

3 November 2023

Hearings Advisor
Greater Wellington Regional Council

Attention: Whitney Middendorf

By e-mail: regionalplan@gw.govt.nz

WELLINGTON REGIONAL POLICY STATEMENT – PROPOSED CHANGE 1 HEARING STREAM 5: FRESH WATER

JOINT HEARING STATEMENT ON BEHALF OF THE FUEL COMPANIES (SUBMITTER 157)

1. INTRODUCTION

1.1 This is a joint hearing statement prepared on behalf of bp Oil New Zealand Limited, Mobil Oil New Zealand Limited, and Z Energy Limited (*the Fuel Companies*) on Hearing Stream 5 – Fresh Water. This hearing statement represents the views of the Fuel Companies and is not expert evidence. The Fuel Companies will not be attending the hearing but ask that this Hearing Statement be tabled before the Panel.

1.2 The Fuel Companies have an interest in the following s42A report topics:

- Issue 5: Objective 12 and Te Mana o te Wai Statements
- Issue 6: Policy 12 – Management of water bodies – regional plans
- Issue 8: Urban development effects on freshwater and the coastal marine area (Policy 14, Policy FW.3, Policy 42, and Method FW.2)
- Issue 9: Earthworks and vegetation disturbance (Policy 15 and Policy 41)
- Issue 10: Managing water takes and use (Policy 17, Policy 44, and Method 48)
- Issue 11: Protecting and restoring the ecological health of water bodies (Policy 18, Policy 40, and Policy 43)

1.3 The Fuel Companies generally endorse the recommendations in the s42A reports relating to the above topics and there is only one matter that the submitters wish to raise with the Hearing Panel, as addressed in the section below.

2. ISSUE 8: URBAN DEVELOPMENT EFFECTS ON FRESHWATER AND THE COASTAL MARINE AREA (POLICY 14, POLICY FW.3, POLICY 42, AND METHOD FW.2)

2.1 In their submission (S157.024- S157.031 and S157.035 – S157.041), the Fuel Companies raise concerns that the wording of Policies 14 and 42 as a whole is both too absolute and too uncertain. Specifically, that the policies do not incorporate the level of discretion provided for in the National Policy Statement – Fresh Water (NPS-FW), for example in relation to the loss of extent of

wetlands and rivers¹; and that in lieu of the target attribute states and limits being set at a regional plan level it is uncertain what outcomes the policy is directing must be achieved.

- 2.2 The s42A report recommends substantial amendments to the wording of both policies, such that they would read as follows (changes recommended in s42A report underlined in red for additions and in red strikethrough for deletions):

Policy 14: Urban development effects on freshwater ~~and the coastal marine area receiving environments~~ Minimising contamination in stormwater from new development – regional plans

Regional plans shall give effect to Te Mana o te Wai and include objectives, policies, rules and methods for urban development including rules, must that give effect to Te Mana o te Wai and in doing so must:

- (a) Enable the active involvement of mana whenua / tangata whenua in freshwater management (including decision-making processes); ~~and~~
- (ab) Identify and provide for Māori freshwater values are identified and provided for;
- (b) Adopt an integrated approach, ki uta ki tai, that recognises the interconnectedness of the whole environment to determine the location and form of urban development;
- (c) Require the cControl of both land use and discharge effects from the use and development of land urban development on freshwater and the coastal marine area receiving environments;
- (d) Identify how to Aachieve the target attribute states and environmental flows and levels set for the catchment;
- (e) Require the urban development, including stormwater discharges, earthworks and vegetation clearance to meet any limits set in a regional plan;
- (f) Require that urban development to incorporate water sensitive urban design techniques to avoid adverse effects of contaminants on waterbodies from the use and development of the land is designed and constructed using the principles of Water Sensitive Urban Design;
- ~~(g) Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (h) Require that urban development lot boundaries and new roads are is appropriately located and designed to protect and enhance the health and wellbeing of adjacent gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries including the natural form and flow of the waterbody;
- (i) Require urban development adjacent to natural waterbodies to include riparian buffers; for all waterbodies and avoid piping of rivers;
- (ia) avoid the piping of rivers for urban development 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;
- ~~(j) Require hydrological controls in urban development to avoid adverse effects of runoff quantity (flows and volumes) and maintain, to the extent practicable, natural stream flows;~~
- (k) Require urban development to adopt stormwater quality management measures that will minimise the generation of contaminants, and maximise, to the extent practicable, the removal of contaminants from stormwater; and
- (l) Identify and map rivers and wetlands within the area proposed for urban development in partnership with mana whenua/tangata whenua and affected landowners;
- (m) require that urban development avoids the loss of extent or values of natural inland wetlands; and
- (n) promoting the daylighting of streams.

