



greater WELLINGTON  
REGIONAL COUNCIL  
Te Pane Matua Taiao

# **Proposed Natural Resources Plan for the Wellington Region**

**For Hearing Stream 1 commenced on 22 May 2017**

## **Response to Hearing Panel Minute 3**

**Report prepared by:**

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**Consultant Planner**

## Purpose of this document

- 1 The purpose of this document is to respond to the direction made by the Hearing Panel in its Minute 3. Specifically, to provide an assessment of the 17 objectives covered by the Hearing Stream One topics.
- 2 As directed by the Hearing Panel, the s42A reporting officers, coordinated by me have considered the material they were directed to in Minute 3 and undertaken an assessment of the objectives to determine whether they require a change to ensure they contain outcome statements, a goal or a specified desired outcome. Table 1 to this document summaries that assessment process.

## Background

- 3 While I had no involvement in preparing the proposed Plan prior to notification, I have been asked to coordinate and prepare the response to the Hearing Panel's Minute 3 as I have provided planning advice on the officer's section 42A reports at a strategic level. My qualification and experience are briefly set out in the appendix attached to this response.

## Table 1 - assessment of objectives as notified

- 4 Table 1 assesses whether objectives O1 to O16 and O33 meet the criteria of an objective. The columns used in Table 1 are modifications of the Ministry for the Environment's quality planning advice on how to write an Objective (**MfE Quality Planning website guidance**).<sup>1</sup> In deciding whether an objective is appropriate it must address the issue (the issues addressed in the proposed Plan are set out in the RPS and section 32 reports prepared for the proposed Plan), be within the Council's functions, promote the sustainable management purpose of the RMA, and meet the tests in section 32 of the RMA.
- 3 The MFE guidance states that:
  - an objective should 'be related to the issue'. This is covered in the "Addresses the issue" column
  - an objective should 'be specific'. This is covered by an assessment of whether the objective as notified "clearly states the outcomes intended"

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<sup>1</sup> [MFE Quality Planning website – plan steps – writing good Objectives writing plans – plan steps - <http://www.qualityplanning.org.nz/index.php/plan-steps/writing-plans/writing-issues-objectives-and-policies>



- that an objective should state ‘what is to be achieved’, and be able to be implemented and monitored. This is covered by an assessment of whether the objective is implemented by other provisions in the proposed Plan, whether the objective provides a target that policies seek to achieve and those plan provisions as a whole can be monitored.

- 5 The final column of Table 1 refers to a process objective. I understand from reading Mr Percy’s EIC and Appendix 2, that he considers that ‘management principles’ are not appropriate as objectives. I disagree.
- 6 A process objective is one that promotes sustainable management by describing a management approach, that in turn is implemented through other planning tools. Most often this type of objective would address social or cultural wellbeing, and the outcomes described are about improvements in relationships or practices involved in decision making (implementation of the plan provisions).
- 7 As set out in Table 1, following my assessment, I have concluded that the majority of Objectives O1 to O16 and O33 do identify what is to be achieved and assist the Council to carry out its functions in order to achieve the purpose of the RMA. This is regardless of whether they are objectives addressing 'management principles' or not.

#### **Table 2 - assessment of amended objectives**

- 8 Following the exercise of applying these criteria, 4 objectives were identified as requiring a change. Those objectives are objectives O4, O5, O11 and O14. A further assessment was undertaken to identify what change was required to make those objectives outcome statements, goals, or to more clearly specify desired outcomes. It was then identified whether making such changes altered the intention of the objective (from the wording of the objective as notified) and if so, whether there is scope in submissions to make that change. Where there is no change in intent, the Council considers that the Panel can rely on submissions (where relevant) or the clause 16 powers to make minor amendments. Where there is a change in intent, the Panel must rely on a submission to make that change.

#### **Objectives requiring 'recognition' or 'recognition and provision' for matters**

- 9 In response to the Hearing Panel's questions around the use of the terms 'recognise' and 'recognise and provide for' in objectives, I consider it is appropriate for objectives to use this as the outcome. Higher order documents, such as the New Zealand Coastal Policy Statement 2010 (refer Objectives 2, 3, 4) and other National Policy

Statements (refer for example to the National Policy Statement for Renewable Electricity Generation 2011 and the National Policy Statement on Electricity Transmission 2008) include the same terminology in objectives. Further, as set out in the supplementary legal submissions filed by the Council on 26 May 2017 (paragraphs 45 to 53), the Environment Court has endorsed the use of those terms in regional plan objectives.

