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To: Hearing Panel for the proposed Natural Resources Plan

Subject: Hearing Stream 1 – for prehearing reading

Commissioners

I have submitted under submitter # 14 on the proposed Natural Resources Plan, and wish to present to the panel on the issues raised below.

**Introduction**

I am a resident of Porirua. Together with my wife, I own a 220 ha block of land within the Kapiti district, that is significantly affected by the provisions of the proposed plan.

When we acquired the land in 1992, it was marginal farmland showing some signs of erosion, and had a very low biodiversity due to grazing activities and the impact of pests. We converted around 80 ha to plantation forest, and one of the results has been a much improved water quality in the streams on our property. Flooded creeks are now very rare, due to the forest retaining a large amount of water.

Over the last 25 years, I have - supported by DOC - invested a large amount of time in possum and general pest control. We are also using a local hunter to manage the wild pig population. This resulted in an increase in biodiversity for my land, and e.g. Kereru is now a common sight, were it was initially quite rare.

In a nutshell, I believe that I have been a good custodian for the land and the natural environment. The draft plan is too restrictive and some of the provisions are an obstacle to economic activity in the rural sector. But as an unintended consequence, it also penalises landowners such as me who have looked after the land and water by introducing many onerous rules.

**A General issues raised in my submission**

1) I submitted that the proposed plan does not provide sufficiently for a balance between the economic activity required for the wellbeing of community and the need for protecting natural resources. Most of the rules are rigidly focused on the protection of the environment, yet ignore that this can take place only in the context of a prosperous community and with the support of local landowners. The S42 report states that my request to provide for a balance of objectives is "*not consistent with the purpose and principles in Part II of the RMA. The purpose of the RMA is to promote the sustainable management of natural and physical resources*" and recommends that no changes are being made. Yet it is an RMA requirement (Part 2 – Section 5) to consider the economic wellbeing of communities in this context.

**Relief sought**: to provide a better balance of the economic needs of our community and the protection of natural resources, and specifically to consider the impact of the proposed Objectives, Policies and Rules in this regard

2) I submitted that the proposed plan needs to enable emergency as well as health and safety related work without the rigors of having to obtain resource consent, and used the example of a slip needing to be removed immediately from a riverbed irrespective of the spawning period of a fish species. The S42 report has not considered this matter.

**Relief sought**: To ensure that emergency as well as health and safety related work can be undertaken irrespective of the rules in the plan.

3) The electronic copy of the draft plan is a series of PDF (or word) documents. This makes it very difficult, to search for key words in the plan, e.g. when trying to identify the implications of a definition such as a "sensitive area". This point has not been considered in the S42 report; instead, the problem is perpetuated by providing a S42 report that consists of 9 different files.

**Relief sought**: to provide a single electronic version for each published statutory document

**Definitions:**

**Erosion prone land is** defined as land with a slope > 20 % in the proposed plan. This is much more stringent than the current Regional Soil plan, where erosion prone is defined as: "*any land within Area 1 (see definition) with a slope greater than 23 degrees; and any land within Area 2 (see definition) with a slope greater than 28 degrees*"

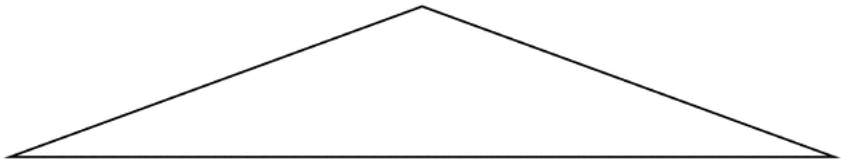
The National Environmental Standard –Plantation Forestry is going to use the New Zealand Land Resource Inventory (NZLRI), a spatial database describing key attributes of the land resources of New Zealand: rock, soil, slope, erosion susceptibility and vegetation. It is used by many district and regional councils and provides more certainty to landowners and better assessment of the risk than a crude slope based approach.

Changing the definition as proposed, will significantly move the goal post by declaring much more land than previously as erosion prone – which will then be covered by more stringent rules. There has been no justification provided nor is there any further detail in the section 32 reports on this. There is simply a statement that, to have 2 different triggers (as in the current Regional Soil plan) has proved confusing. Seriously? There is a plethora of rules conditional on a threshold, or a particular map in the plan, so this is not an argument – neither is the - misleading - reference to Table 2 (from the NZLRI). It is generally accepted that slope alone is not a useful indicator for erosion risk. The classification of land has been exhaustive dealt with by the Ministry for the Environment http://www.mfe.govt.nz/sites/default/files/laws/standards/forestry/erosion-susceptibility-classification.pdf and uses mapping based on lithography, slope and vegetation cover

The Section 32 report is completely inadequate – there has not even been an attempt to do any analysis of costs or benefits. E.g. how many more ha of land do now fall into the erosion prone category? What are the incremental expected costs to landowners, agriculture and forestry, considering also the implications for district plans and their specific rules regarding erosion prone land?