¹ Refer Sub-part 3 Specific requirements, sections 3.22 and 3.24 of the NPS-FW.

Policy 42 – Effects on freshwater and ~~the coastal marine area receiving environments~~ from urban development ~~Minimising contamination in stormwater from development – consideration~~
When considering an application for a regional resource consent ~~that relates to urban development~~ the regional council must give effect to *Te Mana o te Wai* and in doing so must have ~~particular~~ regard to:

...

- (g) ~~The extent to which Require that the urban development, including stormwater discharges, earthworks and vegetation clearance~~ meets any limits set in a regional plan ~~and the effect of any exceedances;~~
- (h) ~~The extent to which Requiring that urban development is located and designed and constructed using the principles incorporates Water Sensitive Urban Design techniques to avoid adverse effects of contaminants on water bodies from the use and development of the land;~~
- (i) ~~Require that urban development located and designed to minimise the extent and volume of earthworks and to follow, to the extent practicable, existing land contours;~~
- (j) ~~Require that urban development is located and designed to protect and enhance gully heads, rivers, lakes, wetlands, springs, riparian margins and estuaries;~~The extent to which the location of lot boundaries and new roads protects and enhances the health and wellbeing of adjacent rivers, lakes, wetlands, springs, riparian margins, and receiving environments, including the natural form and flow of the waterbody.
- (k) ~~The extent to which Require hydrological controls to avoid minimises~~ adverse effects of runoff quantity (flows and volumes) ~~and maintain, to the extent practicable, on~~ natural stream flows;
- (l) ~~The extent to which Requiring urban development incorporates~~ stormwater quality management that will *minimise* the generation of contaminants, and *maximises*, to the extent practicable, the removal of contaminants from stormwater;
- (m) ~~Requiring The provision of riparian buffers for urban development adjacent to natural waterbodies for all waterbodies and avoid piping of rivers;~~

...

2.3 The Fuel Companies support the majority of the recommended changes with the exception of the wording relating to Water Sensitive Urban Design Techniques, as set out in Clause (f) of Policy 14 and Clause (h) of Policy 42.

2.4 In both cases the wording refers to urban development incorporating Water Sensitive Urban Design techniques to *“avoid adverse effects of contaminants on water bodies...”*.

2.5 The wording creates an unrealistic and inflexible expectation for a number of reasons:

2.5.1 The directive to avoid all adverse effects is extremely onerous as the Resource Management Act 1991 (RMA) is not a ‘no-effects’ regime, particularly where the NPS-FM national targets for water quality are being achieved. In this regard, the change to the clause sets an unrealistic direction.

2.5.2 It assumes that Water Sensitive Urban Design techniques will be able to achieve complete avoidance of all adverse effects of contaminants. No evidence to this effect has been presented.

2.5.3 It potentially conflicts with clause (k) of Policy 14 and clause (l) of Policy 42, which require urban development to *minimise*² the generation of contaminants and *maximise*³ the removal of contaminants from stormwater, and which clearly contemplate the

² Recommended in the 42A report to be defined as follows: *Minimise: Reduce to the smallest amount reasonably practicable.*

³ Recommended in the 42A report to be defined as follows: *Maximise: Means to make as large or great as reasonably practicable.*

potential that some residual contaminants may remain in stormwater discharges even after treatment.

- 2.6 Further, no party appears to have sought the introduction of an avoidance approach to these policies, such that the Fuel Companies query the scope to make such a change.
- 2.7 For these reasons, the Fuel Companies consider the wording of Clause (f) of Policy 14 and Clause (h) of Policy 42 should be amended to remove the requirement for absolute avoidance of all adverse effects, while not diminishing the 'best practice' intent through water sensitive urban design techniques. This could be achieved by making changes along the following lines, or to the same effect (additions in double underline and grey shading):

Policy 14:

- (f) Require ~~that urban development to incorporate water sensitive urban design techniques to avoid~~ where practicable, or otherwise remedy or minimise the adverse effects of contaminants on waterbodies from the use and development of the land is designed and constructed using the principles of Water Sensitive Urban Design;

Policy 42:

- (h) ~~The extent to which Requiring that urban development is located and designed and constructed using the principles-incorporates Water Sensitive Urban Design techniques to avoid~~ where practicable, or otherwise remedy or minimise the adverse effects of contaminants on water bodies from the use and development of the land;

3. CONCLUDING STATEMENT

- 3.1 Thank you for your time and acknowledgement of the issues raised in the submissions from the Fuel Companies. Please do not hesitate to contact the writer at georginam@4sight.co.nz or ph. 021 0244 3961 should you wish to clarify any matters addressed herein.

Kind regards,



Georgina McPherson
Principal Planning and Policy Consultant
4Sight Consulting Ltd