

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED
CHANGE 1 TO THE REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION**

UNDER Schedule 1 of the Resource
Management Act 1991 (the Act)

IN THE MATTER OF Hearing Submissions and Further
Submissions on Proposed Change 1 to
the Regional Policy Statement for the
Wellington Region

**STATEMENT OF REBUTTAL EVIDENCE
OF PAMELA ANNE GUEST
ON BEHALF OF WELLINGTON REGIONAL COUNCIL
HEARING STREAM 6 – INDIGENOUS ECOSYSTEMS
13 February 2024**

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INTRODUCTION

- 1 My full name is Pamela Anne Guest. I am a Senior Policy Advisor in the Environmental Policy Department at Greater Wellington Regional Council (the Council).
- 2 I have reviewed the planning evidence and legal submissions (that relate to planning issues) received, being from:
 - 2.1 The Director-General of Conservation (DGC)
 - 2.2 Hutt City Council (HCC)
 - 2.3 Meridian Energy Limited (Meridian)
 - 2.4 Ngā Hapū o Ōtaki (Ngā Hapū)
 - 2.5 Porirua City Council (PCC)
 - 2.6 Rangitāne o Wairarapa (Rangitāne)
 - 2.7 Royal Forest and Bird Protection Society (Forest and Bird)
 - 2.8 Transpower NZ (Transpower)
 - 2.9 Wairarapa Federated Farmers (WFF)
 - 2.10 Waka Kotahi NZ (Waka Kotahi)
 - 2.11 Wellington City Council (WCC)
 - 2.12 Wellington Fish and Game (Fish and Game)
 - 2.13 Wellington International Airport Limited (WIAL)
 - 2.14 Winstone Aggregates (Winstones).

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

- 3 My qualifications and experience are set out in paragraphs 18-20 of the Section 42A report Indigenous Ecosystems, dated 11 December 2023. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO EXPERT EVIDENCE AND LEGAL SUBMISSIONS

- 4 This rebuttal evidence responds to submitter evidence in relation to Issues 1, 3-9, and 11-17 as set out in the Section 42A report Indigenous Ecosystems. Mr Wyeth addresses Issues 2 and 10. I have worked closely with Mr Wyeth in developing the recommendations in this evidence.

- 5 Amendments requested by submitters are shown in **bold underline or ~~strike through~~**. The amendments to the Change 1 provisions recommended in the Section 42A report Indigenous Ecosystems are shown in red underline or ~~strike-through~~ and further amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike through~~. The text of the notified version of the Change 1 provisions is shown in underline or ~~strike through~~.

OVERALL SUPPORT OR REJECT

- 6 The DGC and Rangitāne have expressed their general support for all the amendments recommended in the Section 42A report, with the DGC highlighting support for specific provisions that they consider to be more contentious (as noted below).

ISSUE 1: FRESHWATER PLANNING INSTRUMENT CATEGORISATION

- 7 The categorisation of provisions to the freshwater planning process is addressed in the evidence of Federated Farmers, Waka Kotahi, and Forest and Bird with all these parties supporting the recommendation to reallocate all the indigenous ecosystems provisions to the Part 1 Schedule 1 process. No party has challenged this recommendation in the section 42A report.

ISSUE 3: GENERAL

- 8 Matters addressed under Issue 3: General are addressed in the evidence of Waka Kotahi. Ms Heppelthwaite seeks deletion of reference to “extent or condition” in Anticipated Environmental Result (3), as she considers this may be unattainable given that the NPS-IB Clause 3.11 provides consenting pathways that allow for the extent or condition of significant indigenous ecosystem/habitat or supporting functions to be potentially altered, reduced, or removed. She notes that achieving no net loss may involve offsetting or compensation that results in a reduced spatial ‘extent’ or ‘condition’ of the identified significant indigenous ecosystem/habitat or supporting functions.

Analysis and recommendations

- 9 The role of the “Anticipated Environmental Results” (AER) in a RPS is to identify the outcomes expected as a result of implementing the combined package of RPS policies and methods and provide the basis for monitoring their efficiency and effectiveness of these provisions, as required by section 35 of the RMA. AER are indicators to be used when assessing progress towards achieving the RPS objectives at a regional level and should be used to inform future changes to RPS objectives, policies, and methods.

10 In my opinion, a key point is that AER operate at a regional level, rather than at the scale of an individual consent. AER (3) links to Objective 16, which seeks that indigenous ecosystems and habitats with significant indigenous biodiversity, other significant habitats for indigenous biodiversity, and their ecosystem functions are protected, enhanced, and restored to a healthy functioning state. The aim is that the RPS policies and methods (both regulatory and non-regulatory) work together to achieve this outcome. Thus, while individual consents may result in a loss of extent or condition in a specific ecosystem or habitat, over a ten-year period the desired outcome is that the combination of provisions, including those that promote and support restoration and enhancement will result in an overall increase in the extent and condition of significant indigenous biodiversity across the Wellington Region. I consider that the amendments I propose below will provide better clarity of the environmental results anticipated from Objective 16. I have also proposed a minor amendment consequential to amendments to Objective 16 to refer to ecosystem processes instead of ecosystem function.

AER(3) In the Wellington Region There is ~~no loss~~ an overall increase in the of extent and of condition of indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna, and in the health of their ecosystem processes functions.

Section 32AA evaluation

11 In accordance with section 32AA of the RMA, I consider that my recommended amendments to AER(3) are the most appropriate as these are minor amendments that better reflect and clarify the outcomes sought by Objective 16 over the ten year period of implementing RPS Change 1. I also note that section 32AA evaluation contained in the section 42A report Indigenous Ecosystems in respect of this provision still applies.

ISSUE 4: INTRODUCTORY TEXT AND ISSUE STATEMENTS

12 The introductory text and issue statements are addressed in the evidence of HCC, Meridian, Ngā Hapū, WCC, and WFF.

Hutt City Council

13 Mr McDonnell considers addition of the decision-making principles to the Introductory text is unnecessary, as these are already outlined in the NPS-IB, they lengthen the RPS, making it harder for plan users to locate the more important regulatory provisions. Mr McDonnell also notes that the NPS-IB may be repealed in the near future therefore the reference could become obsolete.

Meridian

- 14 Ms Foster clarifies the reason for Meridian’s request, if amending text relating to wetlands to take the opportunity to replace the term “wetland” with “natural wetland”, stating that this is to ensure the RPS protection provisions do not apply to constructed wetlands, consistent with the obligation in RMA section 6(a) to recognise and provide for the preservation of the *natural* character of wetlands. Ms Foster considers that the sole concern of Change 1 is with naturally occurring wetlands and that this would be best reflected by referring to “natural wetland”.

Ngā Hapū

- 15 Ms McCormick seeks that the decision-making principles for indigenous biodiversity prioritise the mauri and intrinsic value of indigenous biodiversity and recognise that the health and wellbeing of people and communities depend on the health and wellbeing of indigenous biodiversity and that, in return, people have a responsibility to care for and nurture it.

Wellington City Council

- 16 Ms Cook generally supports the amendments to reference the decision-making principles for indigenous biodiversity but considers that the principles have been incorrectly paraphrased, creating confusion between the NPS-IB and the RPS, and ignores the principles as they are set out. She recommends the following amendment to address this:

...These principles must inform and be given effect to when managing indigenous biodiversity across the Wellington Region, Recognising the role of people and communities (including landowners) as stewards and ensuring that te ao Māori, mātauranga, and tikanga Māori are applied appropriately to protect, maintain and restore indigenous biodiversity.

