

**Proposed Change 1 to the Regional Policy
Statement for the Wellington Region**

**Section 42A Hearing Report
Hearing Stream 1**

Topic: S42A Overview Report

**Process: Freshwater Planning Process and Schedule 1, Part 1
Process**

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Hearing Date: 26 June 2023

Contents

Executive Summary.....	1
Interpretation.....	1
1.0 Introduction.....	1
1.1 Purpose.....	1
1.2 Author.....	1
1.3 Reports prepared under section 42A of the Resource Management Act 1991.....	2
1.4 Purpose and Scope of the Overview Report.....	3
2.0 Background to Change 1.....	3
2.1 Purpose of Change 1.....	3
2.2 Section 32AA.....	4
2.3 Consultation and Engagement in Preparing Change 1.....	4
2.4 Statutory Considerations in the Preparation of Change 1.....	7
2.5 Public Notification of Change 1.....	8
3.0 Submissions.....	8
3.1 Submissions received.....	8
3.2 Late Submissions.....	9
3.3 Incomplete Submissions.....	10
4.0 Decision-Making Process.....	11
4.1 Two Plan-making processes.....	11
4.2 Appointment of Hearings Panels.....	13
4.3 Hearings.....	14
4.4 Procedures and Timeframes for Decision-making.....	14

Executive Summary

1. Greater Wellington Regional Council ('the Council') has prepared Proposed Change 1 to the Regional Policy Statement for the Wellington Region ('Change 1'). The Council is now preparing for hearings on submissions in relation to Change 1.
2. This report is an 'Overview s42A report' for Change 1. It sets out the background and context for Change 1 to support the Independent Hearings Panels in their deliberations.
3. The report sets out:
 - the background and context for Change 1
 - the forthcoming s42A reports on topic-specific matters
 - a brief summary of the consultation and engagement that has been undertaken in the preparation of Change 1
 - the process for notification of Change 1
 - the plan-making processes that Change 1 is following
 - information about the submissions and further submissions that have been received including late, withdrawn and incomplete submissions.
 - how the hearing panels were appointed and the decision-making process for Change 1.

Interpretation

4. This report utilises a number of abbreviations as set out in the table below.

Table 1: Abbreviations of terms

Abbreviation	Means
Change 1	Proposed Change 1 to the Regional Policy Statement for the Wellington Region
FPI	Freshwater Planning Instrument
FPP	Freshwater Planning Process
NPS	National Policy Statement
NPS-FM	National Policy Statement for Freshwater Management 2020
NPS-IB (draft)	National Policy Statement on Indigenous Biodiversity – exposure draft
NPS-REG	National Policy Statement for Renewable Electricity Generation 2011
NPS-UD	National Policy Statement on Urban Development 2020
NZCPS	New Zealand Coastal Policy Statement 2014
P1S1	Part 1, Schedule 1 of the RMA
PNRP	Proposed Natural Resources Plan for the Wellington Region
RPS	Operative Regional Policy Statement for the Wellington Region 2013
s42A	Section 42A of the Resource Management Act 1991
the Act/RMA	Resource Management Act 1991

Proposed Change 1 to the Regional Policy Statement for the Wellington Region
Hearing Steam: 1
Officer's Report: S42A Overview Report

the Council	Greater Wellington Regional Council
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1.0 Introduction

1.1 Purpose

1. The purpose of this report is to provide the Independent Hearing Panels with the background and context for Change 1 and the process that has been followed to date. The report provides context for the topic-specific reports that are being prepared under s42A of the RMA.
2. The report also outlines the hearing process that will be followed and sets out key procedural matters in relation to late, withdrawn and incomplete submissions.
3. As the matters addressed in this report are scene setting and procedural matters, the report does not address submission points or provide recommendations on submissions.

