

BEFORE THE HEARING PANEL

IN THE MATTER OF the Resource Management Act 1991 (the Act)

AND

IN THE MATTER OF submissions on Proposed Change 1 to the
Regional Policy Statement for the Wellington
Region under Part 4 of Schedule 1 of the Act

AND

IN THE MATTER OF The report on the topic of *Indigenous
Ecosystems* pursuant to Section 42A of the Act
on behalf of Wellington Regional Council for
Proposed Change 1 Hearing Stream 6

BETWEEN

WELLINGTON REGIONAL COUNCIL

AND

WAIRARAPA FEDERATED FARMERS

**STATEMENT OF EVIDENCE OF PETER MATICH ON BEHALF OF WAIRARAPA
FEDERATED FARMERS**

(PLANNING)

30 January 2024



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1. Introduction

- 1.1 My name is Peter Matich. I am an employee of Federated Farmers of New Zealand (Inc) and am presenting evidence as a planner for Wairarapa Federated Farmers ('WFF').
- 1.2 I hold a Bachelor of Planning Degree and a Bachelor of Arts Degree from the University of Auckland and a Master of Environmental Studies Degree from Victoria University. I have 32 years' experience in resource management planning in New Zealand in a variety of public and private sector roles, including a range of work on rural and farming issues. I have extensive and wide ranging experience in land use planning and natural resource planning in New Zealand and I have been involved in numerous district and regional plan preparation processes around the country for local government and in the private sector, including leading development of planning strategies that underpin regulatory plans, and the subsequent appeal proceedings as a planning expert. I am a Member of the New Zealand Planning Institute.
- 1.3 I have read, and am familiar with, the Environment Court's Practice Note 2023 for expert witnesses. Other than where I state that I am relying on the evidence of another person or publication, my evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

2. Scope of evidence

- 2.1 I address aspects of the report prepared under Section 42A ('Section 42A Report') of the Resource Management Act 1991 ('the Act') on behalf of Wellington Regional Council by Pamela Guest and Jerome Wyeth ('the reporting planners') subtitled *Indigenous Ecosystems* dated 11 December 2023.¹
- 2.2 I focus solely on aspects of the reporting planners' recommendations where our opinions differ. I have not considered other aspects of the Section 42A Report. Any omission to specifically respond to other matters should not be interpreted as agreement with such matters. My responses are set out below under the topic sections to which the Section 42A Report relates.

¹ <https://www.gw.govt.nz/assets/Documents/2023/12/S42A-Report-HS6-Indigenous-Ecosystems.pdf> accessed 12 December 2023.

2.3 I have read the following documents:

- The Section 42A Report mentioned above.
- RPS PC1 and accompanying reports and memoranda submitted under Section 32 of the Act.
- The National Planning Standards 2019.
- The National Policy Statement for Indigenous Biodiversity 2023² ('NPS-IB').
- Wairarapa Federated Farmers Submission on RPS PC1.

3. Wairarapa Federated Farmers concerns with RPS PC1

3.1 WFF lodged a submission pursuant to Schedule 1 of the Act.

3.2 WFF are concerned that labelling of various provisions with the moniker, "≡FW", will mean that some provisions considered under the Freshwater Planning Process in Schedule 1 Part 4 of the Act ('FPP'), risk not being properly scrutinised. This includes provisions related to indigenous biodiversity identified the table appended to WFF's submission.

3.3 WFF are also concerned that provisions in RPS PC1 relating to indigenous biodiversity are out of step with the NPS-IB. WFF are seeking that all proposed RPS PC1 amendments relating to indigenous biodiversity be deleted.

3.4 Having regard to the above, I have provided this evidence to assist the Hearing Panel evaluating aspects of proposed RPS objective and policy framework that I consider problematic from a resource management and planning perspective.

4. Reporting Planners' recommendations on Wairarapa Federated Farmers submission

Exclusion of indigenous biodiversity provisions from the FPP process

4.1 I agree with the reporting planners' assessment in paragraphs 72 and 73 of the Section 42A report regarding the scope of the indigenous biodiversity provisions being much broader than merely freshwater quality and quantity. I support the recommendation at paragraph 74 that all the provisions addressed under the *Indigenous Ecosystems* topic

² <https://environment.govt.nz/assets/publications/biodiversity/National-Policy-Statement-for-Indigenous-Biodiversity.pdf>

as set out in Table 3 in the Section 42A Report should be part of the standard S1P1 process.