- 10 The outcome is that the matters are to be recognised, or recognised and provided for. How that occurs is then set out in the policies. This is consistent with the Quality Planning guidance referred to by Minute 3 where objectives are to discuss the 'what' and 'where' (and possibly the 'when') of the outcome but not the 'how'. The 'how' is left to the policies. The footnotes to Table 1 refer to the s.42A reports and officer's responses to questions from the panel about the detailed policies that set out 'how' the assessed objectives are to be implemented.
- 11 As to how the effectiveness of the objectives are assessed and monitored in terms of the outcome, that can be achieved through consideration of the proposed Plan rules, (i.e. whether particular activities are provided for etc.) and through resource consent decisions (i.e. whether particular matters are recognised in decisions) and assessing the effectiveness of other non-regulatory methods (i.e. proposed Method 2 which is to develop a strategy for monitoring those matters of interest to Māori).

### **Time bound objectives**

- 12 Further, although the Quality Planning guidance recommends that objectives establish 'when', in the sense of a regional plan (as opposed to a National Policy Statement or Regional Policy Statement) unless otherwise stated, the when is the life of the proposed Plan. It is considered unusual for a timeframe to be included within an objective in a regional plan. In the case of the proposed Plan I do not consider it appropriate to include specified timeframes within the objectives. Where timeframes are considered to be necessary these are set out in the relevant provisions that implement the Objectives.

**Date:** 2 June 2017

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Yvonne Legath





**Table 1: Assessment of Objectives O1 to O16 and O33 dealt with in Hearing 1 against outcome requirement**

Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a “management principle”
<b>Objective O1</b>  Land, fresh water bodies and the coast are managed as integrated and connected resources; <b>ki uta ki tai</b> – mountains to the sea.	Yes	Yes <sup>2</sup>	Yes <sup>3</sup>	*
<b>Objective O2</b>  The importance and contribution of land and water to the social, economic and cultural well-being of the community are recognised.	Yes	Yes <sup>4</sup>	Yes <sup>5</sup>	*
<b>Objective O3</b>  <b>Mauri</b> is sustained and enhanced, particularly the mauri of fresh and coastal waters.	Yes	Yes <sup>6</sup>	Yes	

<sup>2</sup> Process Objective / resource management outcome – in accordance with RMA s.63 ‘to assist the regional council to carry out its functions in order to achieve the purpose of the RMA’

<sup>3</sup> The principles to be applied to implement Objective O1 are set out in detail Policy P1

<sup>4</sup> See issues in RMA s.32 report pg 3 ; The intent of this objective is to acknowledge the positive effects of specific activities and the use of land and water for specific things

<sup>5</sup> How the matters in O2 are to be ‘recognised’ is set out in detail in the relevant Policies that implement this objective – s.42A Mr Denton – Hearing 1 – in answer to Question from the Panel - 23 May 2017

<sup>6</sup> Works in conjunction with other Objectives in both region wide layer and topic specific layer



Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a “management principle”
<b>Objective O4</b>  The intrinsic values of aquatic fresh water and marine ecosystems and the life-supporting capacity of water are recognised.	No	No	Yes	
<b>Objective O5</b>  Fresh water bodies and the coastal marine area, as a minimum, are managed to:  (a) safeguard <b>aquatic ecosystem health</b> and <b>mahinga kai</b> , and  (b) provide for contact recreation and <b>Māori customary use</b> , and  (c) in the case of fresh water, provide for the <b>health needs of people</b> .	Yes	Yes <sup>7</sup>	Yes	
<b>Objective O6</b> Sufficient water of a suitable quality is available for the <b>health needs of people</b> .	Yes	Yes	Yes	

<sup>7</sup> Works in conjunction with other Objectives in both region wide layer and topic specific layer



Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a “management principle”
<b>Objective O7</b> Fresh water is available in quantities and is of a suitable quality for the reasonable needs of <b>livestock</b> .	Yes	Yes	Yes	
<b>Objective O8</b> The social, economic, cultural and environmental benefits of taking and using water are recognised and provided for within the Plan’s allocation framework.	Yes	Yes <sup>8</sup>	Yes	*
<b>Objective O9</b>  The recreational values of the coastal marine area, rivers and lakes and their margins and <b>natural wetlands</b> are maintained and enhanced.	Yes	Yes <sup>9</sup>	Yes	
<b>Objective O10</b> Public access to and along the coastal marine area and rivers and lakes is maintained and enhanced.	Yes	Yes <sup>10</sup>	Yes <sup>11</sup>	