1.2 Author

4. My name is Kate Louise Pascall and I am a Senior Environmental Planner employed by GHD Limited, a planning consultancy. Since October 2022, I have been contracted to the Council in the role of Programme Lead for Change 1. I hold a Master of Resource and Environmental Planning from Massey University. I am an Intermediate member of the New Zealand Planning Institute.
5. I have 12 years of experience in resource management and planning. For the majority of this time I have worked in local government and recently moved into consultancy. I have specialised in policy planning working on district plan reviews and strategic spatial planning. My most recent local government experience has been within the Wellington Region at Wellington City Council and Hutt City Council.
6. I was not involved in the development of the provisions for Change 1, however I have familiarised myself with the process that was followed and with the section 32 evaluation report.
7. I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court in January 2023. I have complied with that Code when preparing this report and I agree to comply with it when I give any oral evidence.
8. The scope of my report relates to an Overview of Change 1. I confirm that the issues addressed in this statement of evidence are within my area of expertise.

Proposed Change 1 to the Regional Policy Statement for the Wellington Region

Hearing Stream: 1

Officer's Report: S42A Overview Report

9. Any data, information, facts and assumptions I have considered in forming my opinions are set out in the part of the report in which I express my opinions. Where I have set out opinions in my report, I have given reasons for those opinions.
10. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

1.3 Reports prepared under section 42A of the Resource Management Act 1991

11. In accordance with section 42A(1) of the Resource Management Act 1991 (RMA), the Council is preparing s42A hearing reports, as follows:

Hearing Stream No.	Hearing stream	s42A Report(s)
HS1	General and Overarching Matters	<ul style="list-style-type: none">• Overview report (this report)• General Submissions
HS2	Integrated Management	<ul style="list-style-type: none">• Overarching Issues and Objectives & Integrated Management Provisions
HS3	Climate Change	<ul style="list-style-type: none">• General Climate Change Submissions• Climate Change Issues, Objectives, Definitions, and General Provisions• Natural Hazards• Nature-based Solutions• Agricultural Emissions• Transport• Energy, Waste and Industry
HS4	Urban Development	<ul style="list-style-type: none">• Urban Development
HS5	Freshwater/ Te Mana o Te Wai	<ul style="list-style-type: none">• Freshwater Provisions and Te Mana o Te Wai Statements

HS6	Indigenous Ecosystems	<ul style="list-style-type: none"> • Indigenous Ecosystems
HS7	Small topics, wrap-up and Integration	<ul style="list-style-type: none"> • Consequential amendments • Regionally Significant Infrastructure • Natural Character

1.4 Purpose and Scope of the Overview Report

12. This s42A Overview Report sets out the background and context to Change 1. It does not contain analysis or recommendations on submission points.
13. The Council is preparing topic-specific hearing reports to accompany this report. The authors of those reports will set out their credentials in those reports.
14. This report should be read in conjunction with:
 - The content of Proposed Change 1
 - The section 32 report prepared for Change 1.
15. This report should also be referred to alongside the topic-specific s42A reports.

2.0 Background to Change 1

2.1 Purpose of Change 1

16. The primary driver for Change 1 has been the NPS-UD, particularly the timing of Change 1. Part 4 of the NPS-UD requires that RPSs and district plans have changes notified by 20 August 2022 to give effect to Policies 3 and 4 of the NPS-UD to enable more urban development and housing intensification. The balance of the NPS-UD must be given effect to as soon as practicable. At the same time, the Council wants to ensure urban development does not occur in isolation from broader resource management issues. As a result, Change 1 addresses the following key issues:
 - Lack of urban development capacity
 - Degradation of freshwater
 - Loss and degradation of indigenous biodiversity
 - The impacts of climate change.

17. The Council has developed a package of amendments to the RPS as part of Change 1 to provide an integrated approach to managing these issues. In doing so, Change 1 gives effect to the NPS-FM, by incorporating the fundamental concept of Te Mana o te Wai into the Region's regulatory planning framework. It also strengthens the provisions in relation to the identification and protection of indigenous ecosystems, and anticipates the national direction proposed in this regard, indicated by the draft NPS-IB released in June 2022.
18. Change 1 also provides greater recognition of the role of mana whenua/tangata whenua in addressing these issues.
19. In addition to these key changes, Change 1 makes minor updates to ensure ongoing implementation of the NZCPS and the PNRP. These updates relate to natural character in the coastal environment and regionally significant infrastructure. These amendments do not relate to new resource management issues but are made to ensure consistency with national direction and in implementation of the RPS.
20. The section 32 report provides more detailed background to Change 1 including topic-specific background and context.

