

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE  
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PLAN CHANGE 1 TO THE  
NATURAL RESOURCES PLAN**

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

**IN THE MATTER OF** Hearing Submissions and Further  
Submissions on Plan Change 1 to the Natural  
Resource Plan

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**REPORTING OFFICER RIGHT OF REPLY OF MARY O'CALLAHAN**

**ON BEHALF OF WELLINGTON REGIONAL COUNCIL**

**HEARING STREAM 1 – OVERARCHING MATTERS**

**29 NOVEMBER 2024**

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## **RIGHT OF REPLY AUTHOR**

1 My full name is Mary Elizabeth O’Callahan. I am a planning consultant employed by GHD Ltd.

2 My qualifications and experience are set out in paragraphs 12 – 16 of my Section 42A Report.

3 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court’s Practice Note 2023, as applicable to this Independent Panel hearing.

## **SCOPE OF REPLY**

4 This Reply follows the Hearing Stream 1 hearing, which was held from 4-6 November 2024.

5 Minute 3 requested both the Council and Section 42A report authors submit a written Right of Reply in response to matters raised in the Minute.

6 The Reply covers:

- Responses to questions raised directly by the Panels in Minute 3 as relevant to the overarching matters topic; and
- Responses and further comments in response to questions asked by the Panels during the hearing.

## **RESPONSE TO MATTERS RAISED IN MINUTE 3**

7 In Minute 3, the Panels requested that the Council upload to the Hearings webpage a list of the provisions coded to each hearing stream, and a sequential list of the PC1 provisions stating the hearing stream they will be considered in. The Council has uploaded the following resources to the Hearings webpage to assist submitters in their preparation:

- A list of the provisions coded to each hearing stream, outlining which provisions are being considered in HS1 and subsequent hearing streams.
- A sequential list of all PC1 provisions, indicating the specific hearing stream in which they will be considered.

8 These documents are accessible on the [Greater Wellington — Hearings](#) webpage under the ‘Guide to Provisions for Submitters’ section.

9 In Minute 3 the Panels request the following information from the Council:

*‘...a wiring diagram showing the provisions in the Decisions version of the Regional Policy Statement (RPS) and how these cascade through to the Natural Resources Plan Proposed Change 1 (PC1) provisions. We request that this wiring diagram include the RPS provisions relevant to the PC1 threatened species and other schedules considered in HS1.’*

- 10 I have prepared a wiring diagram in response to this request, included as Appendix 1. Included with this is a table listing the policies and rules of PC1 for each 'topic' illustrated on the diagram. The 'topics' reflect the PC1 hearing streams relevant to the NPS-FM PC1 content. To avoid complicating the diagram, the region-wide rule changes are not shown on the wiring diagram or included within the accompanying table.
- 11 The diagram shows those RPS Change 1 provisions that are relevant to PC1 which are currently under appeal to the Environment Court<sup>1</sup>. Several of the provisions that formed part of the Freshwater Planning Instrument (FPI) of RPS Change 1 are subject to appeal.
- 12 At paragraph 9, Minute 3 also requested in relation to 'Definitions' that Council confirm whether definitions will be discussed under each respective hearing topic, or as an integrated topic at the end. This request was made in relation, but not limited to, the s42A report on overarching matters and the use of te reo Māori terms in Table 5, and in paragraphs 194 -198 of that report.
- 13 I confirm that all definitions have been assigned to a specific hearing topic where the definition is used within PC1, i.e. the parent provision, or the most relevant parent provision, where used across multiple topics. The definition issues assigned to the overarching topic were the submissions requesting English translations of te reo Māori terms used in the plan change, requests for changes to definitions not within PC1, and submissions seeking use of National Planning Standard definitions and/or definitions from other legislation.
- 14 In the case of the submission seeking translations of te reo Māori terms, I provided some preliminary comments in my section 42A report and determined that the issue of whether to include the explanation of the terms set out in Table 5 as a definition should be revisited as part of future hearing streams, namely the objectives, wastewater and stormwater topics.