Wairarapa Federated Farmers

- 17 Mr Matich considers that the Council has overstated the urgency of a need for a regulatory response to require restoration at a regional level, stating that the proposed amendments to the RPS are out of step with what is a fairly stable situation for remnant regional indigenous biodiversity in the Wellington Region. He contends that: *“In the absence of alternative methods to pursuing restoration, it must be assumed that regulatory requirements will be the default method in district and regional plan implementation. In my experience, regulation pursuing restoration is a costly pursuit for consent authorities, enforcement agencies and consent holders, and the wider community of interested parties. In my opinion,*

reliance on regulatory implementation provides little or no guarantee of biodiversity restoration outcomes.”¹

Analysis and recommendations

“Wetland” or “Natural wetland”?

18 I have reviewed my response to Meridian’s request to replace “wetland” with “natural wetland” and consider that this amendment is appropriate in relation to provisions which direct a regulatory response, as regulatory direction in both the NPS-FM and NRP apply only to natural inland wetlands or natural wetlands respectively (sub-sets of ‘wetland’ as defined in the RMA). I recommend amendments to policies 23 and 47 to provide for this, noting that regulatory Policy 24 already refers to “natural inland wetland”.

19 I retain my view that is not generally appropriate for the RPS to focus solely on natural wetlands. For example, the Introductory text and Issue Statement 1 discuss the type of ecosystems in the region, the amount of wetland loss since 1840 across the region and the loss of wetlands to drainage. I consider that the policies and methods that support restoration and enhancement should also apply to wetlands generally, recognising that, as there are only around 3 percent of the region’s wetlands remaining, areas that were previously fully functioning wetlands present important opportunities for restoration (and reiterating that the RPS approach to restoration is non-regulatory).

20 I therefore recommend the following amendments:

Policy 23: 2. In the coastal marine area, the beds of lakes and rivers, and natural wetlands

Policy 47(c) managing natural wetlands for the purpose of aquatic ecosystem health, recognising the wider benefits, such as for indigenous biodiversity, water quality and holding water in the landscape;

Decision-making principles

21 Submitter evidence relating to inclusion of the “decision-making principles for Indigenous Biodiversity” in the Introductory Text includes requests to either extend or delete the text.

22 I do not support deleting this text as I consider it provides useful context for incorporation of the decision-making principles for indigenous biodiversity in a number of RPS provisions (Objective 16B, policies IE.2, IE.3, methods IE.1, IE.4). In response to Mr McDonnell’s concern that this term could become obsolete, I note

¹ Evidence of Mr Matich, paragraph 4.12

that these principles, while aligned with those in the NPS-IB, are not predicated on the NPS-IB but rely on RMA s6(e) and s8. As the regulatory provisions in the RPS are separate to the topic chapters, I do not consider that this paragraph in the Chapter 3.6 Introduction will impede the usability of the RPS.

- 23 The “decision-making principles for indigenous biodiversity” are defined in Change 1 and the introductory text is an adjunct to that and does not attempt to replicate all of the principles. While I agree with Ms McCormick that these decision-making principles prioritise the mauri and intrinsic values of indigenous biodiversity, I do not consider that it is necessary to repeat all of the principles in the Introductory text. Likewise, in response to Ms Cook, I note that the principles of stewardship (as for those of kaitiakitanga), while not specified in the introduction, are part of the definition. While I appreciate the risk of attempting to summarise the concept of the decision-making principles, I continue to be of the view that it is not necessary to replicate all of the detail included in the definition.

Approach to restoration

- 24 I agree with Mr Matich that enhancement and restoration of indigenous biodiversity are more likely to be achieved through non-regulatory approaches rather than a regulatory regime that requires mandatory restoration. This is the approach that the RPS takes, as acknowledged in the Introductory Text which states “the restoration of ecosystems relies upon the good will and actions of landowners.”
- 25 As discussed in paras 534-6 of the section 42A report, the policies and methods in Change 1 to give effect to restoration outcomes are non-regulatory and there are no provisions that require restoration. Further, I do not consider that there is a basis that would allow councils to require restoration, outside of a consenting regime where this may be a requirement of *an agreed* offset or compensation package.
- 26 Mr Matich does not request specific amendments to the Introductory text to address his concerns and I do not consider any to be necessary.

ISSUE 5: OBJECTIVE 16

- 27 Objective 16 is addressed in the evidence of the DGC, Meridian, Ngā Hapū, PCC, Waka Kotahi, WFF, and WIAL. The DGC and Ngā Hapū support the recommended amendments recommended to Objective 16.

Meridian

- 28 Ms Foster considers that Objective 16 can be read as imposing an expectation that enhancement and restoration must result from all consents and plan changes in all

situations, regardless of practicability or functional or operational need. She requests inserting the words “**where appropriate**” to preface enhancement and restoration. Ms Foster supports the other recommended amendments to Objective 16.

Porirua City Council

- 29 PCC continues to seek amendments to clarify the timeframe over which this objective is to be achieved, how it is to be measured, and whether this is gradual or absolute.

Waka Kotahi

- 30 Ms Heppelthwaite requests deletion of reference to “enhance and restore” in Objective 16 as she considers that these have a different directive to “protect” in respective national policy statements and are better addressed at a policy level (as a way to achieve the ‘protect’ outcome of Objective 16 (as reflected within Policy 24, 24A and 47)).

Wairarapa Federated Farmers

- 31 Mr Matich restates his concern that the RPS approach to biodiversity enhancement and restoration should be supportive rather than regulatory. Mr Matich states that there is no requirement in the RMA or in the NPS-IB to protect or enhance indigenous ecosystems and habitats with “significant ecosystem functions and services” and seeks that this phrase be deleted from Objective 16, along with the definitions for these terms as they repeat the NPS-IB.

Wellington International Airport

- 32 Ms Hunter requests amendments to reference the use of the effects management hierarchy as a way to achieve an overall healthy functioning ecosystem as follows:

Indigenous ecosystems and habitats with significant ecosystem functions and services and/or biodiversity values are ~~maintained~~ **protected, enhanced, and restored where appropriate and in accordance with an effects management hierarchy in order to achieve an overall** healthy functioning state.

Analysis and recommendations

Enhance and restore

- 33 The outcome sought by Objective 16 responds to the fact that a large proportion of the Region’s resident indigenous species are Regionally Threatened (100% of bats, 85% of reptile species, 70% of bird species, 67% of indigenous fish species and 22% of indigenous vascular plant species) and the degree to which many indigenous ecosystems and habitats have been depleted (e.g., >97% loss of

wetland habitat). As discussed in Maseyk and Parlato 2023², extensive restoration and conservation efforts will be required to shift indigenous ecosystems and species out of Threatened categories.