2.2 Section 32AA

21. As I am not proposing any amendments to Change 1, there is no requirement to undertake a s32AA evaluation.

2.3 Consultation and Engagement in Preparing Change 1

22. The development of Change 1 included pre-notification consultation and engagement with mana whenua/tangata whenua partners, territorial authorities, and other key stakeholders.

2.3.1 Engagement with mana whenua/tangata whenua

23. The Council took a partnership approach with the six mana whenua/tangata whenua partners and worked with mana whenua/tangata whenua representatives throughout the drafting of Change 1. This included working with officers to prepare and review drafting, where possible.
24. The six partners are:
 - Ngāti Kahungunu ki Wairarapa
 - Rangitāne o Wairarapa

- Te Rūnanga o Toa Rangatira
- Te Ātiawa ki Whakarongotai
- Ngā Hapū o Ōtaki
- Taranaki Whānui (through Port Nicholson Block Settlement Trust).

25. Ongoing contact and work with mana whenua/tangata whenua partners in the development of Change 1 occurred in various ways linked to the capacity and timing of the different partners. Advice received from iwi authorities on the draft provisions (in May-July 2022) was given particular regard in finalising the options and detailed drafting in Change 1.

2.3.2 Territorial Authorities

26. The Council undertook engagement with the Territorial Authorities in the Region over a period of 12 months. This engagement included:

- Draft objectives and policies provided to the Wellington Regional Leadership Committee, which includes representatives from all territorial authorities
- Discussions in the Regional Planning Managers Group (the Planning Managers from the local authorities within the Region), including workshops specifically on Change 1
- Officers engaging directly with their peers in Territorial Authorities, including the use of existing groups (e.g. Regional Climate Change Forum).

2.3.3 Central Government, stakeholders and advisers

27. The development of Change 1 included engagement with key stakeholders as relevant to the topics of Change 1. This included consultation with representatives of relevant Ministers of the Crown (see section 2.3.4 below) as well as:

- Greater Wellington's Farming Reference Group
- Department of Conservation
- Waka Kotahi New Zealand Transport Agency
- Ministry for the Environment
- Ministry for Primary Industries and He Waka Eke Noa (Primary Sector Climate Action Partnership)

- Telecommunications providers
- Radiocommunications providers.

28. Engagement with the Farming Reference Group focused on the topics in Change 1 of most relevance to rural and farming communities. It included feedback on policy proposals for agricultural emissions, climate resilient communities, transport emissions and indigenous ecosystems. Draft policy wording was also tested with the group.

2.3.4 Pre-notification consultation on draft Change 1

29. In addition to the engagement outlined above, the Council provided a pre-notification draft of Change 1 to representatives of Ministers of the Crown (including the Minister for the Environment), local authorities, and mana whenua/tangata whenua partners. This included consultation required by the Wellington Triennial Agreement (2019-2022) which sets out the process for consultation on a review or change to the RPS:

- The Regional Council will make available to all local authorities, for discussion and development, a draft copy of any change to the RPS
- Territorial authorities shall have no less than 30 working days to respond to the proposal
- The Regional Council agrees to consider fully any submission and representation on the proposal.

30. To meet these requirements, the Council provided a draft Change 1 to the following parties for feedback:

- All Territorial Authorities in the Region¹
- The Council's six mana whenua/tangata whenua partners
- The following Ministers:
 - i. Minister of Conservation
 - ii. Minister for the Environment
 - iii. Minister of Transport
 - iv. Minister for Agriculture
 - v. Minister for Climate Change

¹ Wellington City Council, Porirua City Council, Hutt City Council, Upper Hutt City Council, Kāpiti Coast District Council, South Wairarapa District Council, Carterton District Council, Masterton District Council.

- vi. Minister of Local Government
- vii. Minister for Māori Development
- viii. Minister of Housing
- ix. Minister of Forestry.
- Wellington Water Limited
- Neighbouring regional councils and unitary authorities:
 - i. Horizons Regional Council
 - ii. Marlborough District Council
 - iii. Tasman District Council.

