greer – yes cyanobacteria is covered in the periphyton attributes. It is very variable spatially. It is not directly captured in the setting periphyton attribute.

C. Wratt - Is it [periphyton] in there in terms of the human health?

Dr Greer – no it is not in NPS-FM or PC1 as a human health attribute.

C. Nightingale - Periphyton specific questions. Looking at the Table 8.4 periphyton statistic is a 92<sup>nd</sup> percentile. My understanding is that periphyton biomass shouldn't exceed 15 mg/m<sup>2</sup> chlorophyll XX.

Dr Greer – That is the A state threshold the NBL is 200mg/m<sup>2</sup>

C. Nightingale – I know you have said periphyton is not achievable, you need to amend to B. In the version I have it looks like ... the baseline TAS has been struck out.

Dr Greer – Yes that is because that river does not grow periphyton – it has a macrophyte problem. GW does not monitor periphyton because it does not grow periphyton. Waiwhetu.

C. Nightingale – I am still a bit confused, seeing periphyton likely exceed baseline state. But it does not grow there.

Dr Greer – same approach was taken for Taupo in the notified version. Porirua WIP took the plant community in to account when they set the TAS. Less familiar with Takapu – this might have arisen from Dr Valois evidence on future monitoring.

C. Nightingale – Same for takakau, i believe it has been deleted there too.

C. Nightingale - Wainuiomata river, DS of White, the TAS numeric is less than or equal to XX, but elsewhere I think I noticed that if the numeric is less than or equal to 200 the state is C. Is that because of the river characteristics? For instance, in Makara less than or equal to 200 the State is C. Less than 200 Wainuiomata the TAS is B and less than 200 Makara it is C.

Dr Greer – Ms O'Callahan did not make the numeric change – should be 120

C. Nightingale - in other places where 120 is B, like korakora. Kaiwharawhara the numeric is 191 in the state of D for current but elsewhere the D state has a higher numeric.

Dr Greer – different ways of assessing compliance with the periphyton TAS. Reporting issue and not an error.

C. Nightingale - the key thing is the TAS numeric should be consistent and within the right band?

C. Wratt – in the table that I am looking at the TAS numeric has been changed 0.6 to 0.8. Is that right?

Dr Greer – Ms O'Callahan did adopt this recommendation.

C. Wratt - so what you are recommending is now in appendix 2 document?

Greer – Correct.

C. Nightingale – (?) should be managed with periphyton attribute state?

C. Nightingale – [Suspended Fine Sediment], measured by black disc test. Te Awa Kairangi urban streams, check I understand this correctly. The black disc test visibility is at 1.2 which is an A for baseline. But in the column to the left of that Mangaroa, at 1.5 the baseline is D. Could you please explain that.

Dr Greer – different attribute state thresholds for 4 classes of rivers...so they have NBL. They are bench marked against natural states.

C. Nightingale – Is the color from the CODM if that is taken into account in establishing the baseline? For any river – the naturally occurring color

Dr Greer – Only river that has been colour adjusted is the Mangaroa. Dr Valois recommended that Black Creek is black for other reasons. Different options for adjusting for colour.

C. Nightingale – What is the difference between suspended fine sediment and positive fine sediment. Does this come back to river classifications. Is it when you are looking at it are you looking at the input (where it comes from) or what happens to it when it is in the water body e.g. if it is suspended or whether it sinks?

Dr Greer – Deposited sediment is what is on the bed, suspended is what is in the water.

C. Nightingale - Could you please talk about soft bottomed rivers and how that impacts the monitoring and determining TAS?

Dr Greer – soft bottomed rivers – only one river that meets the NPS-FM definition of a naturally soft bottomed. Refer to rebuttal evidence.

C. Kake – In your primary evidence, mahinga kai as TAS that is already included in the NRP. Your evidence at paragraph 170, because you are not a cultural expert you can't comment on that attribute. Is that the only reason why it hasn't been included in the Tables?

Dr Greer – I created these tables from the WIPs. Why there isn't a mahinga kai attribute is a question for Mr Sharp.

C. Kake – Mahinga kai is a compulsory attribute, is it relevant for these particular tables?

Dr Greer – from a science perspective. I am sure there are some attributes for mahinga kai that could be translated into these tables. Mahinga kai is the sites, experiences, as well as the species.

Ms O'Callahan – compulsory attribute. It is a compulsory value but not a compulsory attributes

C. Kake – The reason why mahinga kai hasn't been included here is because you are not a cultural expert?

C. Kake – Please provide information from Tim on why Mahinga Kai attributes are not included in these tables.

C. Kake – Questions to come later in the week on how to monitor the mahinga kai value from a mātauranga Māori perspective.

C. McGarry – rebuttal a repeat of paragraphs 10 and 11

Dr Greer – yes agree.