Introductory Text and Issue Statements - including state of regional biodiversity

- 4.2 Ms. Guest's analysis at paragraphs 152 and 153 of the Section 42A Report accentuates the following factors to support her recommendations (at para. 163) that submissions seeking deletion of the introductory text should be rejected, namely:
- i. the difference between the extent of indigenous ecosystems prior to European settlement, and present day remnant indigenous ecosystems,
 - ii. threats to remnant indigenous ecosystems from land use and development
- 4.3 I agree that these may be important reasons for a regional policy statement to include provisions to address decline of indigenous ecosystems. Nevertheless, I do not think it is a fair representation to categorize these concerns as being merely about 'inaccuracy' about the picture of indigenous biodiversity loss as reported by Ms. Guest³. Rather, the concern of WFF as put forward in their submission point⁴ on this topic is that the proposed amendments to the RPS are out of step with what is a fairly stable situation for remnant regional indigenous biodiversity in the Wellington Region.
- 4.4 In this regard, for the Wellington Region, indigenous landcover has had no change (or small increases) in the area of indigenous habitat in the period 1996 to 2018, with indigenous forest stable at 216,000ha and indigenous scrub stable at 74,000ha for the last 20 years⁵. This is before the period of the current operative RPS, and in contrast to the picture of biodiversity loss conveyed in the Council's policy approach in Proposed Change 1 and supporting documents.
- 4.5 In my opinion, the Council's position overstates the urgency of a need for a regulatory response to restoration at a regional level. Instead, in my view, a policy approach focused on supporting land management in an appropriate way to encourage biodiversity enhancement and restoration would be more likely to achieve outcomes for restoration of indigenous biodiversity than a regulatory regime requiring mandatory restoration. I agree with the Environment Court that where there is a choice, regulatory frameworks should err on the side of a 'less restrictive regime' where the purposes of

³ Section 42A Report. para 152

⁴ WFF submission, Pages 45-48

⁵ Lawa website, Wellington Region Landcover <https://www.lawa.org.nz/explore-data/land-cover/> accessed 15 January 2024

the Act and the objectives of the plan can be so met (following the principle in *Royal Forest and Bird Protection Society Inc v Whakatane District Council* [2017] NZEnvC 51 at [59]).

- 4.6 Further in my opinion, if there is to be a policy response requiring *enhancement and restoration of indigenous ecosystems and habitats with significant ecosystem functions and services and/or biodiversity values to a healthy functioning state* under the NPSIB, then in implementing such policy, district and regional plan rules should be required to weigh the cost of this against the benefits, with specific consideration of the impacts on those who would shoulder the burden for such costs, lest this burden render the task of restoration unachievable. I note there is some latitude for pastoral farmers in Cl 3.17 of the NPSIB for local authorities to allow for maintenance of improved pasture to continue. In my opinion, there is room to improve policy linkages in RPS Change 1 between NPSIB provisions focused on biodiversity protection and restoration to reflect this requirement.
- 4.7 Moreover in my opinion, the focus of policy for regional indigenous biodiversity should in the first instance be on the RMA s6(c) matter of *protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*, and in the second instance pursuing opportunities for increasing or restoring indigenous biodiversity where practical in accordance with the NPSIB. Such an approach would, in my opinion, properly reflect the statutory priority afforded to areas of significant indigenous vegetation and significant habitats of indigenous fauna, whilst making it clear that the aims of the NPSIB with respect to indigenous biodiversity outside SNAs, as stated in Policy 8, are about *maintenance*, namely:
- “Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.”**
- 4.8 In my opinion, the wider aim of *restoring* indigenous biodiversity ‘as necessary to achieve the overall maintenance of indigenous biodiversity’⁶ clearly indicates that restoration of regional biodiversity in the RPS should not be one of *restoration at any and/or all costs*. Rather, the impetus given to restoration should reflect the current state of loss. In the hypothetical situation that regional indigenous biodiversity were in decline as a result of present land use practices (which it clearly isn’t), then a firmer approach would be merited. But I doubt that is the current situation.