31. Feedback received from these parties resulted in a large number of changes to the draft of Change 1. These changes are outlined in the section 32 report.

32. I note that there are no customary I note that there are no customary marine title groups in the Wellington Region (clause 3 of the First Schedule to the RMA requires any such group is consulted).

2.4 Statutory Considerations in the Preparation of Change 1

33. Change 1 has been prepared in accordance with the RMA and in particular, the requirements of:

- Section 61 Matters to be considered by regional council (policy statements)
- Section 62 Contents of regional policy statements.

34. As noted above, Change 1 gives effect to (or partially gives effect to) RMA national direction and anticipates forthcoming national direction. Details of how the provisions in Change 1 implement this direction will be addressed in the relevant s42A reports. Further detail is also provided in the section 32 report. The table below briefly sets out the relevant national direction and the Change 1 chapters that address each.

National Direction Instrument	Relevant RPS chapter/topic
NPS-UD	<ul style="list-style-type: none"> • Chapter 3: Resource Management issues, objectives and summary of policies and methods to achieve the objectives in the regional policy statement • Chapter 3.9: Regional Form, Design and Function

NPS-FM	<ul style="list-style-type: none">• Chapter 3.4: Freshwater (including public access)• Proposed new chapter: 3.1A Climate Change• Chapter 3.9: Regional Form, Design and Function
NPS-REG	<ul style="list-style-type: none">• Proposed new chapter: 3.1A Climate Change
NZCPS	<ul style="list-style-type: none">• Chapter 3.2: Coastal environment (including public access)• Chapter 3.8: Natural Hazards
Draft NPS-IB	<ul style="list-style-type: none">• Chapter 3.6: Indigenous Ecosystems

2.5 Public Notification of Change 1

35. Following a decision of Council on 18 August 2022², Change 1 was publicly notified on 19 August 2022 in accordance with Clause 5 of Part 1, Schedule 1 of the RMA.

3.0 Submissions

3.1 Submissions received

36. The submission period for Change 1 ran from 19 August 2022 to 5.00pm, 14 October 2022. The timeframe for making submissions was doubled to 40 working days to enable more time for submissions.

37. A total of 151 submissions were received from mana whenua/tangata whenua, territorial authorities, Government agencies, stakeholder groups, infrastructure providers, and individuals.

38. A Summary of Decisions Requested was publicly notified for further submissions on 5 December 2022. The Summary was made available on the Council's website and hard copies were available in public libraries and Council offices. The Summary was provided in two formats – by Submitter and by Chapter. Every submission was numbered and each submission point has a unique identifier.

39. The further submissions period ran from 5 December-19 December 2022. The Council extended the timeframe for making further submissions to 11 working days, under section 37 of the RMA.

² [Confirmed-Public-minutes-of-Council-meeting-on-18-August-2022.pdf \(gw.govt.nz\)](#)

40. Following notification of the Summary of Decisions Requested, Council became aware of errors or omissions in the Summary. Council subsequently notified 4 addenda to address these errors and omissions:

Addendum	Timeframe for further submissions on Addenda
1	19 December 2022 – 17 January 2023, 5.00pm
2	18 January 2023 – 25 January 2023, 5.00pm
3	1 February 2023 – 9 February 2023, 5.00pm
4	26 May 2023 – 2 June 2023, 5.00pm

41. The scope of further submissions on the above addenda were limited to the submission points within the addenda document.

42. A total of 31 further submissions were received by 9 February 2023. At the time of publishing this report, the period for making further submissions on Addendum 4 was still open. Should any further submissions be received on Addendum 4, this information will be made available to the Panel prior to the hearing commencing.

3.2 Late Submissions

3.2.1 Late original submissions

43. A number of submissions were received after 5.00pm on 14 October 2022, the closing date for submissions. Some submitters sought extensions and these were all granted under delegated authority, in accordance with section 37 of the RMA. The table below sets out the submissions that were received after the closing date.

