

Before the Hearing Panel

In the matter of the Resource Management Act 1991

And

**In the matter of The Proposed Natural Resources Plan for
the Greater Wellington Region**

Hearing 3 – Water Allocation & Natural Form and Function

**Statement of Planning Evidence of Christopher Staite
for Natural Form and Function.**

On behalf of the Minister of Conservation (submitter 75, FS 61)

Dated: 22 August 2017

Counsel acting: Katherine Anton

A. QUALIFICATIONS AND EXPERIENCE

1. My name is Christopher Gilbert Staite. I hold the qualifications of Bachelor of Science in Geology (Hons.) gained in 1995, and Master of Regional and Resource Planning (Dist.) gained in 2002, both from the University of Otago.
2. I have been employed as an RMA Planner for the Department of Conservation for over 15 years, for the West Coast, Bay of Plenty and East Coast/Bay of Plenty Conservancies, and more recently in the Hamilton Shared Services Office, addressing significant RMA issues across the North Island.
3. I have experience in regional planning processes, having recently been the lead planner for the Minister of Conservation's (Minister's) involvement in the Auckland Unitary Plan, the Bay of Plenty Regional Policy Statement and the Bay of Plenty Regional Coastal Environment Plan, as well as several district and city plan reviews, and all levels of resource consents.

B. CODE OF CONDUCT FOR EXPERT WITNESSES

4. I have read and agree to comply with the Code of Conduct for Expert Witnesses produced by the Environment Court. My qualifications as an expert are set out above. Other than those matters identified within my evidence as being from other experts, I confirm that the issues addressed in this brief of evidence are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.
5. I am authorised to give this evidence on behalf of the Minister of Conservation.
6. In preparing this evidence, I have considered the Proposed Greater Wellington Natural Resources Plan (pNRP), the relevant s42A report, and the s32 evaluation.

C. SCOPE OF EVIDENCE

7. My evidence addresses the Minister's submission on the Proposed Greater Wellington Natural Resources Plan (pNRP) concerning the Natural Form and Function Topic. I consider whether the pNRP gives effect to the relevant provisions of the New Zealand Coastal Policy Statement (NZCPS).
8. Appendix 1 contains brief comments and recommendations on the aspects of the Minister's submission that have been accepted by Ms Yvonne Legarth in her section 42A report (referred to as the s42A report).
9. I consider that the recommended Objective O19 requires amendment to ensure it is suitable for decision making purposes.
10. I consider that Method 24(c) may require amendment if the current target date is unachievable.

D. Objective 19 Natural Processes

11. The Minister's submission (S75/020) was to retain Objective O19 as notified. This has been recommended for amendment. I consider this recommended amendment provides more clarity than that notified, but consider a further amendment is required to allow the objective to guide appropriate decision making.
12. The recommended Objective O19 is:

~~The interference from use and development on natural~~ Natural processes, is minimised including natural elements, patterns and ecological processes continue to occur, and the integrity and functioning of natural processes and forms are retained.
13. I partially support this recommended O19. While it is improved by providing a stronger sense of the aspects of natural processes that are to be retained, the removal of 'the minimisation of interference from use and development' removes both context and scale from the objective.

14. I consider this limits the use of the Objective for guiding decision making where use or development may have minor or appropriate effects on some aspect of natural processes.
15. For example, does every natural process have to be allowed to continue to occur, or is it adequate for decision making purposes if the integrity and functioning of these natural processes is retained elsewhere in the vicinity or even within the Region? I consider that this direction to retain natural processes needs to be connected with the adverse effects of use and development.
16. Objective O19 is implemented through Policy P26. As stated in Appendix 1 to this evidence, I consider the recommended Policy P26 (paragraph 318, s42A report) provides greater direction on what management actions will be considered in order to achieve minimisation on natural processes, and incorporates adequate direction for decision makers to determine if the adverse effects of use and development have been adequately minimised.
17. However, despite the additional and appropriate direction in recommended P26, O19 provides little recognition that some development may be appropriate but have some adverse effects on some natural processes.
18. Objective 2 NZCPS provides particular wording as to the management of natural features and landscapes. It states that:

Objective 2. To preserve the natural character of the coastal environment and protect natural features and landscape values through:

- recognising the characteristics and qualities that contribute to natural character, natural features and landscape values and their location and distribution;
- identifying those areas where various forms of subdivision, use, and development would be inappropriate and protecting them from such activities; and
- encouraging restoration of the coastal environment.