⁶ i.e., following Objective 2.1(1)(b)(iii) of the NPSIB

- 4.9 Pursuing restoration of biodiversity loss that has occurred over the last 200 years or so is a completely different matter. Addressing historic decline requires a much more integrated strategic approach. In this regard, I note that amongst the range of other matters in the NPSIB, Policy 5 states as follows:

“Policy 5: Indigenous biodiversity is managed in an integrated way, within and across administrative boundaries.”

- 4.10 Integrated management of biodiversity features and habitats entails identifying and itemizing the habitats and features themselves, but also considering the opportunities for management, factoring in a range of management methods appropriate to the circumstances in each instance. Management methods might range from ‘low intervention’ methods such as information and education, through to ‘medium intervention’ methods, such as assistance and grants for biodiversity protection works, through to higher interventions such as regulation of land use, and ultimately through to public acquisition and reservation of land for biodiversity restoration and enhancement works at the ‘highest-intervention’ end of the scale. All levels of intervention have trade-offs between costs-versus-benefits, and these need to be weighed against the outcome(s) sought for the values of the indigenous biodiversity ecosystems that are being pursued. It should not be assumed that biodiversity ecosystem restoration and enhancement is worth pursuing regardless of the cost – that is simply impractical, and any plan or policy statement that sets out to achieve such a goal is doomed to failure and condemns the planning system to endless frustration.
- 4.11 In order for privately-led restoration and enhancement to achieve maximum ‘buy-in’ from all stakeholders, the aspects of indigenous biodiversity under consideration in any given case would practically need to reflect agreement on biodiversity management priorities from affected landowners, whereby restoration-versus-other-management-methods have been considered. This is especially so where private landowners must (of necessity) rely on utilization of land within their productive means in order to economically sustain themselves in the first instance, lest the cost of environmental stewardship be rendered unaffordable by unachievable targets. The basis for biodiversity restoration policy should not merely rely on an assessment by experts about threats biodiversity (which is merely one information component needed to inform a strategic approach to restoration). I cannot see where the Council has done

the necessary analysis to demonstrate consideration of the costs and benefits of private land management options for restoration and enhancement.

- 4.12 In the absence of alternative methods to pursuing restoration, it must be assumed that regulatory requirements will be the default method in district and regional plan implementation. In my experience, regulation pursuing restoration is a costly pursuit for consent authorities, enforcement agencies and consent holders, and the wider community of interested parties. In my opinion, reliance on regulatory implementation provides little or no guarantee of biodiversity restoration outcomes.
- 4.13 It would be highly impractical to require private landowners to undertake restoration works without any incentive to support this. Only the most virtuous people would be likely to want to pursue restoration at all costs. For everyone else, this would just create further frustration with the planning system.
- 4.14 Further, the 10-year planning timeframe for review of regional policy statements in Section 79 of the Act implies that planning instruments need to be current and relevant. This should translate to reflecting relevant trends in resource management issues, and affording an appropriate weight to policy for protecting and maintaining existing indigenous biodiversity and undertaking any restoration that is practical and achievable.
- 4.15 The region's planning framework looking forward should not translate into an over-ambitious focus on restoration without regard to the costs of this. Yet the latter is what the reporting planners appear to be pursuing in their recommended amendments. Whilst the general thrust of the reporting planners' amendments is updating the RPS to reflect the NPSIB⁷, the reporting planners rely on this to advance what in my opinion is a somewhat narrowly-focussed policy framework for managing indigenous biodiversity on private land.
- 4.16 Preserving and managing indigenous ecosystems on private land is complicated by many challenges, which the reporting planners do not address in the Section 42A Report. For resource management policy to be effective, implementation of policy needs to incorporate realistic and achievable goals that can be practically implemented in a way that is within the capability and means of plan users (including resource

⁷ Op cit. Para 82

users). It is axiomatic in planning, that if a plan is beyond the capability of plan users to implement, it won't work.