- 34 I do not support the use of general qualifiers in objectives, as I consider that they act to weaken an objective, leaving it open to debate and making it difficult to monitor its effectiveness. However, I also recognise that a number of submitters have interpreted the framing of Change 1 provisions that seek restoration and enhancement to mean that this will be achieved through a regulatory response.
- 35 The same concern was subject to mediation as part of the hearings process on the NRP, where agreement was reached to insert “where appropriate” to objectives seeking restoration of indigenous biodiversity. I also note that Objective 2.1 in the NPS-IB refers in (b)(iii) to “protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity”.
- 36 Therefore, to provide clarity of the intent of Objective 16, that enhancement and restoration are desired outcomes but are not requirements, and to align with the higher order direction of the NPS-IB, I do recommend adding “where appropriate” to Objective 16.
- 37 With respect to Mr Matich’s request to delete reference to protecting “significant ecosystem functions and services”, I note that the amendments proposed in the Section 42A report Indigenous Ecosystems reframe Objective 16 to refer to protecting the ecosystem functions that support indigenous ecosystems and habitats with significant habitats, rather than protecting “Indigenous ecosystems and habitats with **significant ecosystem functions and services**” per se (my emphasis).
- 38 While I concur with Mr Matich that there is no explicit requirement in the RMA or NPS-IB to protect ecosystem functions, in my opinion, it is useful to highlight the critical role that ecosystem functions have in the protection of significant indigenous biodiversity, so that we do not consider protecting significant biodiversity to be as straightforward as protecting just the area that holds the significant values. For example, to protect an area of old growth forest provision will need to be made to also provide space for seedlings to establish and regeneration to occur, enabling the vegetation to persist into the future. Similarly, protection of specific wetland types will require that hydrological processes can continue to sustain the necessary soil hydrology.

² [Greater Wellington — State of indigenous biodiversity and indigenous ecosystems in the Wellington Region. A collation of recent monitoring and reporting \(gw.govt.nz\)](#)

- 39 This view is supported by Maseyk and Parlato 2023, who state that the threat status of many of the indigenous species and ecosystems in the region will continue to worsen if ecosystem processes, connectivity, and condition, are not addressed. Protecting these underpinning ecosystem processes is essential to protect significant habitats and ecosystems and enable them to adjust to pressures, such as climate change. I note that this report refers to ecosystem processes, rather than ecosystem functions. I have discussed this matter with Dr Roger Uys, the Council’s Senior Terrestrial Ecologist who supported the drafting of the Change 1 Indigenous Ecosystem provisions and we both consider that it would be more appropriate for Objective 16 to refer to ecosystem processes, rather than ecosystem functions and I recommend this amendment.
- 40 In response to Ms Hepplethwaite, while I consider that enhancement and restoration may be necessary components of maintaining or protecting indigenous biodiversity, in my opinion they also go further than this, with protection implying retaining what is already present, whereas enhance and restore seek to improve something or return it to a previous state (in this case a healthy functioning state). The desired outcome of Objective 16 is that the region regains significant biodiversity, rather than just retaining the low levels currently present (as described in Maseyk and Parlato 2023). I consider that my opinion is supported by the definition for *restoration (in relation to indigenous biodiversity)* which refers to “the active intervention and management of modified or degraded habitats, ecosystems, landforms and landscapes in order to maintain **or reinstate** indigenous natural character...” (emphasis mine).
- 41 In response to Ms Hunter’s request to reference the effects management hierarchy in Objective 16, in my opinion this is a way of achieving or implementing Objective 16 and is therefore more appropriately implemented through the RPS as a policy. I note that amendments have already been recommended in the Section 42A report Indigenous Ecosystems to introduce the effects management hierarchy through policies 24 and 24A, to give effect to requirements in the NPS-FM and NPS-IB. These policies are considered further in the rebuttal evidence of Mr Wyeth who recommends further amendments.

Tests for a good objective

- 42 I have addressed PCC’s concerns regarding timeframe and measurability of Objective 16 in the Section 42A report Indigenous Ecosystems and have nothing further to add within this evidence.

Recommendation

- 43 For these reasons, I recommend the following amendments to Objective 16:

Indigenous ecosystems and habitats with significant ecosystem functions and services and/or indigenous biodiversity values, other significant habitats of indigenous fauna, and the ecosystem processes functions that support these ecosystems and habitats, are ~~maintained~~ protected and, where appropriate, enhanced, and *restored* to a healthy functioning state.

Section 32AA evaluation

44 In accordance with section 32AA of the RMA, I consider that my recommended amendment to Objective 16 is the most appropriate as this is a minor amendment to provide clarity that enhancement and restoration are desired outcomes that should be provided for where appropriate but are not regulatory requirements and align with national direction in the NPS-IB. I also note that the section 32AA evaluation contained in the section 42A report Indigenous Ecosystems in respect of Objective 16 still applies.

ISSUE 6: OBJECTIVE 16A

45 Objective 16A is addressed in the evidence of the DGC, HCC, Meridian, and PCC. The DGC supports the amendments recommended to Objective 16A.

Hutt City Council

46 Mr McDonnell supports the recommended removal of references to Te Rito o te Harakeke but considers that Objective 16A is not achievable as it is not possible to restore the region's biodiversity without reverting entire urban and rural catchments back to indigenous vegetated landscapes. He therefore recommends removal of the term "restore" replacing this with "enhance where possible".

Meridian

47 Ms Foster raises the same concerns with reference to "enhanced and restored" as per Objective 16 and proposes insertion of "where appropriate".

Porirua City Council

48 PCC continues to seek amendments to clarify the timeframe over which this objective is to be achieved, how it is to be measured, and whether this is gradual or absolute and also considers it could be provided for by Objective 16.

Analysis and recommendations

Enhancement and restoration

49 I have addressed Ms Foster's concerns with reference to enhance and restore in relation to Objective 16 and recommend the same amendment to add "where appropriate" to Objective 16A.

50 Objective 16A does not seek full restoration of the region’s indigenous biodiversity, which I agree is not feasible. However, I consider that the recommended amendment to add “where appropriate” addresses the concern raised.

Tests for a good objective

51 I have addressed PCC’s concerns regarding timeframe and measurability of Objective 16A in the Section 42A report Indigenous Ecosystems and have nothing further to add within this evidence.

Recommendation

52 I recommend the following amendment to Objective 16A:

The region’s indigenous ~~biodiversity is ecosystems are~~ *maintained* and, ~~where appropriate, enhanced,~~ *and restored* to a healthy functioning state, improving ~~its~~ *their* resilience to increasing environmental pressures, particularly climate change, ~~and giving effect to the Te Rito o te Harakeke.~~

Section 32AA evaluation

53 In accordance with section 32AA of the RMA, I consider that my recommended amendment to Objective 16A is the most appropriate as this is a minor amendment to provide clarity that enhancement and restoration are desired outcomes but not requirements. I note that the section 32AA evaluation contained in the section 42A report Indigenous Ecosystems in respect of Objective 16A still applies.

ISSUE 7: OBJECTIVE 16B

54 Objective 16B is addressed in the evidence of the DGC, Ngā Hapū, and PCC. The DGC and Ngā Hapū support the amendments recommended to Objective 16B.

Porirua City Council

55 PCC continues to seek amendments to clarify the outcomes sought In Objective 16B as they consider *“It is unclear what ‘decision making’ refers to. This needs to be better articulated so that plan users are able to determine if it is being achieved or not. As worded, it reads more as a policy than an objective. It needs to be reframed so it is clear what the outcome sought to be achieved is.”*³

Analysis and recommendations

56 I do not consider that reference to decision-making is particularly obtuse; in the context of the RMA this is primarily plan making and decisions on various

³ Original submission of PCC to Change 1, page 4

approvals under the RMA. I retain my view, set out at para 221 of the Section 42A report Indigenous Ecosystems, that the outcome sought by Objective 16B is clear, measurable and gives effect to the NPS-IB and RMA s6(e), and also provides helpful guidance to plan making. For example, I consider that Objective 16B provides additional specificity and clarity that would helpfully guide implementation of the Porirua District Plan Objective C5.1 “To respond to the principles of the Treaty of Waitangi, and the other matters of significance to Maori as referred to in the Act, in a manner which is appropriate and clear” and associated Environmental Outcomes Anticipated:

C5.2.1 The Council meets its obligations in terms of Sections 6, 7 and 8 of the Act in relation to Maori.