#### **ADDITIONAL QUESTIONS FROM THE PANELS**

- 15 During the hearing, Commissioner McGarry sought confirmation about whether there are any Mana Whakahono ā Rohe in the region. A Mana Whakahono ā Rohe is a binding statutory arrangement under sections 58M-58U of the RMA that provides for a structured relationship between a local authority and iwi/hapū authorities. Council staff have informed me that there are no such agreements in place or underway in the Wellington Region.
- 16 Commissioner McGarry also asked whether there was any update to incomplete submission information noted in paragraph 82 of my section 42A report. I can confirm that Mr Josh Ruddock contacted the author of the incomplete submission by phone on 27 November 2024 after earlier email attempts. While the

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<sup>1</sup> Information on appeals received on RPS Change 1 was provided to me on 22 November 2024 by Richard Shield, Kaitohutohu Matua/Senior Policy Advisor, GWRC

submitter was not able to confirm during that call whether she wished to be heard (the incomplete submission detail), she advised she would respond to Mr Ruddock on this matter shortly.

- 17 Commissioner Wratt and Chair Nightingale asked me questions regarding my position on the whitua exclusion icon proposed in PC1 for Objectives O2 and O6. My recommendation during the hearing was that the icon should not be applied to O2, but it should be retained for O6. I then suggested I would review my position on Objective O6 given the content is directly related to water use and allocation. PC1 only covers water use and allocation in Te Awarua-o-Porirua (TAoP), not for Te Whanganui-a-Tara (TWT).
- 18 After further consideration, I confirm the PC1 objectives do not differentiate between the TWT and TAoP chapters in terms of how water allocation, land uses and discharge activities are dealt with i.e. the outcomes sought for all these activities is maintained or improved water quality and ecosystem health. The existing operative water allocation policies and rules in chapter 8 of the NRP stand at this stage, while for TAoP, the policies and rules are proposed to be amended under PC1. Accordingly, there is no need for a differing approach for TWT versus TAoP at the objective level, including for O6.
- 19 I have discussed the O6 matter with Meridian's planning witness Christine Foster after the hearing, to gain a better understanding of her concern and the impact on Meridian and infrastructure providers generally, as her evidence did not support adding an icon to O6 despite there being separate objectives in the NRP that recognise and provide for regionally significant infrastructure (RSI). I now understand that Ms Foster's concern was broader than just RSI, about the lack of recognition of water use for TWT and TAoP under PC1 if O6 no longer applies in these whitua, as is legitimately enabled by the second and third limbs of Te Mana o te Wai. I concur with Ms Foster that this is a gap as the second and third limbs do not appear to be covered in the new objectives. In my opinion, at this early stage in my work on the section 42A report for the 'objectives' topic, it is preferable that the O6 icon matter is deferred to that topic so that 'water use' content may be considered and added to the TWT and TAoP objectives. That way it can be nuanced to reflect the higher order direction. Assuming that occurs, an icon on O6 may then be appropriate.
- 20 Accordingly, I respectfully request to defer my recommendation on O6 to the Hearing Stream 2 Objectives topic, so a more fulsome assessment can be presented once any recommendations I might recommend for the TWT and TAoP objectives have been set out. This will also be considered along with other submissions on O6 that were not coded to the 'overarching' topic, on the basis they did not contain out of scope requests to alter the drafting of such provisions. All submissions on O6 will therefore be revisited as part of the 'objectives' topic.
- 21 In response to questions from Commissioner Kake about the reason for differences between the objectives in TWT and TAoP in relation to the explanations for 'wai ora' which form part of both WH.O1 and P.O1, with only the latter including a reference to 'mauri'. I advised during the hearing that these objectives were either drafted in consultation with, or by, mana whenua. Council staff have subsequently

advised me that the drafting was informed by the respective WIPs and the following mana whenua documents:

- Te Mahere Wai o Te Kāhui Taiao: A Mana Whenua implementation plan to return mana to our freshwater bodies<sup>2</sup> (TWT), and
- Te Awarua-o-Porirua Whaitua Implementation Programme: Ngāti Toa Rangatira statement<sup>3</sup> (TAoP)

22 Drafting of these objectives was undertaken by Council officers in consultation with a representative of Ngāti Toa. While Taranaki Whānui did not have resources for inputting to the drafting of PC1, it was understood that Te Mahere Wai relied on by Council staff reflected the long-term outcome they sought for their rohe (i.e. TWT).

## CONCLUSION

23 I do not propose changes to any recommendations in my section 42A report, other than to defer my recommendation for the submissions on O6 to the objectives hearing report. This affects the submission of Wellington Water Ltd [S151.033] and the further submissions of Winstone Aggregates [FS8.039], Forest & Bird [FS23.1360] and Meridian Energy Limited [FS47.136].

24 Also deferred to future hearing streams is the submission of NZFFA [S195.003] and the further submission of Forest & Bird [FS23.406] concerning English translation of te reo terms used in the plan change, to the future topics detailed in paragraph 14.