<sup>8</sup> EIC Mr Percy – Hearing 1 - 24 May 2017 - to retain as notified if not amended as sought in Appendix 3

<sup>9</sup> Objective O9 is part of the region wide layer, and works with other Objectives in the specific Topic layer – Objective O55 is to be dealt with in s.42A report: Coast; works in conjunction with other Objectives in the region wide layer dealing with water quality and access: O5, O9 and O11)

<sup>10</sup> Objective O10 is part of the region wide layer, and works with other Objectives in the specific Topic layer – Objective O55 is to be dealt with in s.42A report: Coast and policies dealing with access to the CMA and lakes and rivers

<sup>11</sup> Works in conjunction with other more specific topic Objectives that apply in the CMA and policies dealing with public access to the CMA and lakes and rivers



Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a "management principle"
<b>Objective O11</b> Opportunities for <b>Māori customary use</b> of the coastal marine area, rivers and lakes and their margins and <b>natural wetlands</b> for cultural purposes are recognised, maintained and improved.	Yes	No <sup>12</sup>	Yes <sup>13</sup>	
<b>Objective O12</b> The social, economic, cultural and environmental benefits of <b>regionally significant infrastructure</b> and <b>renewable energy generation activities</b> are recognised.	Yes	Yes <sup>14</sup>	Yes <sup>15</sup>	*

<sup>12</sup> The intent of this objective is to recognise the importance of Māori customary use of natural resources, and to identify, maintain or improve opportunities for that use.

<sup>13</sup> Objectives managing opportunities for customary use work in conjunction with a number of other objectives in the region wide layer (e.g O5 and O11), as well as the Topic specific layer (including mahinga kai, water quality and access)

<sup>14</sup> The intent of this objective is to acknowledge the positive effects of specific activities to the region; other Objectives address management of adverse effects

<sup>15</sup> The EIC of Mr Percy does not raise a concern about 'are recognised'; EIC Mr Percy – 24 May 2017 - agrees with Mr Denton at paragraph 164 and 166; refers to Mr Denton's s.42A report at para 320



Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a “management principle”
<b>Objective O13</b> The use and ongoing operation of <b>regionally significant infrastructure</b> and <b>renewable energy generation activities</b> in the coastal marine area are protected from new incompatible use and development occurring under, over, or adjacent to the infrastructure or activity.	Yes	Yes	Yes	
<b>Objective O14</b> Māori relationships with air, land and water are recognised, maintained and improved.	Yes	Partial <sup>16</sup>	Yes	
<b>Objective O15</b> Kaitiakitanga is recognised and <b>mana whenua</b> actively participate in planning and decision-making.	Yes	Yes	Yes <sup>17</sup>	*
<b>Objective O16</b> The relationship of <b>mana whenua</b> with <b>Ngā Taonga Nui a Kiwa</b> is recognised and provided for.	Yes	Yes	Yes	*

<sup>16</sup> High level Objective, that when read together with other regional layer and topic specific objectives has degree of specificity that promotes implementation and monitoring (significant sites, water quality and access: O5, O9, O11, O16 and O33)

<sup>17</sup> How Kaitiakitanga is to be 'recognised' is set out in detail in Policy P20, and also detailed in the information and monitoring strategy M2 (to develop an information and monitoring strategy that is consistent with **Mātauranga Māori**)



Objective addressed in Hearing Stream One	Addresses the issue	Clearly states the outcomes intended (end point)	Provides targets that policies seek to achieve and outcomes can be monitored	A Process objective - identified in EIC of Mr Percy as a "management principle"
<b>Objective O33</b> Sites with significant <b>mana whenua</b> values are protected and restored.	Yes	Yes	Yes	

**Table 2: Proposed amendments to Objectives O4, O5, O11 and O14**

Amendments to the notified version of the objectives are shown in *italics and underlined*; deletions are shown in ~~strike out~~.