C. McGarry – Jump two bands.

Dr Greer – That is in relation to the physical achievability issue – you cannot treat enough to get a two-band improvement – it would require land use change

McGarry – Looking at paragraph 16, you are talking about assumption of 100% treatment performance. Last sentence you consider the risk to be small. Could you please clarify what that risk is?

Dr Greer – Because the TAS are easily met. The ones that are not going to be met require vast improvements.

McGarry – the risk you are talking about is whether the risk of 100% has been an overestimate.

Dr Greer - Correct

McGarry – In paragraph 17 – all will be difficult to meet except wellington urban.

Dr Greer – Yes – this paragraph summarizes what I am was just saying.

C. McGarry – Need to achieve a XX efficiency in treatment and then only 50% of stormwater systems would need to be retrofitted.

Dr Greer – 50% is a subjective threshold that I have identified where TAS are difficult to meet.

McGarry – and that is the difficult threshold yeah?

C. McGarry - Your paragraph 242 in evidence. Page finished 122.

McGarry – Table 21, come down two paragraphs and then there is a very large note in italics. The third paragraph, some of the q/mci TAS in PC1 have been identified in XX. Should that be table 22?

Dr Greer – that cross has not been updated. Yes, should be table 22.

McGarry – Section submissions on consistency of how TAS and Table 8.4 and 9.2 were sit in the requirements. The paragraph begins “Furthermore the TAS has not been set”. Interested in functioning freshwater accounting system and whether or not something is in development?

Dr Greer – I have not stayed up to date with the FAS. Current approach monitoring and reporting on loads required. I understand FAS work has stopped.

Mr Blyth – no FAS developed. The Council is going through a process of figuring out what models to use across the region.

C. McGarry - paragraph (?) 184, talking about the Wainuiomata river at Richard Price Park. This is one where I was wondering if there has been fecal source tracking work done. You go on to say you think it is mainly human source?

Dr Greer – There is no animal source at that site. I looked at aerial photos when looking at this. This site is just below the water protection area. There is a tributary just upstream with septic tanks.

McGarry – this is a classic example where the cost to improve water quality at that particular site, is a compliance issue not costs to upgrade?

Dr Greer – I am unsure to the extent that these septic tanks are required to do to comply. Refer to Mr Willis

Ms O’Callahan – My understanding is that there are no septic tank rules in PC1.

McGarry - What we are struggling with a little bit are being pointed towards PC1 seem to be matters that aren’t PC1 driven. Difference between assuming from legalistic perspective that everyone is doing what they are required to under the law. Is that not the requirement Ms. O’Callahan?

Ms O’callahan – Under the operative plan there is no rules that control the dry weather leaks. It would not be possible to get a consent. This plan is trying to bring them into a consenting framework towards improvement.

McGarry – This is the bit I am struggling with. The economic costs that come through Mr Walker’s evidence, and they’re talked about as upgrades. Trying to meet the current law, but you bring in a new law that you are trying to meet. Don’t know the contribution of the activities that exist v those that are consented.

Ms O’Callahan – yes, the TA should have been fixing their pipe networks.

Ms O’Callahan – yes, the TA should have been fixing their pipe networks. It does not change that these costs will be borne by the community. The important thing is that these activities will now be consented and improved. It is just the reality. This is the trigger for it to start happening.

C. McGarry – you don’t see a difference in somebody that has an old septic tank who should have upgraded long ago and the cost of that v the cost to the community and it does not change that these to the rate payer

Ms O’Callahan – PC1 is dealing with them differently. PC1 not changing with septic tanks.

Dr Greer – there is no cost to anyone else at Richard Proust Park as no network there.

C. Wratt – What you are saying as I am hearing it is that the septic tanks are the source of E.coli detected in the stream. So to address that if the TAS is set so that those discharges don't come within the TAS. How would you address it? What can you require? Only thing that could be done is residents upgrade their septic tanks? Hypothetical - Where private tanks are causing issues, how does that get addressed?

Dr Greer – I cannot point the finger at the septic tanks but there are only rural residential above the site.

Dr Greer – The operative NRP rules will work to achieve the TAS. The life span of those tanks – if it is those tanks.

Mr Blyth – I was part of the TWT whitua team. We discussed septic tanks. We needed localized investigations to understand the issues related to the septic tanks.

McGarry – One more correction. Helps us where there are specific examples of what is going on. Maybe we turned back to your 181, the 95 percentile of concentrations must be reduced by 23% to meet the TAS. To change the 95 percentile, does it require addressing wet weather flows or could it be addressed by getting on to dry weather contaminants/leaks?

Dr Greer -

McGarry – my paragraph 120, your 115 – you have referred us to a paragraph without a number. Could you please provide this when you come back to us.

Dr Greer – Should be paragraph 118 (in my version)