**29 NOVEMBER 2024**

**MARY O'CALLAHAN**

**TECHNICAL DIRECTOR PLANNING, GHD**

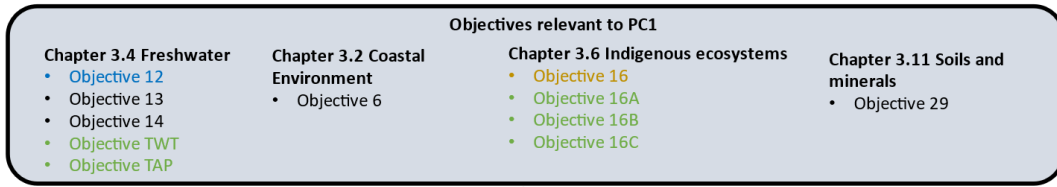
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<sup>2</sup>[https://www.gw.govt.nz/assets/Documents/2021/12/te\\_mahere\\_wai\\_20211028\\_v32\\_DIGI\\_FINAL.pdf](https://www.gw.govt.nz/assets/Documents/2021/12/te_mahere_wai_20211028_v32_DIGI_FINAL.pdf)

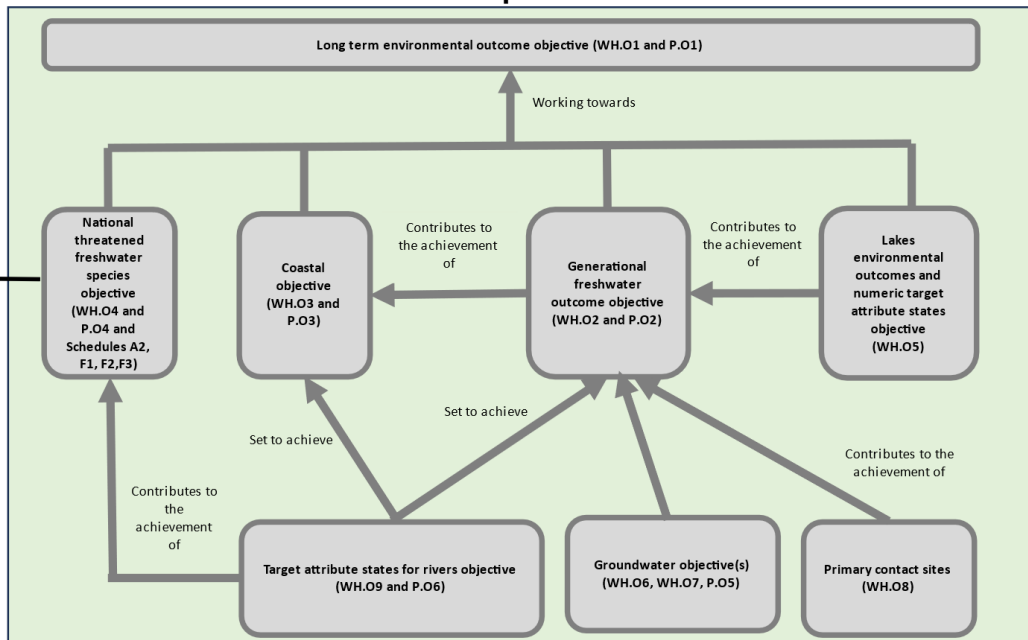
<sup>3</sup><https://www.gw.govt.nz/assets/Documents/2021/12/ngatitoataopwhaituastatement-v2.pdf>

**APPENDIX 1 – WIRING DIAGRAM AND SUPPORTING TABLE**

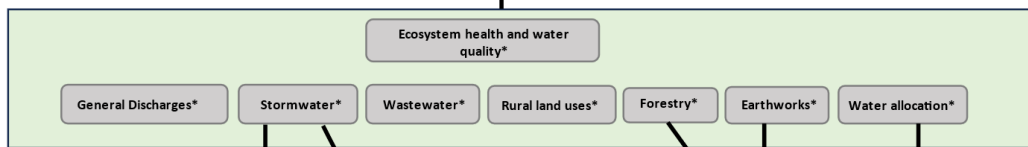
**Regional Policy Statement**



**Plan Change 1**

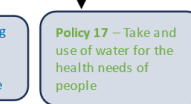
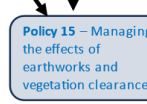
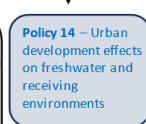