Submitter number:	Submitter:	Date submission received:
S157	BP Oil NZ Ltd, Mobil Oil Ltd and Z Energy Ltd	5:13pm on 14 October
S161	Grant O'Brien	17 October
S169	Kahungunu Ki Wairarapa	31 October
S158	Kāinga Ora Homes and Communities	5:25pm on

Proposed Change 1 to the Regional Policy Statement for the Wellington Region
Hearing Steam: 1
Officer's Report: S42A Overview Report

		14 October
S159	Mangaroa Peatland Focus Group_Antony & Jemma Ragg	7:17pm on 14 October
S160	Mangaroa Peatland Focus Group_Jen & Chris Priest	16 October
S166	Masterton District Council	28 October
S164	Megan Lane	17 October
S170	Te Rūnanga o Toa Rangatira (Ngāti Toa)	8 November
S168	Rangitāne o Wairarapa	31 October
S165	Royal Forest and Bird Protection Society of New Zealand Inc. (Forest & Bird)	20 October
S144	Sustainable Wairarapa Inc	20 October
S167	Taranaki Whānui	28 October
S162	Winstone Aggregates	17 October

3.2.2 Late further submissions

44. There were 2 further submissions received after the closing date for further submissions, as detailed below:

Submitter number:	Submitter:	Date submission received:
F29	Ngā Hapu o Otaki	20 December
F30	Beef + Lamb New Zealand Ltd	8:15am on 22 December

45. These late further submissions were accepted by the Council under delegated authority, in accordance with Section 37 of the RMA.

3.3 Incomplete Submissions

3.3.1 Incomplete original submissions

46. There were 78 original submissions received that were considered incomplete or partly incomplete because there was information missing that is required by the RMA Form 5, including:

- Selecting whether the submitter could//would gain trade competition through their submission
- Whether the submitter wished to be heard in support of their submission
- Whether the submitter would consider presenting a joint case.

47. The Council contacted these submitters and where the information was provided the information was saved on Council records.

3.3.2 Incomplete further submissions

48. Of the 31 further submissions received, 3 were considered incomplete or partly incomplete as there was information missing that is required on RMA Form 6. This information relates to the following questions on the submission form:

- Whether they wish to be heard in support of their further submission
- Whether they would consider presenting a joint case.

49. The Council contacted these further submitters and where the information was provided the information was saved on Council records.

3.3.3 Withdrawn Submissions

50. One original submission was withdrawn, as detailed below.

Submitter Identifier Tag:	Submitter:	Date Submission Withdrawn:
S81	Anne Nelson	24th January 2023


51. There were no further submissions withdrawn.

4.0 Decision-Making Process

4.1 Two Plan-making processes

52. Change 1 has been notified using two planning processes under Schedule 1 of the RMA:

- The FPP under Section 80A and Part 4 of Schedule 1 of the RMA, for provisions that form a FPI; and
- The P1S1 process for all other provisions.

53. The provisions that have been notified as part of the FPI are shown in the Change 1 document with the freshwater symbol, as follows FW. There are some provisions that are both freshwater plan provisions and First Schedule provisions.

54. Section 80A and Part 4 of Schedule 1 of the RMA set out specific requirements for the FPP which differ from the standard P1S1 process. The key differences are as follows:

- The FPI must be referred to the Chief Freshwater Commissioner within 6 months of notification
- The Council must provide nominations for appointments to the freshwater hearings panel to the Chief Freshwater Commissioner, 20 working days prior to the referral of the FPI. These are nominations from the Council and mana whenua/tangata whenua
- The Chief Freshwater Commissioner appoints members to the Freshwater Hearings Panel from the Freshwater Commissioners pool and from the nominations received. The RMA requires that a panel of 5 is appointed (2 Freshwater Commissioners, 2 Regional Council nominees, and 1 person with an understanding of tikanga Māori and mātauranga Māori who is nominated by local mana whenua/tangata whenua), but fewer than 5 members (but no fewer than 3) may be appointed in certain circumstances
- Cross-examination is provided for, with the Panel's agreement
- The Freshwater Hearings Panel may only make recommendations on submissions to the Council. Council then makes the decision whether to accept or reject the recommendations of the Freshwater Hearings Panel and for each rejected recommendation, decide an alternative solution. The freshwater hearings panel is not limited by scope of submissions on the FPI in the recommendations it makes
- Merits appeals to the Environment Court may only be made where the Council rejects a recommendation of the Freshwater Hearing Panel (RMA Part 4, Schd. 1, cl 55). Where the Council accepts a recommendation of the Freshwater Hearings Panel, only appeals on points of law to the High Court are provided for (RMA Part 4, Schd. 1 cl.56).