- 4.17 I agree with the reporting planners' assessment at para 82 of the Section 42A report that the proposed provisions for indigenous ecosystems in RPS Change 1 fall short of the requirements in the provisions of the NPSIB, which is partly due to the latter coming into force after the RPS Proposed Change 1 provisions were finalised.
- 4.18 However, in my opinion, the reporting planners' recommended amendments reflect aspirations to capture all manner of indigenous biodiversity in a comprehensive resource management framework that is devoid of consideration of practical challenges to implementation of these policies for private landowners. I specifically address the reporting planners' recommended amendments to Objective 16 and Policies 23, 24, 24A and 47, to highlight what in my opinion are obstacles that make these provisions difficult to practically implement.

Amendments to Objective 16 – Direction to protect Ecosystems and habitats with significant ecosystem and biodiversity values

- 4.19 I disagree with the reporting Planner's assessment and conclusions in section 3.8 of the Section 42A report (particularly the analysis at paragraphs 177- 184) regarding the proposed amendments to Objective 16.
- 4.20 There is no requirement in the Act or in the NPSIB to *protect* or *enhance* indigenous ecosystems and habitats with significant ecosystem functions and services
- 4.21 Under the NPSIB, ecosystem *function* means 'the abiotic (physical) and biotic (ecological and biological) flows that are properties of an ecosystem'.
- 4.22 Further, under the NPSIB, *ecosystem services* are the benefits obtained from ecosystems such as:
- (a) supporting services, (e.g., nutrient cycling, soil formation, habitat creation):
 - (b) provisioning services, (e.g., food, freshwater, wood, fibre, fuel):
 - (c) regulating services, (e.g., water purification, climate regulation, flood regulation, disease regulation):
 - (d) cultural services, (e.g., aesthetic, spiritual, educational, recreational).

- 4.23 Under the NPSIB, adverse effects on an SNA of any new subdivision, use, or development must be avoided if there would be a disruption to sequences, mosaics, or *ecosystem function* (Cl 3.10(2)(b)) and areas may qualify as SNAs if they have an attribute the (inter alia) in important for the *natural functioning of an ecosystem* under Appendix 1 SNA assessment criterion D(3)(d). Further, *ecosystem function* is one of the attributes required to be taken into account when considering biodiversity offsetting under Appendix 3(7).
- 4.24 I have opined why I consider the need for a regulatory response to restoration at a regional level is overstated in RPS Change 1 earlier in my evidence. I reiterate that in my view, a policy approach focused on supporting land management in an appropriate way to encourage biodiversity enhancement and restoration would be more likely to achieve outcomes for restoration of indigenous biodiversity than a regulatory regime requiring mandatory restoration.
- 4.25 My preference is for the reference to *significant ecosystem functions and services* to be deleted from amendments to Objective 16.
- 4.26 With regard to the reporting Planner's recommendation at Paragraph 190 of the Section 42A Report, there is no need for a definition of *ecosystem function* as this term is already defined in the NPSIB and if the NPSIB is changed in the future, there is likely to be awkward regulatory blurring of this term if it is left unchanged in the RPS. I prefer that the definition in the NPSIB be relied upon (without needlessly duplicating this in the RPS).

Amendments to Policy 23 and Policy 24 – timeframes for identification of indigenous ecosystems and habitats

- 4.27 I disagree with the reporting Planner's assessment and recommendation at paragraphs 249- 259 of the Section 42A Report regarding timeframes for Policy 23, and the assessment at paragraphs 304 of the Section 42A Report regarding timeframes for Policy 24=.
- 4.28 The target date by which Policies 23 and 24 are expected to be implemented (4 August 2028) are not supported by any analysis as to achievability or otherwise of these dates.

Nor do these reflect the target of 8 years⁸ (post commencement of the NPSIB) for local authorities to notify changes to policy statements and plans to give effect to the NPSIB. The NPSIB was Gazetted on 7 July 2023 and the commencement date was 28 days after that, i.e., 4 August 2023. Eight years after 4 August 2023 would be 4 August 2031.

