

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of **PROPOSED CHANGE 1** to the **GREATER WELLINGTON REGIONAL POLICY STATEMENT**

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**OUTLINE OF LEGAL SUBMISSIONS OF COUNSEL FOR WELLINGTON  
FISH AND GAME COUNCIL**

**HEARING STREAM 5 – TE MANA O TE WAI AND FRESHWATER**

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**1. INTRODUCTION**

1.1 The Wellington Fish and Game Council (“Fish and Game”) supports the amendments proposed to the Te Mana o te Wai and Freshwater provisions in the section 42A report, subject to further amendments to address issues arising from Fish and Game’s submission on those provisions.

1.2 The further amendments relate to the wording of:

- (a) Objective 12.
- (b) Policy 12.
- (c) Policy 18.
- (d) Policy 40.
- (e) Objective 13 – Anticipated environmental results (“AER”) 1 and 4.

1.3 The further amendments are addressed below by reference to the following headings:

- (a) Objective 12 (Section 2).
- (b) Policy 12 (Section 3).
- (c) Policy 40 and Policy 18 (Section 4).
- (d) Objective 13 – AER 1 and 4 (Section 5).

**Evidence**

1.4 Fish and Game has filed evidence from:

- (a) Ami Coughlan – Resource Officer at Fish and Game; and
- (b) Lily Campbell – Senior Planner at Kāhu Environmental Limited.

1.5 Ms Coughlan’s evidence provides some context for the amendments sought by Fish and Game to Proposed Change 1 which are addressed in Ms Campbell’s evidence.

1.6 Ms Campbell’s evidence addresses the amendments sought by Fish and Game by reference to the submission of Fish and Game and the provisions of the National Policy Statement for Freshwater Management 2020 (“NPSFW”) that are relevant to the amendments sought.

**2. OBJECTIVE 12**

2.1 The amendments sought by Fish and Game to Objective 12 are to include the following words (somewhere) after the chapeau:

x) Supports the wellbeing and safety of the community, by providing for the ability of people to carry out recreational activities, in and around freshwater environments.

y) Provides for an abundance and diversity of freshwater habitats that supports a healthy population of trout, where that is consistent with protecting the habitat of indigenous species.

z) Preserves the natural character and form of waterbodies.

2.2 The reasons for the above amendments are addressed in some detail in paragraphs 12 to 32 of Ms Campbell’s evidence. In brief summary, those reasons are:

- (a) Recreational activities are a key part of providing for the health and wellbeing of the community (present and future), and the community is central to Te Mana o te Wai;
- (b) Human contact is a compulsory value in the NOF that includes recreational activities such as fishing and swimming.
- (c) Fishing includes fishing for trout and Policy 10 of the NPSFW requires the habitat of trout to be protected insofar as doing so is consistent with Policy 9, which provides for protection of the habitats of indigenous freshwater species.
- (d) Protecting the habitat of trout and providing an abundant and diverse habitat will, on the whole, also protect indigenous freshwater species.
- (e) Preservation of the natural character of rivers is a matter of national importance that must be recognised and provided for and preserving the natural character of rivers is fundamental to giving effect to Te Mana o te Wai.

### 3. **POLICY 12**

3.1 The amendment sought by Fish and Game to Policy 12 is:

***Policy 12: Management of water bodies – regional plans***

*Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and/or methods that:*

(a) *are prepared in partnership with mana whenua / tangata whenua and through engagement with communities, stakeholders and territorial authorities, and enable the application of mātauranga Māori ;*

(aa) *adopt an integrated approach, ki uta ki tai*

...

3.2 The amendment is consistent with Clause 3.2(1) and (2)(b) of the NPSFW and will ensure that regional plans will give effect to Te Mana o te Wai, including with respect to engagement with communities and stakeholders. Ms Campbell addresses the reasons for the amendment sought in paragraphs 33 to 39 of her evidence.