Taking into account the report by Sorensen (2012) where he states that "most of the region's soil is intact and there has been a slight increase in stable and inactive land surfaces due to the revegetation of some former erosion scars..", there is no justification for the change in definition.

Example of a 20 degree "erosion prone" slope:



**Relief sought:** The definition should not be changed and be consistent with the Regional Soil plan. Alternatively, the erosion susceptibility classification used by Landcare and contained in the draft NES-Plantation Forestry could be used

**Gully**: Some rules refer to distances from a "Gully". I submitted that the definition and its use should be removed, as pretty much all hill country is covered by gullies – there would be very little land left without any restriction. More importantly, where a gully is part of a water body, it will be covered under that term, and where it is not, (a "dry "gully) then there should be no restrictions. The S42 report has not considered my submission

**Relief sought**: to remove the term "Gully" from the plan

**C Objectives**

In my submission, I proposed a general statement expressing that measures combating climate change, such as carbon sequestration or the generation of energy from renewable resources, is supported. This has not been considered in the S42 report.

**Relief sought**: An Objective should be created as requested in my submission

**Objectives O24, O26 & Table 3.4**

The objectives can be interpreted as to interfere with private property rights. The headwaters of streams are often entirely on private property. Any contact recreation, Maori customary use or taking of food would require the property owner's agreement. There is no public interest in Objective O24 & O26, where a water body is entirely on private land, and water quality objectives are already expressed elsewhere, e.g. in O23 (which I support).

The section 42 has not considered my submission

> **Relief sought:** Objectives O24 and O26 should be altered to exclude water bodies and headwaters entirely on private land.

The table has a requirement for Mahinga kai and taonga species to be present in appropriate quantities. The objective is unclear, as the species are not listed, so how does one know whether the objective has been met. For each river system, there is only a finite list of species used as Mahinga Kai, and those species should be identified. Further, I do not see that this outcome is applicable to water bodies entirely on privately owned land (e.g. the headwaters of the Waikanae River) or which are on publicly owned, protected land (e.g. the Otaki river within the Tararua Forest Park), where the taking of such species is generally not permitted.

My submission has neither been referenced in the Section 42 report, nor has any reason been provided as to why such a list should not be provided

> **Relief sought**: List Mahinga Kai and Taonga species

**Objective O33**
In my submission, I requested that the objective should reference Schedule C. The S42 report has not considered my request to reference Schedule C.

I further requested that the objective to restore sites with significant mana whenua values needs to be tempered with the economic impact of such a restoration. The S42 report writer argues that "*any requirement to carry out specific actions to protect or restore a Schedule C site can only be triggered in association with a resource consent*" and further states that "*I do not support the use of general qualifiers in objectives and policies*"

The RMA uses precisely the approach, the report writer disagrees with, i.e. it uses qualifiers to ensure that the economic well-being of a community is considered when defining "sustainable management". Objective O33 does not talk about being applicable only when a resource consent is required – it stands on its own, and even it would only be applicable when a resource consent is required, it is important to safeguard the interests of public and private land owners.

> **Relief sought:**
> - insert "(see Schedule C)" following the word "values" and
> - replace "restored" with "and consideration will be given to restoration where practicable".

**Objective O35**
I submitted that where it comes to the restoration of ecosystems and habitats, the economic impact of such a restoration needs to be considered. There cannot be an overriding priority for restoration irrespective of the costs.

I could not find any reference to this submission point, other than perhaps a general statement that the report writer "does not support the use of general qualifiers in objectives and policies". This is simply not acceptable as a response to my concerns.

> **Relief sought:** replace "restored" with "and consideration will be given to restoration where practicable".

**D Policies**

**Policy P17**
In my submission, I requested clarification of what sustains or enhances the mauri of a water body. The S42 report writer refers to me to Schedule B or C, where values to Mana Whenua are described. Yet looking up Schedule B – Te Awa o Waikanae – does not answer my questions: when is an activity beneficial to the mauri of the Waikanae River? What are the measures used – and if there are no measures, how do we know that the mauri it is sustained?

The report writer further states that all components of the plan are designed to work together, and all the relevant provisions are contained in Appendix A of the report. I challenge anyone to use Appendix A to answer my question.

As a landowner, I deal with water related issues all the time – but the proposed policy is simply meaningless to me. Having canvassed a number of people, it appears that the term mauri is rather mythical, and even among Mana Whenua, there is no common view of its meaning.