C5.2.2 The tangata whenua have greater opportunity for involvement in resource management processes.

C5.2.3 The interests of the tangata whenua are taken into account in resource management decisions.

57 For these reasons I do not recommend any amendments to Objective 16B.

ISSUE 8: OBJECTIVE 16C

58 Objective 16C is addressed in the evidence of the DGC, HCC, Meridian, Ngā Hapū, and PCC. The DGC, Meridian and Ngā Hapū support the recommended amendments to Objective 16C.

Hutt City Council

59 Mr McDonnell considers that Objective 16C duplicates Objective 2.1(1)(b)(ii) of the NPS-IB and should be deleted.

Porirua City Council

60 PCC continues to seek amendments to clarify the outcomes sought in Objective 16C as they contend that *“It is unclear how or where these values are to be recognised and provided for”. This needs to be better articulated so that plan users are able to determine if it is being achieved or not.”*⁴

Analysis and recommendations

61 I retain the view set out in the Section 42A report Indigenous Ecosystems at paras 229-230, that the outcome sought by Objective 16C is clear, measurable and gives effect to the RMA and NPS-IB. I do not consider that repetition with an objective in the NPS-IB is a reason to delete Objective 16C, as it complements Objective 16B

⁴ Original submission of PCC to Change 1, page 4

and its deletion would leave a gap in the Indigenous Ecosystems framework of objectives.

62 I therefore do not recommend any further amendments to Objective 16B.

ISSUE 9: POLICY 23

63 Policy 23 is addressed in the evidence of the DGC, HCC, Ngā Hapū, PCC, WCC, WFF, WIAL, and Winstone. The DGC and Ngā Hapū support the amendments recommended to Policy 23

Hutt City Council

64 Mr McDonnell supports extending the deadline to identify and protect SNAs in policies 23 and 24 but considers that cross-references to the NPS-IB should be deleted as they add unnecessary length and complexity to plans and the provisions will not work if they reference clauses in the NPS-IB that are subsequently repealed.

Porirua City Council

65 Legal counsel for PCC submits that the implementation timeframes in the NPS-IB should not be undercut, or further complicated, by the RPS provisions.

Wellington City Council

66 Ms Cook requests the following amendments to Policy 23 to set out the roles of each type of council more clearly:

~~By June 2025, As soon as reasonably practicable and by no later than 4 August 2028, District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; Ecosystems and habitats will be considered significant if:~~

1. ~~District Plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values~~ in the terrestrial environment, they meet the criteria in accordance with Appendix 1, and are identified in accordance with the principles in Clause 3.8, of the National Policy Statement for Indigenous Biodiversity 2023; and
2. ~~Regional Plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values~~ in the coastal marine area, the beds of lakes and rivers, and wetlands, they that meet one or more of the following criteria: ...

Explanation

~~..... Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the beds of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values in the terrestrial environment for all land, except for the coastal marine area, and the beds of lakes and rivers wetlands~~

Rangitāne

67 Ms Burns supports the amendments to Policy 23, however disagrees with extending the date to achieve the policy outcome.

Wairarapa Federated Farmers

68 Mr Matich does not support the amended dates in Policy 23 (and Policy 24) as he considers they are not supported by any analysis as to achievability or otherwise. He considers that these are not consistent with those set out in the NPS-IB, citing clause 4.1(2).

Wellington International Airport

69 Ms Hunter responds to WIAL's concern that the broad framing of the Policy 23 significance criteria will likely mean that significant areas of the region are identified as being significant natural areas and could potentially capture highly modified areas which cannot sensibly be identified as significant natural areas. She requests that Policy 23 be amended as follows:

2. In the coastal marine area they meet one or more of the following criteria, and are within an area to which Policy 11(a)(iii) – (vi) of the New Zealand Coastal Policy Statement 2010 applies;
3. In the beds of lakes and rivers, and wetlands...

Winstone

70 Ms Clarke prefers that the operative version of Policy 23 be retained as she considers the amendments are inefficient and do not provide any benefit.

Analysis and recommendations

Timing for SNA identification

71 I appreciate the concerns of Ms Burns regarding the proposed extension of the date to identify SNAs. This extension was recommended to align with the timeframe in the NPS-IB and recognising that the process set out in NPS-IB clause 3.8 and Appendix 1 to assess areas that qualify as significant natural areas (SNAs) has additional requirements to those in Policy 23. For example, it requires that the

assessment be done in partnership, engaging early with tangata whenua and landowners. I do note that the timeframes in Change 1, Method 21 continue to apply, whereby if a district-wide indigenous biodiversity assessment has not been initiated by 30 June 2024, the regional council will liaise with the territorial authority to agree on, and potentially support, a programme of works to ensure that this work is being progressed.

72 In terms of the timeframe to implement Policy 23, I note that the five-year implementation timeframe (August 2028) is aligned with Clause 4.2 of the NPS-IB, which sets out a within five-year timeframe for giving effect to NPS-IB provisions relating to SNAs. Mr Matich appears to be referring to Clause 4.1 of the NPS-IB which sets out an eight-year timeframe for other changes to give effect to the NPS-IB.

73 I also reiterate the point made in para 249 of the Section 42A report that the operative RPS required this work to have been completed by June 2023, and that protection (and therefore, necessarily, identification) of significant sites for indigenous biodiversity has been required by the RMA since 1991.

NZCPS criteria

74 I do not agree with Ms Hunter's concern that the Policy 23 criteria are so broad that they are likely to capture significant areas of the region, including potentially capturing highly modified areas which cannot sensibly be identified as significant natural areas. I note that these criteria have already been applied in the Wellington Region to identify sites and habitats with significant indigenous biodiversity values in the coastal marine area, listed in Schedules F4 and F5 of the NRP. These areas have been subject to scrutiny through the RMA Schedule 1 process and found to be sound. Further, the amendment requested by Ms Hunter would not give effect to Policy 11 of the NZCPS, applying only a sub-set of the criteria listed there.

Drafting

75 In response to Mr McDonnell and Ms Clarke, Mr Wyeth has addressed concerns regarding making amendments to the RPS to give effect to the NPS-IB, including the use of different drafting approaches (adding regional context, staying silent, cross-referencing, repeating) under Issue 2. I agree with his analysis that there are pros and cons with these different approaches. Mr Wyeth considers that the implementation options for highly directive NPS provisions, such as NPS-IB clauses 3.9 and 3.10, are more limited and has recommended inclusion of the details of these provisions in the RPS, providing more certainty and removing the need to cross-reference external documents.

76 I consider that, for consistency, the same drafting approach be adopted for the NPS-IB provisions relating to the identification of significant natural areas in the terrestrial environment (in this case NPS-IB clause 3.8 and Appendix 1).

77 I agree with the wording proposed by Ms Cook to provide clarification of council roles within Policy 23, rather than in the Explanation, and recommend the following amendments to do this, integrated with the redrafting discussed above. Note that the drafting for new Appendix 1B is shown in Appendix 1 of this Rebuttal Evidence.

Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

~~By June 2025, As soon as reasonably practicable and by no later than 4 August 2028, Ddistrict and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; Eecosystems and habitats will be considered significant if:~~

- ~~1. District plans shall identify and map indigenous ecosystems and habitats with significant indigenous biodiversity values ~~in the terrestrial environment, they meet the criteria in that qualify as significant natural areas, and are identified in accordance with Appendix 1B the principles in Clause 3.8, of the National Policy Statement for Indigenous Biodiversity 2023; and~~~~
- ~~2. Regional plans shall identify and map indigenous ecosystems and habitats with significant indigenous biodiversity values ~~in the coastal marine area, the beds of lakes and rivers, and natural wetlands, they that~~ meet one or more of the following criteria: ...~~

Explanation

Policy 23 sets out ~~the~~ criteria ~~as guidance~~ that must be ~~met for an~~ ~~considered in identifying~~ indigenous ecosystems ~~and-or~~ habitats ~~to be considered to have~~ with significant ~~indigenous~~ biodiversity values. ~~This evaluation is to be completed and the ecosystems and habitats identified as having significant indigenous biodiversity values included in a district or regional plan as soon as reasonably practicable and by no later than 4 August 2028~~ ~~by 30 June 2025.~~

Wellington Regional Council, and district and city councils are required to assess indigenous ecosystems and habitats against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an indigenous ecosystem or habitat must ~~meet~~ ~~fit~~ one or more of the listed criteria ~~in Policy 23(1) or (2)~~. Wellington Regional Council and district and city councils will need to engage directly with landowners and work

collaboratively with them to identify areas, undertake field evaluation, and assess significance. ~~In the terrestrial environment, significance assessments must be undertaken in accordance with the principles in Clause 3.8 of the National Policy Statement for Indigenous Biodiversity 2023. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.~~

Indigenous ecosystems and habitats can have additional values of significance to mana whenua / tangata whenua. There are a number of indigenous ecosystems and habitats across the region that are significant to tangata whenua for their ecological characteristics. These ecosystems will be considered for significance under this policy if they still exhibit the ecosystem functions which are considered significant by mana whenua / tangata whenua. Access and use of any identified areas would be subject to landowner agreement. Wellington Regional Council and district and city councils will need to partner ~~engage directly~~ with mana whenua / tangata whenua and work collaboratively with them and other stakeholders, including landowners, to identify areas under this criterion.

~~Regional plans will identify indigenous ecosystems and habitats with significant biodiversity values in the coastal marine area, wetlands and the beds of lakes and rivers. District plans will identify indigenous ecosystems and habitats with significant biodiversity values in the terrestrial environment for all land, except for the coastal marine area, and the beds of lakes and rivers wetlands.~~

Section 32AA evaluation

78 In accordance with section 32AA of the RMA, I consider that my recommended amendments to Policy 23 are the most appropriate as they are minor amendments that improve the clarity of Policy 23 and therefore better support its implementation. The section 32AA analysis contained in the section 42A report Indigenous Ecosystems in respect of Policy 23 still applies.

ISSUE 11: POLICY 47

79 Policy 47 is addressed in the evidence of Meridian, Ngā Hapū, PCC, WFF, and WIAL.

Meridian

80 Ms Foster requests a consequential amendment be made to Policy 47 if the amendments she proposes to Policies 24 and 24A are accepted. She also requests amendment to refer to “natural” wetlands.

Ngā Hapū

81 Ms McCormick supports new clause (j) in principle but is concerned that the subclause could limit indigenous biodiversity values to significant sites that are

identified in a plan, noting concern that some significant sites are, intentionally omitted from regional and district plans.

Porirua City Council

82 PCC continues to request addition of a sunset clause to consideration policies (policies 47 and IE.2) so that that the policy will not apply more broadly when policies 23, 24 and 24A are given effect to.

Wairarapa Federated Farmers

83 Aligning with the relief requested to Policy 24, Mr Matich requests that reference in Policy 47 to Policy 24 be deleted or amended to explicitly exclude any requirements for a 10 percent gain or better for biodiversity offsetting.

Wellington International Airport

84 Ms Hunter states that her concerns with Policy 47 will be addressed if her requested amendments to Policy 24 and Policy 24A are accepted.

Analysis and recommendations

Consequential amendments

85 Mr Wyeth has responded to the evidence of Ms Foster in relation to REG activities in his rebuttal evidence and recommended a new policy 24D that provides a specific effects management hierarchy for these activities. I therefore accept the request from Ms Foster for a consequential amendment to Policy 47 and recommend the following additional clause:

[\(i\)\(i\) the provisions to manage the adverse effects of REG and ET activities on significant biodiversity values in Policy 24D.](#)

86 I have addressed Ms Foster's request to use the term "natural wetland" in para 19 where I recommend this amendment be accepted in Policy 47.

Role of consideration policies

87 I do not support addition of a sunset clause to Policy 47 as requested by PCC as the identification of habitats and ecosystems with significant indigenous biodiversity values is likely to be an ongoing process, at least until there have been comprehensive on-the-ground property-scale assessments across the entire region. Even amongst those councils that have added significant sites for indigenous biodiversity to their plans, not all significant sites have necessarily been included. The reasons for this are varied, but can include:

- Budget constraints for ecological surveys and assessments

- Political decisions on what is included in a plan
- Data that is not of a sufficient quality to be included in a plan review
- Time required to engage with affected private landowners
- Changes or improvements in the assessment of significant habitats and ecosystems since a plan review was undertaken.

88 For example, NRP Plan Change 1 proposes the addition of 20 new habitats or ecosystems to the schedules of significant indigenous biodiversity sites due to surveys conducted post notification of the NRP. A number of other recently identified significant sites are also intended to be added through the next NRP plan change, following engagement with affected landowners.

89 I do note that there is actually a sunset clause in the Explanation to Policy 47. While I consider that this should be deleted, I do not consider there is scope within submissions to do this. Regardless, as discussed above my expectation is that Policy 47 is unlikely to cease to have effect in the foreseeable future given that implementation of policies 23 and 24 are an ongoing process.

90 In response to Ms McCormick’s concern that not all sites with significant indigenous biodiversity are identified in regional and district plans, I note that part of the role of Policy 47 is to require an assessment to be made of indigenous biodiversity values to ensure that any area with values that meet significance criteria are managed accordingly, regardless of whether they have been identified in a regional or district plan. This is one of the reasons why I consider that Policy 47 will continue to apply in the Wellington Region despite the sunset clause at the end of the explanation.

91 For these reasons, I do not recommend any amendments to Policy 47 except for a minor amendment to the Explanation to delete an unnecessary cross-reference to the NPS-IB.

Explanation

... [Policy 47 makes it clear that the provisions in Policy 24 and Policy 24A to protect significant indigenous biodiversity values must be considered until those policies are given effect to in regional and district plans. Policy 47 also provides for established activities and plantation forestry activities affecting significant indigenous biodiversity values to continue, provided certain tests are met, consistent with the requirements in the National Policy Statement for Indigenous Biodiversity 2023.](#)

ISSUE 12: POLICY 61

92 Policy 61 is addressed in the evidence of Ngā Hapū, PCC, and WCC. Ngā Hapū and PCC support the amendments to Policy 61.

