

**Before the Hearings Panels  
At Greater Wellington Regional Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** Proposed Change 1 to the Regional Policy Statement for the Wellington Region

**Hearing Topic** Indigenous Ecosystems

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**Response to request for pre-hearing discussion on Implementation of the  
National Policy Statement for Indigenous Biodiversity (NPS-IB)**

**Date: 3<sup>rd</sup> November 2023**

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## INTRODUCTION:

- 1 I have prepared this statement in response to the invitation to take part in an informal pre-hearing discussion with Council reporting officers for this topic on Wednesday 8<sup>th</sup> of November, on behalf of Porirua City Council (PCC).
- 2 I am authorised to provide this statement on behalf of PCC.

## RESPONSE

- 3 Due to constraints on staff availability and resourcing, PCC will not be able to take part in the pre-hearing discussion. The short notice period provided to submitters for the pre-hearing discussion exacerbates this for PCC.
- 4 Having considered the NPS-IB as a whole, PCC would question whether implementing it through the Change 1 process gives effect to the engagement requirements of the NPS-IB. It potentially also raises questions of natural justice since only those parties that have submitted can continue to be involved. A key principle<sup>1</sup> of the NPS-IB is:

*Local authorities must engage with tangata whenua, people and communities (including landowners) to ensure that the decision-making principles inform, and are given effect to, when implementing this National Policy Statement in their regions and districts. (my emphasis)*

- 5 The section 32 evaluation report for Change 1 states that<sup>2</sup>:

*The scope of Change 1 has resulted in a focused engagement programme with targeted consultation and involvement of mana*

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<sup>1</sup> Subpart 1 – Approaches to implementing this National Policy Statement – policy 3.2

<sup>2</sup> Paragraph 102.

*whenua / tangata whenua, territorial authorities, Ministers and central government departments. The upcoming Schedule 1 process provides for general stakeholder and community consultation. (my emphasis)*

- 6 Change 1, including the indigenous biodiversity provisions, appears to have been promulgated without the level of engagement with people and communities anticipated by the NPS-IB. PCC questions whether relying on the general public and communities to only get involved by way of the formal, statutory schedule 1 process represents an appropriate level of engagement.
- 7 PCC notes that the requirements of the NPS-IB are wide ranging and include managing biodiversity values outside of SNA's through regulations, as well as methods for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas. This raises the issue of whether, had people and communities been aware that the NPS-IB was going to be implemented by way of Change 1, they may have chosen to submit on it. The fact that only 151<sup>3</sup> submissions were received in total from mana whenua/tangata whenua, territorial authorities, Government agencies, stakeholder groups, infrastructure providers, and individuals perhaps supports this concern and a possible wider natural justice issue.
- 8 It is also noted that reliance has been placed on a number of other proposed Change 1 policies, such as those for nature-based solutions in terms of implementing the NPS-IB, yet the final form of these is not known<sup>4</sup>. As such, it cannot be stated that these will give effect to the NPS-IB.

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<sup>3</sup> Paragraph 37 to Section 42A Hearing Report Hearing Stream 1 Topic: S42A Overview Report

<sup>4</sup> Indeed, the Right of Reply version of these policies is unknown at this point


9 PCC is aware from its own experience of Significant Natural Areas (SNA's) and providing for them in its Proposed District Plan (PDP) as required by Policies 23 and 24 of the RPS, that significant levels of engagement with the community is both necessary and appropriate. This engagement, prior to notification of the PDP, included:

- 2017 – Make your Mark 2017 consultation. (General Public) – This included an online survey, stalls at various public events (with photos of the city for children to doodle on to share their ideas), presentations and open discussions at community meetings, and discussions with target interest groups.
- July 2017 - Meeting (District Plan Reference Group).
- June 2018 - Letters to landowners with proposed SNAs
  - Site visits were offered and many were undertaken
  - Changes to some of the mapping was made based on these site visits.
- June 2018 - (General Public). Community drop-in sessions held.
- 2018 - Make your Mark/Growth Strategy consultation (Draft District Plan objectives and policies). (General Public)
- 2019 consultation on the Full Draft District Plan (General Public)

10 Given the requirements of the NPS-IB and the likely directiveness of RPS provisions on regional and district plans, PCC would raise the issue of whether it is now more appropriate that wider levels of engagement should commence higher up the RMA chain than has previously been the practise. Namely at the stage where it is being implemented in the RPS rather than “kicking the can down the road” to the regional or district plan level. Frontloading the process at the RPS stage could help provide for more efficient and consistent implementation in lower order plans, whose room for manoeuvre is limited by higher order requirements.

- 11 PCC considers that the Council needs to address the issue of whether:
- Sufficient engagement has been allowed to occur under Change 1, including at the pre-notification stage, that gives effect to the engagement requirements of the NPS-IB; and
  - Whether natural justice issues would be created if the NPS-IB is implemented in the RPS by way of Change 1.
- 12 PCC recognises the need to give effect to the NPS-IB in the RPS but considers that Council needs to address the matters identified in paragraph 11 above and accordingly whether Change 1 is the most appropriate means of implementation.

**Date:** 3/11/2023

  
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