3.3 As regards inclusion specifically of the word stakeholders, rather than just communities, that wording is consistent with wording in other provisions of the RPS. In addition, as can be seen from Ms Coughlan’s evidence, stakeholders

such as Fish and Game bring a wealth of knowledge and experience to the table in relation to freshwater management that other members of the community do not have. That experience and knowledge arises from, amongst other matters, engagement in freshwater related planning processes over many years.

- 3.4 Identifying stakeholders specifically is also consistent with Clause 3.2(2)(d) of the NPSFW on the basis that they possess some of the diversity of knowledge referred to in that clause.
- 3.5 Finally, counsel notes that paragraph 4.4 of Ms Coughlan's evidence states the following regarding the importance of stakeholder engagement and collaboration with tangata whenua and councils:

*Any species interaction management actions should be undertaken as a collaborative, matauranga and science-based event with iwi, relevant council bodies, the Department of Conservation, and Fish and Game councils.*

#### 4. **POLICY 40 AND POLICY 18**

- 4.1 The amendments sought by Fish and Game to Policy 40 are to amend part (o) as follows:

(o) avoiding the loss of river extent or values, ~~to the extent practicable unless:~~

- (i) there is a functional need for the activity in that location; and  
(ii) the effects of the activity are managed by applying the effects management hierarchy.

- 4.2 The above amendments are addressed in Ms Campbell's evidence at paragraphs 41 to 57. In summary, the primary reasons for seeking the amendments are:
- (a) The functional need and effects management hierarchy tests are included in Clause 3.24(1) of the NPSFW in relation to the avoidance of the loss of river extent or values.
- (b) The definition of the effects management hierarchy in Clause 3.21(1) of the NPSFW sets out the practicability requirements in (a) to (c) that have to be met if there is to be a loss of river extent or values.
- (c) The word practicable in Policy 7 of the NPSFW needs to be read in light of the more specific requirements of Clause 3.21(1) and 3.24(1) of the NPSFW.
- (d) The amendments sought by Fish and Game are consistent with the wording of Clause 3.24(1) of the NPSFW.

(e) The Wellington Natural Resources Plan ("NRP") includes provisions to give effect to Clause 3.24(1).

(f) There should be policy alignment between the RPS and the NRP, with the RPS providing clear policy direction for the NRP.

4.3 The amendments sought by Fish and Game to Policy 18(e) are the same as the amendments sought to Policy 40(e) set out above and are sought primarily for the same reasons. They are addressed in paragraphs 51 to 58 of Ms Campbell's evidence.

## 5. **OBJECTIVE 13 – AER 1 AND AER 4**

### **AER 1**

5.1 The amendments sought by Fish and Game to AER 1 are to include the following words:

*1. Macro-invertebrate diversity and sensitive macroinvertebrate taxa abundance in rivers and lakes is improved where degraded, and maintained otherwise, across the Region.*

5.2 The amendment is consistent with Policy 5 of the NPSFW, which states:

**Policy 5:** *Freshwater is managed (including through a National Objectives Framework) to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.*

5.3 As can be seen, Policy 5 requires degraded freshwater bodies and ecosystems to be improved and the health and wellbeing of all other water bodies to be maintained, or improved if communities choose improvement.

5.4 Ms Campbell addresses the amendment in paragraphs 59 to 66 of her evidence. Amongst other matters, she notes at paragraph 62 of her evidence that the amendment recommended by the reporting officer does not align with the analysis of the reporting officer in the section 42A report.

### **AER 4**

5.5 The wording of AER sought by Fish and Game is addressed in paragraphs 67 to 69 of Ms Campbell's evidence. At paragraph 69 of her evidence, Ms Campbell recommends the following wording:

*The protection of existing Existing fish habitat supports healthy fish populations, and the diversity of valued fish fauna is maintained or increased across the region.*

- 5.6 The above wording is very similar to the wording recommended in the section 42A report, but the emphasis is on the protection of existing fish habitat to better align AER 4 with Policies 9 and 10 of the NPSFW.

**DATED** at **AUCKLAND** on 3 November 2023

A handwritten signature in blue ink, consisting of several overlapping loops and a final stroke extending to the right.

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C D H Malone

Counsel for Wellington Fish and Game Council