Revised Objectives O4, O5, O11 and 14	Addresses the issue	More clearly states the outcomes intended	Does it change the intent	Is a change needed to Policies that implement the objective and outcomes can be monitored	Scope to amend as drafted in this table
<b>Objective O4</b>  The intrinsic values of aquatic fresh water and marine ecosystems <i>are recognised</i> and the life-supporting capacity of water <del>are recognised</del> <i>are safeguarded</i> .	Yes	Yes <sup>18</sup>	Yes	No	Yes RMA s.42A recommendation and submission <sup>19</sup>

<sup>18</sup> This revised version changes the meaning of the Objective as notified, however it now accurately states outcome intended – recommended change in S.42 Ms Greenberg – Hearing 1 22 May 2017; EIC Philip Percy para 90 and amended version page 37

<sup>19</sup> EIC Mr Percy Appendix 3 track changes page 37 (in part); Minister of Conservation relief sought in part S75/015; Fish and Game relief sought in part S308/014; Royal Forest and Bird Protection Society S353/012; Rangitāne o Wairarapa Inc relief sought in part S279/014



Revised Objectives O4, O5, O11 and 14	Addresses the issue	More clearly states the outcomes intended	Does it change the intent	Is a change needed to Policies that implement the objective and outcomes can be monitored	Scope to amend as drafted in this table
<p><b>Objective O5</b> </p> <p><i>Within</i> fresh water bodies and the coastal marine area, as a minimum, <del>are managed to:</del></p> <ul style="list-style-type: none"> <li>(a) <del>safeguard</del> <b>aquatic ecosystem health</b> and <b>mahinga kai</b> <i>are safeguarded</i>, and</li> <li>(b) <del>provide for</del> contact recreation and <b>Māori customary use</b> <i>are provided for</i>, and</li> <li>(c) in the case of fresh water, <del>provide for the</del> <b>health needs of people</b> <i>are provided for</i>.</li> </ul>	Yes	Yes	No	No	Minor amendment; RMA clause 16
<p><b>Objective O11</b> </p> <p><del>Opportunities for</del> <b>Māori customary use</b> of the coastal marine area, rivers and lakes and their margins and <b>natural wetlands</b> for cultural purposes <i>is are</i> recognised, <i>and opportunities to exercise</i> <b>Māori customary use</b> <i>are</i> maintained and improved.</p>	Yes	Yes <sup>20</sup>	Yes	No	Possibly, there are a number of submission points seeking amendments to the Objective, not this specific relief <sup>21</sup>

<sup>20</sup> Arguably changed from the notified version. The intent of this objective is to recognise the importance of Maori customary use of natural resources, and to identify, maintain or improve opportunities for that use.

<sup>21</sup> Submissions by Rangitāne o Wairarapa Inc S279/022; South Wairarapa District Council S366/039 and Masterton District Council S367/039 (sought delete or provide certainty)



Revised Objectives O4, O5, O11 and 14	Addresses the issue	More clearly states the outcomes intended	Does it change the intent	Is a change needed to Policies that implement the objective and outcomes can be monitored	Scope to amend as drafted in this table
<b>Objective O14</b>  <i>Relationships of Maori and their culture and traditions</i> <sup>22</sup> <del>Māori relationships</del> with air, land and water are recognised, <u>and values associated with those resources are maintained or <del>and</del> improved.</u>	Yes	Yes	Yes	No	Possibly, extensive changes have been sought in submissions <sup>23</sup>

<sup>22</sup> RMA s.6(e) – “... recognise and provide for the relationships of Maori and their culture and traditions with ...”

<sup>23</sup> EIC Mr Percy para 222 and in part a revised Objective O14 proposed in Appendix 3; Rangitāne o Wairarapa Inc S279/025

## **Appendix 1- Qualification and experience**

- 1 My name is Yvonne Legarth.
- 2 I am a consultant planner, trading as Resourceful Planning and Policy Limited, practicing as a planning consultant in the field of planning and resource management.
- 3 My qualification and experience are as follows:
  - a. I hold a Bachelor of Regional Planning from Massey University, and I have over 27 years' experience in planning and policy development, predominantly under the Resource Management Act 1991 ("RMA").
  - b. My background includes planning and policy development with both local and central government. I have been involved in the development of National Policy Statements, the analysis and preparation of plan provisions at a regional and district level, the preparation and implementation of notices of requirement for designations. I have both assessed and prepared applications for resource consents and have provided policy and planning advice on a comprehensive range of planning matters. I have also developed and implemented non-regulatory tools aimed at achieving sustainable management.
  - c. I have appeared as an expert witness before the Environment Court and Boards of Enquiry and I am a certificate holder under the Ministry for the Environment Making Good Decisions Programme.
- 4 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note and that I agree to comply with it. I confirm that this evidence is within my area of expertise.
- 5 I am authorised to give this evidence on the Council's behalf.