

BEFORE THE GREATER WELLINGTON REGIONAL COUNCIL

IN THE MATTER

of the Resource Management Act 1991

AND

of proposed Change 1 to the Wellington Regional Policy
Statement.

Legal Submissions on behalf of

the Director-General of Conservation / *Tumuaki Ahurei*

Hearing Stream 6 Indigenous Ecosystems

dated 29 January 2024

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May it please the Panel

INTRODUCTION

1. These legal submissions relate to Hearing Stream 6 – Indigenous Ecosystems for the proposed Wellington Regional Policy Statement Change 1.
2. The Director-General’s case is supported by evidence from Mr Murray Brass, Senior RMA Planner employed by the Department of Conservation.
3. The Department of Conservation has functions which include advocating for the conservation of natural and historic resources generally.¹ The Department also supports the Minister of Conservation who has a statutory role under the Resource Management Act 1991 (RMA) to monitor the effect and implementation of the New Zealand Coastal Policy Statement² which provides national direction on indigenous biodiversity in the coastal environment.³

LEGAL FRAMEWORK

4. I concur with the entirety of Ms Anderson and Ms Manohar’s legal submissions for Wellington Regional Council on Hearing Stream 6 dated 19 December 2023. Aspects I’d like to emphasise are:
 - 4.1. The NPS-IB must be given effect to by specified timeframes, or otherwise as soon as reasonably practicable;⁴
 - 4.2. There must be scope within the current process to do that;⁵
 - 4.3. There is scope within the current process to do that;⁶
 - 4.4. Nothing in the NPSIB limits GWRC’s functions and duties under the RMA in relation to indigenous biodiversity;⁷
 - 4.5. Changes proposed to implement the NPSIB through Change 1 are also:
*... consistent with GWRC’s functions, including in respect of maintaining indigenous biological diversity (section 30(1)(ga)), and the requirement to recognise and provide for the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, and the requirement to have particular regard to the intrinsic values of ecosystems contained in section 6(c) and 7(d) of the RMA.*⁸

¹ Conservation Act 1987 section 6(ab) and (b).

² RMA 1991 s 28.

³ New Zealand Coastal Policy Statement 2010, policy 11.

⁴ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 9.6 – 9.7.

⁵ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 13.

⁶ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 22-28.

⁷ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 9.8.

⁸ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 20.

5. Mr Wyeth's 'guiding principles' for which parts should be addressed through Change 1 support the submission that GWRC has carefully considered what is reasonably practicable to implement through Change 1 in the current context.⁹

Director-General's evidence

6. Mr Brass is largely supportive of the recommendations in the s42A report.
7. Issue 2.2 – new Policy IE.2A relates to indigenous biodiversity outside SNAs. Sections 30(1)(ga) and 31(b)(iii) give councils functions that require indigenous biodiversity to be maintained in regions and districts. This requires plans and policy statements to provide for indigenous biodiversity outside SNAs because ecosystems and habitats that do not meet the criteria for SNAs or other significance criteria still play an important part in contributing to indigenous biodiversity generally, such as through habitat and corridors. As such, I submit new Policy IE.2A is consistent with the Act.

DATED 29 January 2024



Katherine Anton
Counsel for the Director-General of Conservation

⁹ GWRC legal submissions for Hearing Stream 6, 19 December 2023, para 16 - 17.