The proposed plan has been written for the people of Wellington – Maori, Pakeha, Pacifica, etc, and its provisions need to allow for a basic common understanding. Currently, this is not the case.

> **Relief sought:** Better define what specific properties of a water body are affected by Policy P17

**Policy P18 (d)**
The policy refers to the implementation of kaupapa Maori monitoring. In order to ensure that this does not automatically include privately owned land, I submitted that the policy should be amended to clarify that it applies to publicly accessible resources. The S42 assessment rejects my submission point, arguing that if monitoring is to happen also on private land, "*Council officers will need to contact landowners to receive their permission to*

*access private property. Council powers of entry and search under the RMA are restricted to matters of inspection, survey and search specified in RMA sections 332, 333 and 334. These provisions do not extend to state of the environment monitoring anticipated by Policy P18*."

Firstly, it is not clear what specific monitoring is intended, and what is excluded. Secondly, some monitoring may well be done on private land via remote sensing or aerial photography, without any knowledge, involvement or agreement by land owners. And lastly, taking the S42 assessment as read, than there is no reason, not to clarify that P18 only applies to publicly accessible resources. I suggest that for the average person, P18 as proposed is ambiguous, and in this instance, clarity is more important than the desire to not change the wording of P18

**Relief sought**: add at the end of P18(d) "for publicly accessible resources"

**Policy P44**

I requested to clarify that the protection and restoration of sites with significant mana whenua values is subject to the consideration of private property rights.

The S42 report writer does not "does not support the use of general qualifiers in objectives and policies" as this "*weakens an objective, leaving it open to conjecture and dispute*". The report states that the policy should be "*directive and not leave the difficult decisions to the resource consent process*", and that there is "*the need for all resource users to be subject to the policies relating to significant mana whenua values without qualification*"

There are plenty of general qualifiers contained in the RMA and also in the proposed plan, and the reason is that most situations are not black or white, but require the consideration of competing interests. The desire not to have such qualifiers cannot overwrite the need to use them in order to achieve a fair outcome. And just to make the resource consenting process simpler for the staff involved cannot overwrite the need to consider all aspects of a situation.

The key issue is – will private property rights be considered in the execution of this policy or not. The S42 report clearly indicates that they should not be considered, and I do strongly object to this. The reporting officer's assessment in itself provides sufficient reason to change P44 as requested

> **Relief sought**: add the end of policy P40: subject to the consideration of private property rights.

**Schedule B & GIS mapping**

In my submission, I requested that the headwaters of the Waikanae River are excluded from the Schedule B and the associated GIS mapping.

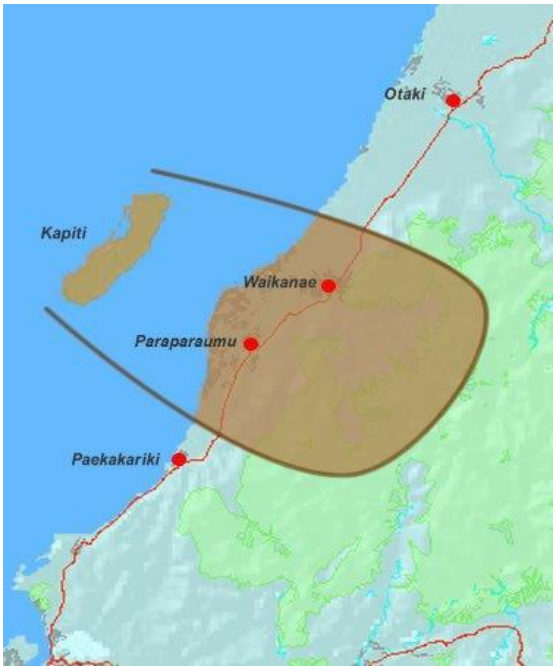
The S42 report refers to an unpublished report prepared for Te Ātiawa ki Whakarongotai (Ātiawa ki Whakarongotai Charitable Trust Board – TAKW)) which states the desire by TAKW to manage the values attributed to the Waikane river. The quoted text says the river has *"provided sustenance to descendants of TAKW for several generations, whilst also having a history of multiple and complex use for the wider community"*.

I find it unacceptable that a secret report, commissioned by TAKW for their own benefit, is used as evidence in this hearing process. Questions such as: why was it not published, since when has it been available to council, what are the qualifications of the authors, what is the "history of complex use" and what are the facts it is based on come to mind.