Wellington City Council

93 Ms Cook disagrees with my recommended amendments to Policy 61(c) for the regional council and territorial authorities work together to provide for the coordinated management and control of land use in order to maintain indigenous biodiversity in receiving water bodies. She considers that *“if an activity is having an adverse effect on Coastal or Freshwater biodiversity then the activity is likely (to occur) either within the bed of the lake or river (s13), within the coastal marine environment (s12) or discharging contaminants into those environments (s15). These are functions of the Regional Council and cannot be conducted by a Territorial Authority under s31 of the RMA”*⁵ and requests that the phrase *“including to manage associated adverse effects on indigenous biodiversity in freshwater and coastal water in liaison with the Wellington Regional Council”* is deleted.

Analysis and recommendations

94 I do not agree with Ms Cook that managing adverse effects on indigenous biodiversity within water bodies is the sole jurisdiction of regional councils. My reasons to support addition of the clause disputed by Ms Cook are set out in paragraphs 371-375 of the section 42A report. I consider that this provides a clear rationale to support the need for integrated management by regional and city and district councils to protect or maintain indigenous biodiversity and note that direction for integrated management is supported by clear policy direction in both the NPS-FM and NPS-IB. I also note that the proposed amendments to Policy 61 are supported by PCC, who was the only party, apart from GWRC, to seek amendments to this provision. I therefore recommend no further amendments to Policy 61.

ISSUE 13: POLICY IE.1

95 Policy IE.1 is addressed in the evidence of HCC, Ngā Hapū, and PCC. Ngā Hapū supports the amendments to Policy IE.1

Hutt City Council

⁵ Evidence of Ms Cook, paragraph 39

96 Mr McDonnell supports the addition to Policy IE.1 of new clause (d) but seeks amendments to add a timeframe to be consistent with policies 23 and 24 to be implemented by 2028 and to delete the explanation as it repeats the policy.

Porirua City Council

97 PCC considers that Policy IE.1 is not required as it is a requirement of the RMA (section 8) and of clause 3.33 of the NPSIB.

Analysis and recommendations

98 In my opinion, Policy IE.1 adds helpful direction and specificity to RMA s8 and helps to give effect to clause 3.3 of the NPS-IB and should be retained.

99 I am unclear of the rationale for adding a timeframe to Policy IE.1 as requested by Mr McDonnell. While this would be consistent with policies 23 and 24, it would be inconsistent with all the other Indigenous ecosystem policies which are not time-bound.

100 While I agree with Mr McDonnell that the Explanation to Policy IE.1 adds limited value, I consider that it should be amended rather than deleted, noting that all the RPS policies have explanations and 62(1)(d) of the RMA requires that RPS policies have explanations. I consider it could essentially revert to the notified text as follows:

Explanation

Policy IE.1 directs regional and district plans to include provisions to partner with mana whenua/tangata whenua to recognise and provide for Māori values associated with for indigenous biodiversity, and for the role of mana whenua/tangata whenua as kaitiaki in the region. It also directs regional and district plans to include provisions to maintain and restore indigenous biodiversity on Māori land, while enabling appropriate use and development of that land to support the wellbeing of tangata whenua.

Section 32AA evaluation

101 In accordance with section 32AA of the RMA, I consider that my recommended amendments to Policy IE.1 is the most appropriate as these are minor amendments to provide a simpler explanation to the policy. The section 32AA analysis contained in the section 42A report Indigenous Ecosystems in respect of this provision still applies.

ISSUE 14: POLICY IE.2

102 Policy IE.2 is addressed in the evidence of HCC, Ngā Hapū, PCC, and Rangitāne. Ngā Hapū supports the amendments to Policy IE.2.

Hutt City Council

- 103 Mr McDonnell largely agrees with the changes proposed to Policy IE.2 in the section 42A report but considers it would be more reasonable to restrict application of the policy to *significant* biodiversity. He considers that *“The application of mātauranga Māori would require expert cultural advice, and I consider it is unreasonable to expect this given the number of proposals that would be captured by this policy direction.”*⁶ He also considers that this “consideration” policy should have a sunset clause to be consistent with Policy 47.

Porirua City Council

- 104 As for Policy 47, PCC considers that Policy IE.2 should include a sunset clause.

Rangitāne

- 105 Ms Burns supports Policy IE.2 but also requests a number of amendments to provide more explicit and obvious linkages between Policy IE.2 and Method IE.1 to:
- a) Ensure that the decision-making principles in the NPS-IB are given effect to in the absence of local expressions and that local expressions are given effect to once they are developed.
 - b) Be more directive.
 - c) Give more prominence to “mana whenua values and relationships” by moving this phrase to the chapeau.
 - d) Amend the definition for “the decision-making principles for indigenous biodiversity” to ensure that the local expressions are given effect to once they are developed.

Analysis and recommendations

Sunset clause

- 106 I do not generally consider that there is a need for “sunset” clauses in the RPS policies, especially for those policies that have complex implementation requirements that will take some time to give effect to. My expectation is that Policy IE.2 is unlikely to cease to have effect in the foreseeable future and, in my opinion, for those district plans that do give full effect to it before the RPS review date then it is of little consequence if it remains a live policy.

Application only to significant sites

⁶ Evidence of Mr McDonnell, paragraph 50

107 I do not agree Policy IE.2 should be restricted to significant sites. Iwi values associated with indigenous biodiversity are much broader than those that relate to sites that meet defined significance criteria. I note that clause 3.3 of the NPS-IB imposes a broad duty of care and engagement and is not exclusive to significant sites. For example, clause (f) requires “enabling mātauranga Māori to be applied at all stages of management of indigenous biodiversity”. I agree with Mr McDonnell that requiring expert cultural advice for virtually every form of development would be unreasonable (for both iwi and developers) but consider that determining the parameters for implementing Policy IE.2 would need to be negotiated with mana whenua/tangata whenua, giving effect to the decision-making principles, in particular that of partnership in negotiating such matters.

Links to Method IE.1

108 I support the following amendments proposed to Policy IE.2 and the definition of the 'decision-making principles for indigenous biodiversity' by Ms Burns for the reasons set out in her evidence. I consider that they provide better clarity that will support more effective implementation of Policy IE.2 and Method IE.1. My recommended amendments are as follows:

Policy IE.2: Giving effect to mana whenua/tangata whenua roles and values when managing indigenous biodiversity – consideration

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan for subdivision, use or development that may impact on indigenous biodiversity, recognise and provide for mana whenua/tangata whenua values and relationships associated with indigenous biodiversity-particular regard shall be given to enabling mana whenua/tangata whenua to exercise their roles as kaitiaki, including by, but not restricted to:

- (a) providing for mana whenua/tangata whenua values associated with indigenous biodiversity, including giving local effect to ~~Te Rito o te Harakeke~~ the decision-making principles for indigenous biodiversity and, once they are established, the local expressions of the decision-making principles for indigenous biodiversity developed through Method IE.1; and
- (b) enabling mana whenua/tangata whenua to exercise their roles as kaitiaki; and
- (c) incorporating the use of mātauranga Māori in the management and monitoring of indigenous biodiversity; and
- (d) supporting mana whenua/tangata whenua to access and exercise sustainable customary use of indigenous biodiversity, including for mahinga kai and taonga, in accordance with tikanga.