Amendments to Policy 24 and suggested Policy 24A – principles for biodiversity offsetting

- 4.29 I disagree with the reporting Planner’s recommendation at paragraph 315 of the section 42A Report about biodiversity offsetting.
- 4.30 RPS Change 1 introduces a new definition of what constitutes ‘naturally uncommon ecosystems’ but not what a *naturally uncommon species* is, albeit that the latter term is inferred in (c) of the reporting planners’ suggested new policy, i.e. “...an ecosystem or species that is listed in Appendix 1A as *threatened or naturally uncommon*;...”⁹. I suspect that this inference to ‘naturally uncommon species’ is an accidental error in drafting by the reporting Planners, in which case the amendment should be corrected to ensure this mistake is rectified. In this regard, I note that while the term ‘naturally uncommon ecosystem’ is referenced in Appendix 1 of the NPSIB, the term ‘naturally uncommon species’ does not appear in the NPSIB nor anywhere else in the RPS.
- 4.31 The snapshot of indigenous species and habitat loss presented in the report by Maseyk and Parlato¹⁰ states there are nineteen *naturally uncommon* ecosystems recognised in the Wellington Region and includes reference to ‘ephemeral wetlands’ in relation to this term in their report. ‘Ephemeral wetlands’ are undefined in the RPS but are included in the Table 17 list of ecosystems and species that either meet or exceed the limits to the use of biodiversity offsetting and biodiversity compensation in the Wellington Region. While this term may be understood by ecology experts, it may not be all that well understood by other plan users, implementers, or even decision-makers.

⁸ NPSIB CI 4.1(2)

⁹ Section 42A Report Appendix 1 Page 8

¹⁰ Maseyk, F., Parlato, E. (2023) *STATE OF INDIGENOUS BIODIVERSITY AND INDIGENOUS ECOSYSTEMS IN THE WELLINGTON REGION: A COLLATION OF RECENT MONITORING AND REPORTING* The Catalyst group, Wellington. Report No. 2023/189 Prepared for Greater Wellington Regional Council
<https://www.gw.govt.nz/assets/Documents/2023/12/Indigenous-Biodiversity-and-Ecosystems-in-the-Wellington-Region.pdf> accessed 17 January 2024

- 4.32 In my opinion, the term *naturally uncommon ecosystems* could be interpreted as feasibly (and mistakenly) including a wide-ranging array of ‘ephemeral wetland’ features, including damp or boggy pastureland, which would be problematic and confusing when implementing the policy. I prefer that *ephemeral wetlands* (as a category) either be suitably defined to reflect the ‘rarity and distinctiveness’ criterion in Part C (6) of Appendix 1 of the NPSIB, or alternatively be excluded from policy relating to *naturally uncommon ecosystems* in the RPS.
- 4.33 With regard to the reporting Planner’s suggestion for policies or methods that require biodiversity offsetting or aquatic offsetting to achieve at least a 10% net gain or greater in indigenous biodiversity outcomes to address residual adverse effects on indigenous biodiversity, extent, or values, I note the NPSIB target requirement for increasing indigenous vegetation cover in Cl 3.22(3)(a) requires a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation.
- 4.34 In this regard, Wellington Region is comprised of approximately 812,000 ha¹¹, with 94% of that as rural land (763,000 ha)¹². The relative amount of land cover for indigenous vegetation is set out in the following table.

	Total Area (ha)	Indigenous Vegetation Area (ha)	Indigenous Vegetation Land Cover Percentage (%)
Wellington Region	811,963	284,412	35.0%
Wellington Rural (‘Non-urban’) Land	762,816	276,683	36.3%

- 4.35 That is to say, there is more or less 35% indigenous vegetation land cover within Wellington Region, of which 34.1% is indigenous vegetation on rural land (i.e., 97.3% of indigenous vegetation in the Wellington region is rural)¹³. For ‘non-urban environment’ land, 36.3% of rural land cover is indigenous vegetation land cover. Therefore, not only would the requirement in NPSIB Clause 3.22(3)(a) not be triggered,

¹¹ Wellington Region boundary – Regional Council boundaries maintained by Stats NZ. Regional Council 2023 (generalised), <https://datafinder.stats.govt.nz/layer/111182-regional-council-2023-generalised/>