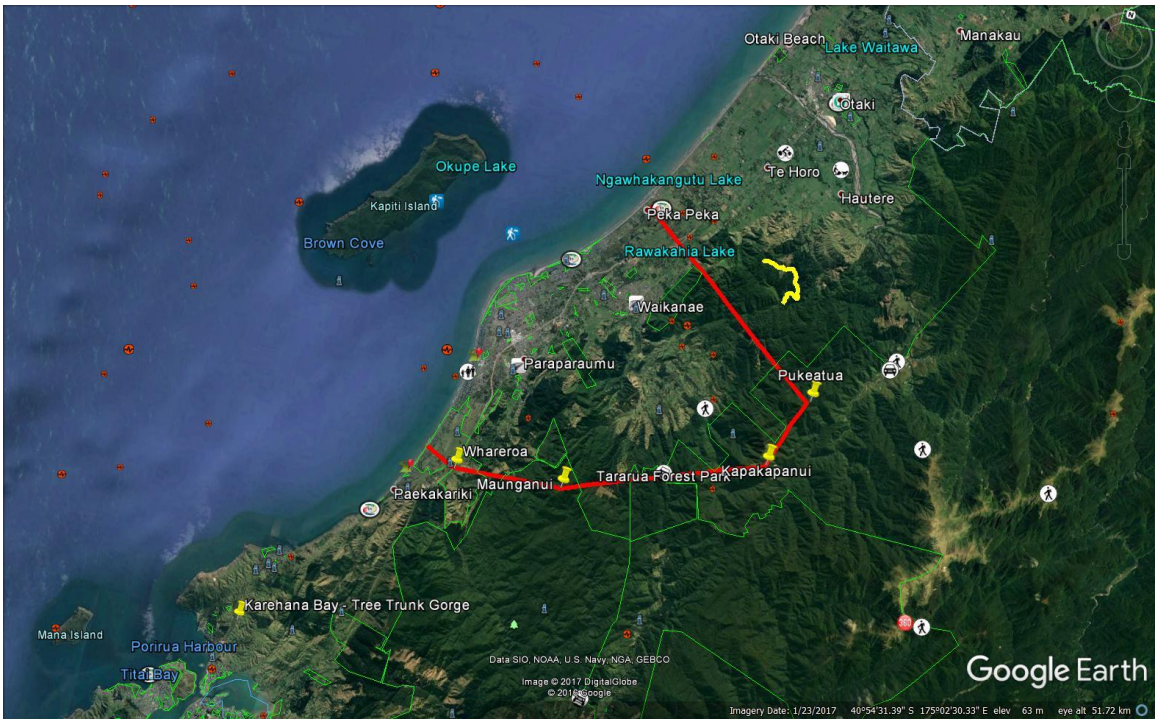
Since at least 1890, the headwaters of the Waikanae river provided no "s*ustenance to descendants of TAKW for several generations",* nor is there a*" history of multiple and complex use for the wider community",* as the land has been in private ownership. But there is also no evidence that these activities have taken place prior to 1890 in the area in question. But more importantly, the volume of water in the headwaters is so small, that it is unsuitable to be used for the sustenance of people.

The S42 report then states that "values and relationships are matters that only mana whenua can determine". Surely, where customary rights are claimed, then it is not sufficient for mana whenua to "determine" such a right. Even the Waitangi tribunal requires that such claims are based on evidence, and natural justice demands that any such evidence must be able to be scrutinized, especially where private property rights are concerned.

However, the most relevant question has not even investigated in the S42 report: Is there evidence that the headwaters are covered in the rohe of TAKW. In accordance with the information published by Te Puni Kokiri (see http://www.tkm.govt.nz/iwi/te-atiawa-ki-whakarongotai/#), the headwaters of the Waikanae river are well outside of their tribal area.




This is also obvious on the map below which is based on the boundary of the rohe as defined on the Te Puni Kokiri website




The yellow line on the photo depicts the headwaters of the Waikanae river, and is well outside of the accepted rohe of TAKW

I also note that TAKW has commissioned a research report to identify its tribal area in support of its Waitangi Tribunal claim WAI 2200.

The only facts available show that the headwaters are outside of the TAKW's area and there is currently even a lack of data to back up TAKW's claimed boundary at the Waitangi Tribunal hearing.

In this situation, there is no reason to include the headwaters of the Waikanae in Schedule B

**Relief sought:** exclude the headwaters of the Waikanae River upstream of its crossing with the Mangaone Walkway from Schedule B.

**Mapping of the Waikanae River**

The mapping of the Waikanae River has been extended from the operative plan – where it is shown to begin at GPS ref. 178 1286.00 / 547 6476.05. I submitted that, if there is no specific evidence other than the 1:50 000 maps, then, for the purposes of this plan, the starting point of the Waikanae river - as mapped in the operative plan – be retained. This has not been considered in the S42 report.

> **Relief sought:** it is requested to retain the starting point of the river as documented in the GIS for the operative plan at GPS ref. 178 1286.00 / 547 6476.05