<p><u>Decision-making principles for indigenous biodiversity*</u></p>	<p>(g) <u>form strong and effective partnerships with mana whenua /tangata whenua.</u></p> <p><u>The decision-making principles for indigenous biodiversity include any local expressions developed through Method IE.1.</u></p>
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Section 32AA evaluation

109 In accordance with section 32AA of the RMA, I consider that my recommended amendments to Policy IE.2 are the most appropriate as they will provide better clarity that will support more effective implementation of Policy IE.2 and Method IE.1 and give better effect to the NPS-IB and RMA s6(e) and s8. The section 32AA analysis contained in my section 42A report in respect of these provisions still applies.

ISSUE 15: POLICY IE.3

110 Policy IE.3 is addressed in the evidence of Ngā Hapū and PCC. Ngā Hapū supports the amendments to Policy IE.3. PCC considers that Policy IE.3 is a “non-regulatory” policy that requires a regulatory response and should be reframed as a method.

Analysis and recommendations

111 I do not agree Policy IE.3 is a regulatory policy. Its purpose is to direct the development of strategic targets and priorities to guide the implementation of restoration initiatives to ensure that effort (money, time, and other resources) is directed at projects that will achieve the best outcomes for biodiversity across the Wellington Region. There are no regulatory measures attached to Policy IE.3. It will be actioned primarily through non-regulatory Method IE.3: Regional biodiversity strategy, supported by Method CC.9: Support and funding for protecting, enhancing, and restoring indigenous ecosystems and nature-based solutions.

112 For these reasons I do not recommend any amendment to Policy IE.3.

ISSUE 16: POLICY IE.4

113 Policy IE.4 is addressed in the evidence of PCC. PCC considers that Policy IE.4 is a “non-regulatory” policy that requires a regulatory response and should be reframed as a method.

Analysis and recommendations

114 I do not agree with PCC that Policy IE.4 is a regulatory policy. Its purpose is to direct the involvement of communities in the identification of targets and priorities for managing indigenous biodiversity and to support communities and landowners to carry out restoration of indigenous biodiversity. There are no

regulatory measures attached to this policy; it will be given effect to primarily by Method IE.3 Regional biodiversity strategy, supported by:

Methods 53: Support mana whenua and community restoration initiatives for the coastal environment, rivers, lakes and wetlands indigenous ecosystems.

Method 54: Assist landowners to maintain, enhance and restore indigenous ecosystems; and

Method CC.9: Support and funding for protecting, enhancing, and restoring indigenous ecosystems and nature-based solutions.

115 For these reasons, I do not recommend any amendment to Policy IE.4.

ISSUE 17: METHODS IE.1, IE.2, IE.3, IE.4

116 Methods IE.1-4 are addressed in the evidence of Ngā Hapū and HCC, with Ms McCormick supporting the amendments to these methods.

Hutt City Council

117 Mr McDonnell considers that reference to the NPS-IB should be deleted from **Method IE.3** for reasons set out in relation to Policy 23.

Method IE.3

118 As noted in paragraph 75 above, Mr Wyeth has addressed concerns regarding the use of cross-referencing to give effect to the NPS-IB in his rebuttal evidence and has recommended, for reasons of plan useability and certainty, that the details of highly directive NPS-IB provisions be included in the RPS, removing the need to cross-reference this document.

119 I consider that, for consistency, the same drafting approach be adopted for Method IE.3, replacing reference to Appendix 5 of the NPS-IB with reference to these provisions included in a new Schedule 1E in Change 1:

Method IE.3: Regional biodiversity strategy

Develop and implement, in partnership with mana whenua / tangata whenua and in collaboration with territorial authorities, communities and other key stakeholders, a regional biodiversity strategy to ~~maintain and restore~~ promote the landscape-scale restoration of the region's indigenous biodiversity at a landscape scale, incorporating both Mātauranga Māori and systematic conservation planning and meeting the requirements in Appendix 51E (regional biodiversity strategies) in the National Policy Statement for Indigenous Biodiversity 2023.

120 The details of Appendix 1E are set out in Appendix 1 of this rebuttal evidence.

Section 32AA evaluation

- 121 In accordance with section 32AA of the RMA, I consider that my recommended amendments to Method IE.3 are the most appropriate as they are minor amendments that improve the clarity of this method and therefore better support its implementation. The section 32AA analysis contained in the section 42A report Indigenous Ecosystems in respect of Method IE.3 still applies.

ISSUE 18: METHODS 21, 32, 53, 54

- 122 Methods 21, 32, 53, 54 are addressed in the evidence of Fish and Game, HCC, Ngā Hapū, and PCC. Ngā Hapū supports the amendments to all of these methods.

Fish and Game

- 123 Ms Campbell is concerned that the proposed amendments to **Method 53** inappropriately restrict the application of this method to indigenous ecosystems, thereby excluding support for restoration of the habitats of valued introduced species, such as trout, salmon, and gamebirds. She requests amendments to refer to terrestrial and aquatic ecosystems rather than indigenous ecosystems.

Hutt City Council

- 124 **Method 21** – Mr McDonnell supports the addition of the 2028 timeframe and the qualifier “as soon as reasonably practicable”. He seeks retention of clause (b), rather than being deleted as recommended, as he considers that ecological assessments undertaken by the regional council to inform district plan changes provide another avenue to implement the NPS-IB and the RPS.
- 125 **Method 32** - Mr McDonnell considers this method needs a full review as it is unclear why it is not a regulatory policy, whether it just relates to biodiversity, and why it is not directed at territorial authorities, along with regional councils.
- 126 Mr McDonnell generally supports the recommended changes to **Method 54** but considers that reference to rates rebates should be removed as they are a matter that needs to be weighed up as part of long-term planning processes and that they can result in an expectation from landowners that they are entitled to rates rebates.

Porirua City Council

- 127 PCC supports the amendments to **Methods 32** and **54** but does not support the inclusion of a date for compliance as set out in **Method 21**, requesting if a date is included that it be aligned with the requirements of the NPS-IB.

Analysis and recommendations

Method 21

- 128 In response to the PCC request to either delete the date in Method 21 or amend it to be consistent with the requirements of the NPS-IB, I note that the date in Method 21 is consistent with the date set out in the NPS-IB clause 4.2(a), which is that “Local authorities must publicly notify any policy statement or plan or changes to these necessary to give effect to subpart 2 of Part 3 (significant natural areas) and clause 3.24 (Information requirements) within five years after the commencement date.”
- 129 I do not support reinstatement of Method 21(b) as requested by Mr McDonnell, as the NPS-IB does not provide for the option of a regional council taking full responsibility to carry out a district-wide indigenous biodiversity assessment. However, I note that renumbered clause (b) does provide for the regional council to share responsibilities with territorial authorities and I consider that this appropriately provides for regional council assessments to be carried out to support district plans, as required by the NPS-IB clause 3.8(4) “If requested by a territorial authority, the relevant regional council must assist the territorial authority in undertaking its district-wide assessment.”
- 130 I do recommend the following minor consequential amendment to Method 21, following the amendments to Policy 23 which clarify in the policy that [District plans shall identify and map indigenous ecosystems and habitats with significant indigenous biodiversity values in the terrestrial environment](#):
- Method 21: ~~Information to assist with the identification~~ Identification and protection of indigenous ecosystems and habitats with significant indigenous biodiversity values**
- The regional council will liaise with the region’s territorial authorities to ensure that all district plans include, ~~by 30 June 2025 at the latest, as soon as reasonably practicable and by no later than 4 August 2028,~~ a schedule of indigenous ecosystems and habitats with significant indigenous biodiversity values [in the terrestrial environment](#) and plan provisions to protect them from inappropriate subdivision, use and development. ...