19. I consider that, as these natural process are components of both the natural character of the coastal environment, and natural features and landscapes of the coastal environment, a similar management regime is appropriate. Both

S6(a) and (b), and correspondingly, Policies 13 and 15 NZCPS, require the preservation or protection of their respective characteristics and qualities from inappropriate subdivision, use or development.

20. I consider that the same qualifier, applied to Objective O19, would, in combination with the recommended Policy P26, allow the pNRP to give effect to the NZCPS, while recognising that some uses and developments may be appropriate outside of areas of outstanding natural character or an outstanding natural landscape or feature.

21. My recommended wording is;

Natural processes, including natural elements, patterns and ecological processes, continue to occur, and the integrity and functioning of natural processes and forms are ~~retained~~ not adversely affected by inappropriate use and development.

22. I consider this wording provides more guidance than the term 'retained' as to how the Objective will be applied.

23. The Auckland Unitary Plan (AUP) contains a similar Objective in Chapter F2.2.2 (F2 Coastal – General Coastal Marine Zone, F2.2. Drainage reclamation and declamation– Objective 2).

The natural character, ecological values and natural coastal processes of the coastal marine area are not adversely affected by inappropriate reclamation, drainage or declamation.

24. This is a Regional Coastal Plan Objective, which is beyond any legal challenge.¹

25. This is the only AUP RCP Objective that addresses “natural coastal processes”. Other objectives are activity based and offer finer grained management requirements to address adverse effects. Other provisions in the AUP: Overlay Chapter D address outstanding and significant values and areas, as required by the NZCPS.

¹ Although the Minister is yet to approve the coastal marine provisions of the AUP.
C Staite, Hearing 3, GW pNRP, Evidence Natural Form and Function.

E. Method 24

26. The Minister's submission supported this method (S75/190).
27. The assessment and identification of the natural character of the coastal environment, and natural features and natural landscapes of the coastal environment, and, where required to preserve or protect these values or areas, inclusion of provisions in plans and policy statements, are required by Policy 13(c) & (d), and Policy 15(c), (d) & (e) NZCPS.
28. While I consider Method 24 essential to allow Councils to recognise and provide for s6(a) and (b) as Matters of National Importance, and give effect to the NZCPS, I consider that (c) may require amendment for clarity.
29. This requires a regional list of features, landscapes and areas by 2017 to be included in the pNRP ("the Plan") via the Schedule 1 process. I consider that completion of this list by 2017 may not be possible, unless it is completed before the final pNRP hearing.
30. Section 55(2D) (a) RMA directs that a local authority must make the amendments required to give effect to a national policy statement as soon as practicable.
31. I consider it essential that this method is completed within a time limit. However, this must be achievable. I note the hearing schedule has been delayed by the recent earthquakes.
32. I am unaware of the current progress of Council towards a regional list of both outstanding natural features and landscapes, and areas of outstanding natural character, but consider a time limit of 2 years from now to be appropriate, if the 2017 date is unable to be achieved.

F. Conclusion

33. I consider the recommendations of Ms Legarth, with the exception of amendments proposed above, both appropriate and necessary for the pNRP to give effect to the NZCPS.
34. I consider that Objective O19 requires amendment, as I propose, to ensure that natural processes, as a subset of natural character and natural features and landscapes, are managed in a manner consistent with the NZCPS direction.
35. I suggest that the date of completion in Method M24(c) may require updating to reflect the timing of the pNRP development.