Objectives



Policies & rules\*

Topic-specific RPS Policies



**Legend**

Operative RPS Provision

RPS Change 1 Provision – beyond legal challenge

RPS Change 1 Provision (FPI) – under appeal to the Environment Court

RPS Change 1 Provision (P1S1) – under appeal to the Environment Court

\* See attached table for list of policies and rules within each PC1 topic



**List of PC1 policy and rule provisions assigned to topics where annotated on wiring diagram by an asterisk (\*)**

Topic	Policies	Rules and Schedules
Ecosystem health and water quality	<p><b>Policy WH.P1 and Policy P.P1</b> – Improvement of aquatic ecosystem health</p> <p><b>Policy WH.P2 and Policy P.P2</b> – Management of activities to achieve target attribute states and coastal water objectives</p> <p><b>Policy WH.P3 and Policy P.P3</b> – Freshwater Action Plans role in the health and wellbeing of waterways</p> <p><b>Policy WH.P4</b> – Achievement of the visual clarity target attribute states</p> <p><b>Policy P.P4</b> – Contaminant Load Reductions</p>	All PC1 rules
General discharges	<p><b>Policy WH.P5</b> – Localised adverse effects of point source discharges</p> <p><b>Policy WH.P6</b> – Cumulative adverse effects of point source discharges</p> <p><b>Policy WH.P7</b> – Discharges to groundwater</p> <p><b>Policy WH.P8 and Policy P.P8</b> – Avoiding discharges of specific products and waste</p>	N/A – general discharge rules are contained within Operative NRP
Stormwater	<p><b>Policy WH.P9 and Policy P.P9</b> – General stormwater policy to achieve the target attribute states and coastal water objectives</p> <p><b>Policy WH.P10 and Policy P.P10</b> – Managing adverse effects of stormwater discharges</p> <p><b>Policy WH.P11 and Policy P.P11</b> – Discharges of contaminants in stormwater from high risk industrial or trade premises</p> <p><b>Policy WH.P12</b> – Managing stormwater from a port or airport</p> <p><b>Policy WH.P13 and Policy P.P12</b> – Managing stormwater network discharges through a Stormwater Management Strategy</p> <p><b>Policy WH.P14 and Policy P.P13</b> – Stormwater discharges from new and redeveloped impervious surfaces</p> <p><b>Policy WH.P15 and Policy P.P14</b> – Stormwater contaminant offsetting for new greenfield development</p> <p><b>Policy WH.P16 and Policy P.P15</b> – Stormwater discharges from new unplanned greenfield development</p>	<p><b>Rule WH.R1 and Rule P.R1</b> – Point source discharge of contaminants – Prohibited activity</p> <p><b>Rule WH.R4 and Rule P.R4</b> – Stormwater from an existing high risk industrial or trade premise – permitted activity</p> <p><b>Rule WH.R5 and Rule P.R5</b> – Stormwater from new and redeveloped impervious surfaces – permitted activity</p> <p><b>Rule WH.R6 and Rule P.R6</b> – Stormwater from new greenfield impervious surfaces – controlled activity</p> <p><b>Rule WH.R7 and Rule P.R7</b> – Stormwater from new and redeveloped impervious surfaces of existing urbanized areas – controlled activity</p> <p><b>Rule WH.R8</b> – Stormwater from a port or airport – restricted discretionary activity</p>