¹² Rural land - Urban Rural Indicator Areas maintained by Stats NZ. Urban Rural 2023 (generalised), <https://datafinder.stats.govt.nz/layer/111198-urban-rural-2023-generalised/>

¹³ Land Cover classifications for Aotearoa/New Zealand sourced from Manaaki Whenua (LCDB v5.0). LCDB v5.0 - Land Cover Database version 5.0, Mainland, New Zealand, <https://iris.scinfo.org.nz/layer/104400-lcdb-v50-land-cover-database-version-50-mainland-new-zealand/>

but the proportion of indigenous land cover on *non-urban environment* land in the Wellington Region is already quite considerable (over one-third).

- 4.36 Given these circumstances, I highly doubt there is sufficient justification for pursuing a policy requiring a *10% net gain or greater*, in indigenous biodiversity outcomes to address residual adverse effects on indigenous biodiversity, extent, or values, and in my opinion, such requirement should not be a part of the RPS policy framework.
- 4.37 In my opinion, the provisions of RPS Proposed Change 1 go a step too far from the NPSIB through setting ‘stretch goal’ targets for 10% net gain or greater in the Wellington Region for biodiversity offsetting or aquatic offsetting. I cannot see the evidence to justify the target of ‘10% or better’ net biodiversity gain. The figure of ‘10%’ itself is quite arbitrary. There is no assessment from the Council on the cost of implementing such policy. Such a requirement could just as likely as not be tantamount to an expensive consent-sponsored field trial of the *10% net-gain* target on the promise of improvement in biodiversity, without any actual resulting environment benefit, but with all the incumbent expense in pursuing this arbitrary target.
- 4.38 Further, I note that the evidence of Dr. Maseyk for Greater Wellington Regional Council on offsetting, describes an assessment process for calculating biodiversity offsetting that is quite complex, involving ‘numerical models and accounting systems’¹⁴. In my experience, environmental impact assessments involving complex modelling and calculations, involve myriad assumptions and tend to be the preserve of technical experts. These tend to be difficult for most laypeople to comprehend, which increases reliance on technical expertise, adding to the cost of assessment. In my estimation, a requirement to ensure 10 percent or greater net gain in biodiversity for activities that anticipated to cause residual adverse effects, is likely to add costs in the order of several thousand dollars to each resource consent application, as well as higher ongoing monitoring and reporting costs.
- 4.39 Further, modelling environmental states and trends invariably involves layers of modelling assumptions that increase the likelihood of potential for discrepancy between assessment of different cases. This would tend to muddy the picture in assessing what constitutes a ‘10% or better’ net gain, potentially begetting all manner

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F.J.F. Maseyk Evidence in Chief dated 5 December 2023. para 34

of inequities between resource users in shouldering the burden for biodiversity offsetting.

- 4.40 Moreover, the requirement for net gain would be triggered by resource consent proposals where a judgement call is being made about biodiversity loss. This may not apply evenly to all resource users, depending on how each application is assessed by the consent authority (and interpretation of that could vary between consent authorities or between officers within the same consent authority).
- 4.41 Further, for resource consents for freshwater allocation (water permits) or farm effluent discharge permits for instance, there is potential for all manner of inequities between consent holders whose consents come up for renewal earlier, versus those whose consents come up for renewal later. Consent renewals that are the first off the block may face harsher more-stringent requirements for providing biodiversity net gain than later consents, or vice-versa. Further in my estimation, the cumulative impacts of biodiversity loss and the net gain required would typically be very difficult to assess, and at worst, be practically impossible to get consistency about. This could lead to all manner of 'patchy' environmental outcomes, further complicating the picture of 'net gain'.
- 4.42 In my opinion, RPS policy incorporating a target of 10 percent net gain or better is likely to be unworkable in practice. I would prefer that the requirement for '*a 10 percent net biodiversity gain (or better)*' be deleted from RPS Policy 24 (d) (and from the new Policy 24A (d) suggested by the reporting planners).
- 4.43 Accordingly, my preference is for the proposed amendment clause in Policy 47 reference Policy 24 be deleted or amended to explicitly exclude any requirements for a 10 percent gain or better when considering biodiversity offsetting.