

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.

**Evidence of Murray John Brass on behalf of
the Director-General of Conservation / *Tumuaki Ahurei*
Hearing Stream 7 – Small topics, wrap up and Variation 1
dated 27 March 2024**

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Introduction

1. My full name is Murray John Brass.
2. I have been asked by the Director-General of Conservation / *Tumuaki Ahurei* ('the D-G') to provide planning evidence on the proposed Wellington Regional Policy Statement Change 1 ('WRPS PC1').
3. This evidence relates to Hearing Stream 7 - Small topics, wrap up and Variation 1.

Background information

4. I am employed by the Department of Conservation (DOC) in Dunedin as a Senior RMA Planner. My qualifications and experience are as set out in my earlier evidence for Hearing Stream 2 Integrated Management.
5. I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court Practice Note 2023, and the equivalent in the Chief Freshwater Commissioner and Freshwater Hearings Panels Practice and Procedures Note 2020. I have complied with those Practice Notes when preparing my written statement of evidence and will do so when I give oral evidence before the hearing.
6. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
7. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of evidence

8. This evidence covers matters raised in the D-G's submission where these are included in the various topics covered by Hearing Stream 7:
 - Consequential amendments
 - Definitions
 - Natural character
 - Omitted submission points
 - Variation 1

Material Considered

9. I have read the following documents:

- Wellington Regional Policy Statement Proposed Change 1;
- The s32 Evaluation Report dated August 2022;
- The s32 Evaluation Report for Variation 1 dated August 2022
- The D-G's submission dated 12 October 2022;
- The D-G's further submission dated 19 December 2023;
- The D-G's submission on Variation 1 dated 30 October 2023;
- Other submissions where they are referred to in my evidence; and
- The s42A reports for Hearing Stream 7, dated 8 March 2024 for the Variation 1 Report and 11 March 2024 for all other Reports.

Statutory considerations

10. The s32 Report identifies the overall planning context for the proposed change, with further specific assessments included as relevant in the various s42A Reports. I am generally comfortable with those assessments, and where I have specific points to make these are addressed in the content of my evidence below.

Overview of evidence

11. The s42A Reports cover a range of matters, many of which are minor changes or improvements for clarity, so I have focussed my evidence on areas which remain in contention or where I have outstanding concerns. This includes:

- Natural character – I support the recommended re-insertion of explanatory text for Policy 3;
- Omitted submission points – I support the s42A Report's approach to consideration policies;
- Variation 1 – I support the Variation and the amendments proposed, but have concerns about the drafting of limitations to public access.

12. While this evidence addresses those specific matters, I confirm that I remain available should the Panel have questions on any other matters. I also confirm that I have reviewed the Panel's questions regarding integration as set out in Minute 23,

and I do not have any further comments other than where those matters are covered more generally in my evidence.

Natural character – Policy 3

13. The s42A Report: Natural Character recommends that explanatory text previously removed from Policy 3 is added back in, with some modification. This is in response to various submissions seeking improvements to clarity, including the D-G's submission which noted that some elements of the deleted explanation could be retained or reworded.
14. The proposed additions provide clear links to the higher level documents (RMA s6(a) and the New Zealand Coastal Policy Statement 2010), and also to relevant guidance material provided by DOC.
15. The s42A Report also recommends replacing instances of "and/or" in the Policy with "and", as that better reflects the construction and intent of the provisions.
16. I confirm that I support those changes and additions, as they appropriately reflect the higher order documents, and improve clarity and implementation of the RPS for users.

Omitted submission points: Consideration policies

17. The s42A Report considers a general submission by Wellington City Council seeking that higher-level documents or policies should no longer apply once a plan already gives effect to that document or policy. The s42A Report recommends that this submission point be declined, except where analysis of specific provisions justifies such an approach.
18. In my opinion, it would be overly simplistic to assume that once a new or reviewed plan is in place that an end-point has been reached.
19. Rather, my experience is that circumstances and issues can change and develop over time, and that plan provisions do not always play out exactly as originally intended. It can therefore be useful to retain the ability to refer to higher order provisions. This provides improved certainty of outcomes, and improved clarity for plan users. I do not see any cost in doing so – if a higher order provision adds nothing to subsequent provisions, then that requires negligible time or effort to address for applicants or s42A report authors, and would not alter the outcome.

20. I therefore support the s42A Report, and consider that higher order provisions should remain in effect unless specific assessment has shown that this is no longer required.

Variation 1

21. In addition to the D-G's submission on RPS Change 1, the D-G also submitted on proposed Variation 1 to the RPS Change. The submission supported the proposed addition of two long-term visions, on the basis that this gives effect to the National Policy Statement for Freshwater Management 2020, and to Te Mana o te Wai.
22. The s42A Report generally accepts that submission, but recommends a number of changes to wording in response to other submissions.
23. I have reviewed those proposed changes and am generally comfortable with them, and with the reasoning in the s42A Report. I also confirm that I strongly support that addition of these visions, for the reasons given in the s32 Report and the D-G's submission.
24. However, one proposed change is the insertion of new text into Clause 4 (relating to public access) for both Objectives:

"Where appropriate and with the agreement of private landowners, P provide for safe and healthy access and use..."

25. Although I agree with the s42A Report that it would be inappropriate to direct that public access should *always* be provided for, I consider that the proposed change goes too far in only providing for access with the agreement of landowners. In particular, as this is an RPS objective, it will be relevant to district plans and resource consents relating to esplanade reserves and esplanade strips.
26. The clear expectation in the RMA (s230), and in district plans and consents in my experience, is that these are requirements which are automatically triggered upon certain types of subdivision. Plans and resource consents can modify those requirements, but the default setting is that they are required and any modification is subject to the relevant provisions of the RMA and planning documents. In practice, this tends to be where there are physical limitations to where access can be provided, or e.g. biodiversity or cultural reasons for reducing the width of the access requirement.

27. My reading of the proposed change is that it would reverse that presumption, such that esplanade reserves and esplanade strips would only be applied with the agreement of the landowner. I suspect this was not the intent of the submitters or s42A Report author, but I consider that it would be a likely outcome. This could lead to significantly less provision for public access than would otherwise occur over time as properties adjoining water bodies are subdivided.
28. The proposed changes include other reference to “where appropriate” and “safe and healthy access”. I consider that these would in themselves provide sufficient direction on when public access should be provided for – they would allow consideration of the specific circumstances when deciding whether to apply esplanade reserves or esplanade strips, and would also allow consideration of impacts on landowners in more general use of the Objective. I therefore recommend that the reference to the agreement of private landowners be removed:

~~“Where appropriate and with the agreement of private landowners, provide~~
for safe and healthy access and use...”

General comment – other changes

29. The s42A Reports include a variety of other recommendations which I have not addressed above. I confirm that I have reviewed those other recommendations and am generally supportive.



Murray Brass

DATED this 27th day of March 2024