Chris Staite

22 August 2017

Appendix 1: Minister of Conservation submissions on proposed Greater Wellington Natural Resources Plan where recommendations by the reporting officer are supported

Submission or Further Submission Number	Minister of Conservation Submission or Further Submission	Recommendation of Reporting Officer in s42A report	My Recommendation to Committee
S75/018	Support Objective 17; relocate words 'natural wetlands' within Objective so that the margins of wetlands are included.	Accept (paragraph 131 s42A)	Recommended Objective 17 is consistent with the wording in s6(a) RMA, and is required for the pNRP to give effect to the NZCPS in relation to the protection of natural character
S75/034	Retain Objective 32	Accept (paragraph 366 s42A)	Objective 32 is consistent with s6(b) RMA and Policy 15 NZCPS.
FS61/011	Support S279/047 (Rangitane o Wairarapa) to retain Objective 36	Accept (paragraph 441 s42A)	I agree that the significant geological features identified in Schedule J are a subset of natural features and landscapes (Policy 15(c)(i)(iii) NZCPS), and the natural character of the CMA (Policy 13(2)(b) NZCPS) and require protection.
S75/057	Retain Policy P24 as the approach is consistent with Policy 13(a) NZCPS.	Accept (paragraph 212 s42A)	This Policy states how Objective 17 will be achieved and assists the pNRP in giving effect to the NZCPS in relation to the protection of natural character. (e) is required, as activities outside an area containing characteristics and qualities that contribute to outstanding natural character may still have adverse effects on these characteristics and qualities.

S75/058	Retain Policy P25(a),(b) & (c); remove the practicability test from (d).	Accept (paragraphs 256 & 257 s42A)	Recommended P25(d) & (e) removes the practicability test from the notified policy and replaces it with appropriate considerations, including recognition of functional need.
S79/059	Retain Policy P26; clarify the use of the word 'minimisation'	Accept (paragraphs 341 - 343 s42A)	Should Policy P4 be amended as recommended by the Expert Conferencing, then I consider recommended Policy P26 incorporates adequate direction for decision makers to determine if the adverse effects of use and development on natural processes have been adequately minimised, given the wide-ranging scope of the policy.
S75/078	Amend the sub-clauses of Policy P48	Reject (paragraph 383 s42A)	Although the relief sought was rejected, I support the retention of the notified policy as it enables the pNRP to give effect to the NZCPS in relation to the management of outstanding natural features and landscapes.
S75/079	Amend Policy P49	Accept in part (paragraph 415 s42A)	I consider the recommended version of Policy P49 is appropriate, and the amendment to (b) produces wording better aligned with the NZCPS.

Appendix 2: Section 32AA Evaluation

I agree with all of Appendix A: Recommended Amendments and Section 32AA Assessment from the s42A Report. For Objective O19, I have recommended amendments, and prepared a brief s32AA evaluation.

	S42A Recommendation	My Recommendation
<p>Objective O19</p> <p>S32(1)(a):</p> <p>Are the Objectives the most appropriate way to achieve the purpose of the Act?</p>	<p>Natural processes, including natural elements, patterns and ecological processes continue to occur, and the integrity and functioning of natural processes and forms are retained.</p> <p>This Objective is to manage the use, development, and protection of natural resources of the Wellington Region in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety; while sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and safeguarding the life-supporting capacity of air, water, soil, and ecosystems.</p> <p>It gives effect to the NZCPS and RPS, and definitively describes the outcome being sought.</p> <p>However, it provides no direction on how adverse effects on the environment will be managed. Even with recommended Policy P26 direction to minimise adverse effects, if a development involves residual adverse effects after minimisation, it is unclear to what extent these values are to be retained to.</p>	<p>Natural processes, including natural elements, patterns and ecological processes, continue to occur, and the integrity and functioning of natural processes and forms are not adversely affected by inappropriate use and development.</p> <p>This is similar to the S42A recommendation, as it retains the description of natural processes, and achieves the purpose of the Act in a similar manner.</p> <p>Where it differs is providing direction that these values will be protected from inappropriate use and development.</p> <p>This is consistent with the requirements of S6(a) and (b), which these natural processes are a subset of.</p> <p>I consider, with the direction in recommended Policy P26 to minimise adverse effects, the actual ability to minimise, and the residual adverse effects will allow the appropriateness to be considered.</p>