Method 32 – Partnering to identify significant sites

- 131 I agree that Method 32 is a regulatory method and therefore recommend it be relocated to **Section 4.5.1 Regulatory methods**. I note that its implementation is already directed at both the regional council and city and district councils.

Method 53 - Restoration of habitats of valued introduced species

132 I do not agree with Ms Campbell that the RPS should support restoration of non-indigenous habitats. In terms of aquatic ecosystems, I am not aware of any functions under the RMA that direct this. I am unsure what type of non-indigenous ecosystems provide habitat for trout and salmon. I disagree that Method 53 does not give effect to NPS-FM Policy 10, as Policy 10 is predicated on Policy 9:

Policy 9: The habitats of indigenous freshwater species are protected.

Policy 10: The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.

Method 54 – Rates rebates

133 Method 54(b) has been broadened from the notified version, with rates rebates retained merely as an example of an opportunity that could be used to support restoration. If the Panels consider it is not necessary, I do not consider it has to be retained.

Section 32AA evaluation

134 In accordance with section 32AA of the RMA, I consider that my recommended amendments to relocate Method 32 to sit with the regulatory methods is the most appropriate as it is a minor amendment for accuracy and to improve clarity and therefore support its effective implementation. The section 32AA analysis contained in my section 42A report in respect of these provisions still applies.

ISSUE 19: DEFINITIONS

135 The definitions relating to indigenous ecosystems are addressed in the evidence of the DGC, Fish and Game, Meridian, Waka Kotahi, and WInstones. The DGC supports the amendments recommended to align with the Interpretation section of the NPSIB.

Fish and Game

136 Ms Campbell considers that the definition for “restoration” should apply to all habitats and ecosystems, not exclusively those that are indigenous. She considers that excluding non-indigenous taxa from the definition limits the potential for restoration of these ecosystems and habitats, and subsequent enhancement of the quality of the environment and freshwater.

Meridian

137 Ms Foster requests amendments to the terms biodiversity offsetting and biodiversity compensation, to align with the definitions in the NPS-IB, which refer to ‘any more than minor residual adverse effects’. Ms Foster supports deletion of a definition for ‘protect’, replacement of Te Rito o te Harakeke with the ‘decision-

making principles for biodiversity’ and addition of a definition for ‘maintain’ in relation to indigenous biodiversity.

Waka Kotahi

138 Ms Heppelthwaite supports addition of a definition for indigenous ecosystem but prefers closer alignment to the Ministry for Environment’s (MfE) definition of native ecosystem, as the MfE terminology is more specific to the context of the NPS-IB and reference to natural character is used in other documents relating to landscape character. She recommends the following amendment:

An ecosystem dominated by native species that occurred in an area prior to human arrival with a dominant or significant indigenous natural character.

Winstone

139 Ms Clarke considers that new definitions should only be introduced where policy direction introduces a unique term, or where there is need for regional consistency for the meaning of a term. In particular:

- a. “maintain”, “protect” and “enhance” are well understood in planning by their ordinary meaning
- b. the definition of “biodiversity compensation” and “biodiversity offsetting” overlap and with “aquatic compensation” and “aquatic offsetting” by incorporating rivers and natural wetlands
- c. definitions for “naturally uncommon ecosystems” and “threatened or at-risk species” directly cross reference publications, effectively ‘grandparenting’ these terms

140 Ms Clarke considers that if definitions are introduced, they adopt the same meaning as the NPS-IB but be limited to the definitions section of the NPS-IB, and not inserting interpretation clauses from the NPS-IB such as has been proposed for the definition of “maintain” and “decision making principles”.

Analysis and recommendations

Restoration

141 I note that the definition for “restoration (**in relation to indigenous biodiversity**)” is drafted to align with that in the NPS-IB. I do not support widening the definition to apply to non-indigenous taxa, as this is not the intent of the definition, noting the text in bold above, nor do I consider it should be.

Biodiversity offsetting and Biodiversity compensation

142 Dr Maseyk has responded in her Rebuttal Evidence⁷ to the question raised by Ms Foster regarding the level of adverse effects that needs to be compensated for in biodiversity offsetting and biodiversity compensation. She agrees that the definitions should refer to “more than minor” residual adverse effects to align with the definitions in the NPS-IB and NPS-FM and I therefore recommend amendments to provide for this.

<u>Biodiversity compensation</u>	A measurable positive <u>environmental conservation</u> outcome resulting from actions that are designed to compensate for <u>more than minor</u> residual adverse <u>biodiversity</u> effects <u>on indigenous biodiversity that cannot be otherwise managed after all appropriate avoidance, minimisation, remediation, and biodiversity offsetting measures have been sequentially applied</u> . This includes <u>biodiversity compensation in the terrestrial environment and aquatic compensation for the extent and values of rivers and natural inland wetlands</u> .
<u>Biodiversity offsetting</u>	A measurable positive <u>environmental conservation</u> outcome resulting from actions designed to redress for the <u>more than minor</u> residual adverse effects on <u>indigenous biodiversity arising from activities</u> after <u>all</u> appropriate avoidance, minimisation, and remediation measures have been <u>sequentially</u> applied. The goal of biodiversity offsetting is to achieve <u>no net loss, and preferably a net gain, of in type, amount, and condition of indigenous biodiversity values compared to that lost</u> . This includes <u>biodiversity offsetting in the terrestrial environment and aquatic offsetting for the extent and values of rivers and natural inland wetlands</u> .

Indigenous ecosystem

143 I agree with Ms Heppelthwaite that use of the term “natural character” in the definition for indigenous ecosystems is problematic due to its use in RMA s6(a) and consequent association with landscape assessments. I have consulted with Dr Uys, the Council’s Senior Terrestrial Ecologist regarding use of the MfE definition suggested by Ms Heppelthwaite. He considers that use of the MfE definition is inappropriate as:

“Many of our ecosystems are no longer in their natural state. Many are regenerating or have stabilised in different states to what they would have been before human arrival. These are still predominantly indigenous ecosystems but they wouldn’t be considered to be so if they were defined

⁷ Rebuttal Evidence of Dr Fleur Maseyk, paragraphs 24-30

*according to the native species that **dominated** the area prior to human arrival.”⁸*

144 I note that there is no definition for “indigenous ecosystem” in the RMA, the Aotearoa New Zealand Biodiversity Strategy, the NPS-IB, the operative RPS, nor the Natural Resources Plan for the Wellington Region. Given that these documents have been implemented successfully in the absence of a definition for this term, as well as the fact that there is no agreed definition available, I consider that it would be more appropriate to delete this term rather than recommend a definition that is not fit-for-purpose.

<u>Indigenous ecosystem</u>	<u>An ecosystem with a dominant or significant indigenous natural character.</u>
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Section 32AA evaluation

145 In accordance with section 32AA of the RMA, I consider that my recommended amendments to the definitions for “Biodiversity offsetting” and “Biodiversity compensation” and deletion of the definition for “Indigenous ecosystem” are the most appropriate as these are minor amendments to ensure clarity and therefore support appropriate implementation of the indigenous ecosystem provisions. The section 32AA evaluation contained in my section 42A report in respect of the other definitions still applies.

DATE:

13 February 2024

PAMELA GUEST

**SENIOR POLICY ADVISOR, GREATER WELLINGTON
REGIONAL COUNCIL**

⁸ Dr Roger Uys, pers.comm 8 February 2024