55. While there are two plan-making processes being followed for Change 1, the Council's approach is to ensure that the provisions and submissions on those provisions are considered holistically. This is reflected in the hearings process, as detailed in the following sections.

4.2 Appointment of Hearings Panels

56. As outlined above, the Chief Freshwater Commissioner is responsible for the appointment of the Freshwater Hearings Panel.
57. The Council provided its nominations³ to the Chief Freshwater Commissioner on 16 January 2023. The Council passed on the nominations of mana whenua/tangata whenua to the Chief Freshwater Commissioner at the same time. Change 1 was then referred to the Chief Freshwater Commissioner on 15 February 2023.
58. On 28 March 2023, the Chief Freshwater Commissioner appointed the Freshwater Hearings Panel for Change 1. The Chief Freshwater Commissioner determined that a Panel of 4 members is appropriate for Change 1 under Part 4, Schedule 1, Clause 59. The Freshwater Panel members are as follows:
- Judge Craig Thompson (Chair, Freshwater Commissioner)
 - Gillian Wratt (Freshwater Commissioner)
 - Ina Kumeroa Kara-France (Council nominee)
 - Glenice Paine (Tangata whenua nominee).
59. As Change 1 has been notified under two plan-making processes, it was also necessary to appoint a Hearings Panel for the P1S1 component of Change 1. To ensure as much integration across Change 1 as possible, the Council sought overlapping panel membership where possible. On 30 March 2023, the Council appointed the P1S1 Hearings Panel, as follows:
- Dhilum Nightingale (Chair)
 - Ina Kumeroa Kara-France
 - Glenice Paine.
60. Both panels comprise a mix of expertise that are relevant to the Change 1 hearings process, including resource management law, mātauranga Māori/tikanga Māori, science, environmental management and policy.
61. The P1S1 Hearings Panel has been delegated the power to hear submissions and make recommendations to Council on Change 1, to align with the powers of the Freshwater Hearings Panel.

³ In accordance with the decision of Council on 15 December 2022.

4.3 Hearings

62. Hearings for both plan processes will be held in accordance with Clause 8B of Part 1, Schedule 1 and Clause 39 of Part 4, of Schedule 1 of the RMA.

63. The hearings will proceed in 7 hearing streams and will be topic specific. There are several topics that have provisions that have been notified in both the FPP and P1S1 process, as shown below:

Hearing Stream No.	Hearing stream	Plan-making Process (FPP or P1S1)
HS1	General and Overarching Matters	FPP & P1S1
HS2	Integrated Management	FPP
HS3	Climate Change	FPP
HS4	Urban Development	FPP & P1S1
HS5	Freshwater/ Te Mana o Te Wai	FPP
HS6	Indigenous Ecosystems	FPP
HS7	Small topics, wrap-up and Integration	FPP & P1S1

64. For the topics that are FPP and P1S1, both hearing panels will be present for the hearing. This approach ensures provisions that 'sit together' in the RPS are heard together.

4.4 Procedures and Timeframes for Decision-making

65. For both the FPP and P1S1 processes, Council has two years from the date of notification of Change 1 in which to notify its decisions on submissions. This means the Council must notify its decisions no later than 19 August 2024.

66. For the FPP, the RMA requires the Freshwater Hearings Panel to provide its recommendations on submissions to the Council no later than 40 working days prior to

Proposed Change 1 to the Regional Policy Statement for the Wellington Region

Hearing Stream: 1

Officer's Report: S42A Overview Report

the two-year deadline for the Council's decision. This means this Panel must submit its recommendations report to Council by 21 June 2024. There is no equivalent statutory timeframe for the P1S1 Hearings Panel to submit its recommendations report to Council.