		<p><b>Rule WH.R9 and Rule.PR8</b> – Stormwater from a local authority or state highway network – restricted discretionary activity</p> <p><b>Rule WH.R11 and Rule P.R10</b> – Stormwater from new and redeveloped impervious surfaces – discretionary activity</p> <p><b>Schedule 29</b> – Stormwater Impact Assessments</p> <p><b>Schedule 30</b> – Financial Contributions</p> <p><b>Schedule 31</b> – Stormwater Management Strategy – Te Whanganui-a-Tara and Te Awarua-o-Porirua</p>
Wastewater	<p><b>Policy WH.P17 and Policy P.P16</b> – General wastewater policy to achieve target attribute states and coastal objectives</p> <p><b>Policy WH.P18 Policy P.P17</b> – Progressing works to meet Escherichia coli target attribute states</p> <p><b>Policy WH.P19 and Policy P.P18</b> – Managing wastewater network catchment discharges</p> <p><b>Policy WH.P20 and Policy P.P19</b> – Managing existing wastewater treatment plant discharges</p>	<p><b>Rule WH.R14 and Rule P.R13</b> – Wastewater network catchment discharges – restricted discretionary activity</p> <p><b>Rule WH.R15</b> – Existing wastewater discharges from a treatment plant – discretionary activity</p> <p><b>Rule P.R14</b> – Existing wastewater discharges from a treatment plant to coastal and freshwater</p> <p><b>Schedule 32</b> – Wastewater Network Catchment Improvement Strategy</p>
Rural land uses	<p><b>Policy WH.P21 and Policy P.P20</b> – Managing diffuse discharges of nutrients and Escherichia coli from farming activities</p> <p><b>Policy WH.P22 and Policy P.P21</b> – Capping, minimising and reducing diffuse discharges of nitrogen from farming activities</p> <p><b>Policy WH.P23 and Policy P.P22</b> – Achieving reductions in sediment discharges from farming activities on land with high risk of erosion</p> <p><b>Policy WH.P24 and Policy P.P23</b> – Phasing of farm environment plans</p> <p><b>Policy WH.P25 and Policy P.P24</b> – Managing rural land use change</p> <p><b>Policy WH.P26</b> – Managing livestock access to small rivers</p>	<p><b>Rule WH.R26 and Rule P.R25</b> – Farming activities on properties of between 4 hectares and 20 hectares – permitted activity</p> <p><b>Rule WH.R27 and Rule P.R26</b> – Farming activities on 20 hectares or more of land – permitted activity</p> <p><b>Rule WH.R30 and Rule P.R27</b> – The use of land for farming activities – discretionary activity</p> <p><b>Rule WH.R31 and Rule P.R28</b> – Change of rural land use – discretionary activity</p>

	<b>Policy WH.P27 and Policy P.P25</b> – Promoting stream shading	<p><b>Rule WH.R32 and Rule P.R29</b> – Farming activities – non complying activity</p> <p><b>Schedule 35</b> – Small Farm Registration  <b>Schedule 36</b> – Additional Requirements for Farm Environment Plans in Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua</p>
Forestry	<b>Policy WH.P28 and Policy P.P26</b> – Achieving reductions in sediment discharges from plantation forestry	<p><b>Rule WH.R17 and Rule P.R16</b> – Vegetation clearance on highest erosion risk land – permitted activity  <b>Rule WH.R18 and Rule P.R17</b> – Vegetation clearance on highest erosion risk land – controlled activity  <b>Rule WH.R19 and Rule P.R18</b> – Vegetation clearance – discretionary activity  <b>Rule WH.R20 and Rule P.19</b> – Plantation Forestry – controlled activity  <b>Rule WH.R21 and Rule P.R20</b> – Plantation forestry – discretionary activity  <b>Rule WH.R22 and Rule P.R21</b> – Plantation forestry on highest erosion risk land</p> <p><b>Schedule 33</b> – Vegetation Clearance Erosion and Sediment Management Plan  <b>Schedule 34</b> – Plantation Forestry Erosion and Sediment Management Plan</p>
Earthworks	<p><b>Policy WH.P29 and Policy P.P27</b> – Management of earthworks  <b>Policy WH.P30 and Policy P.P28</b> – Discharge standard for earthworks  <b>Policy WH.P31 and Policy P.P29</b> – Winter shut down of earthworks</p>	<p><b>Rule WH.R23</b> – Earthworks – permitted activity  <b>Rule WH.R24</b> – Earthworks – restricted discretionary activity  <b>Rule WH.R25</b> – Earthworks – non-complying activity</p>
Take and use of water	<b>Policy P.P30</b> – Minimum flows and minimum water levels in Whaitua Te Whanganui-a-Tara/Te Awarua-o-Porirua Whaitua	<b>Rule P.R30</b> – Take and use of water – permitted activity

<p>Note - updated policies and rules are only included in PC1 for Te Awarua-o-Porirua Whaitua. For Whaitua Te Whanganui-a-Tara operative NRP policies and rules continue to apply).</p>	<p><b>Policy P.P31</b> – Water takes at minimum flows and minimum water levels</p> <p><b>Policy P.P32</b> – Allocation in the Te Awarua-o-Porirua Whaitua</p>	<p><b>Rule P.R31</b> – Take and use of water -restricted discretionary activity</p> <p><b>Rule P.R32</b> – Take and use of water – discretionary activity</p> <p><b>Rule P.R33</b> – Taking and use of water that exceeds minimum flows or allocation amounts – prohibited activity</p>
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