

BEFORE THE MANAWATU WANGANUI REGIONAL COUNCIL

IN THE MATTER OF The Resource Management
 Act 1991

AND

IN THE MATTER OF Hearing on Submissions
 Concerning the Proposed
 Horizons Regional Council
 One Plan for the Manawatu
 Wanganui region.

**Answers to questions raised by the Proposed One Plan Hearing
Panel for Water Quality, Quantity, and Beds of Rivers and
lakes**

Wellington Fish and Game Council

15 March 2010

How far downstream of the PNCC WWTP discharge was the photo taken of the kayaker in the Manawatu River?

1. The photo was taken approximately 1.8km downstream of PNCC WWTP discharge. Mixing zone for PNCC WWTP discharge is 400m.

Does the Mangatainoka River Water Conservation Notice refer to control of wet gravel extraction?

2. Yes. The Mangatainoka WCN states that:
 - (a) A water right under section 21 of the Resource Management Act may not be granted by the regional council and a general authorisation under section 22 of the Act may not be made by the regional council in respect of the river if the combined effect of the grant or authorisation and of existing rights would have a significant adverse effect on the feature identified in clause 3 (clause 5.1A);
 - (b) It is hereby declared that the Mangatainoka River includes a recreational fishery of regional significance (clause 3);
 - (c) Notwithstanding anything in this notice, it shall be lawful for water rights to be granted, and general authorisation to be made, in respect of the river for the purposes of (clause 5.2):
 - (i) the extraction of gravel, provided no such extraction takes place in the water channel of the river [own emphasis], and the water quality requirements of clauses 5(4) are met (clause 5.2d).
 - (ii) the natural colour and clarity of the waters shall not be changed to a conspicuous extent (clause 5(4g)).

Common catchment expiry dates

3. Wellington Fish and Game Council has received legal advice in relation to common catchment expiry dates to the effect that common catchment expiry dates for resource consents are not uncommon in regional plans, are not ultra vires in the RMA and are valid policy considerations.
4. The validity of common catchment expiry dates has recently been considered by a panel of highly qualified commissioners and two councillors in the context of Variation 6 to the Waikato Regional Policy Statement ("RPV6"). The Hearing Committee in RPV6 concluded that:¹

"We consider that a policy of common expiry dates spread over the Region makes for sound sustainable environmental management for the following reasons:

- a. *It allows for consents within each catchment to be assessed at the same time rather than on a 'case by case' basis. The new*

¹ Proposed Waikato Regional Plan, Proposed Variation No. 6 - Water Allocation, Hearings Committee Report, Volume 1 at page 170.

policy allows for greater equity to be applied among competing users and avoids 'water banking';

- b. It will allow for the sharing of costs by all parties; and*
- c. Re-allocation can be achieved across all takes in a catchment within no advantage or disadvantage accruing to consents because of timing."*

Water quality standards in the One Plan

5. Wellington Fish and Game Council's position in relation to water quality standards in the One Plan remains as discussed in Ms Jordan's supplementary hearing evidence.

Are wetlands dealt with appropriately in Chapter 6?

6. No. Care will need to be taken to include reference to wetlands in the appropriate provisions of Chapter 6 and in the rule chapters either through changing the reference from waterway or waterbody to river, lakes, and wetlands, or if referring just to the water ensuring that wetlands are included in the definition, eg rule 13-2(a) "*there shall be no direct discharge of fertiliser into any waterbody including groundwater*". Currently the definition of waterbody in the POP does not include the water within a wetland, even though the definition under the RMA does. The Wellington Fish and Game Council originally submitted in support of provisions which referred to 'waterbodies', as it was our understanding that the term 'waterbodies', was as defined in the RMA. Wetlands are only protected in chapters 13 and 15 if they fall within the category of rare or threatened habitat (generally excludes smaller wetlands <0.5ha if they are not comprised of naturally occurring indigenous wetland habitat). Rules within Chapter 16 fail to protect wetlands, including from damming and activities which may disturb the bed of the wetland, even though these issues are identified in Chapter 7, and were supported by WFG.
7. In reference to scope please see WFG original submission which supported the majority of provisions dealing with wetlands, and WFG hearing evidence on Chapter 7 and 12. The WFG council submitted in support of section 7.7 Explanations and Principal Reasons which established that 'rare and threatened' habitats were habitats that have been reduced to a level less than 20% of their original extent, and at 'at risk habitats' are those habitats that have been reduced to 33% of their original cover. Wetlands in this region have been reduced to ~2.6% of their original extent. The importance of small wetlands is discussed in Ms Jordan's hearing evidence on 'biodiversity and heritage' sections of the POP.

Scope in relation to Wellington Fish and Game Council's relief sought

8. The hearing panel has expressed concerns regarding scope in relation to Wellington Fish and Game Council's expert evidence, in regards to: method 6-9; the establishment of a deposited sediment standard in schedule D; the setting of dates/interim dates by which water quality standards will be met; and changes to Table 16.1(c), (d), and (k).

Method 6-9

Wellington Fish and Game Council continues to maintain its position that the amended wording of Method 6-9 as agreed with Council officers enhances the workability of the method which Wellington Fish and Game Council did not oppose.

Table 16.1 (c) and (d)

9. Wellington Fish and Game Council submit that the Hearing Committee has scope to amend Table 16.1(c) and (d). Taranaki Fish and Game (submission 406 points 74 and 75) and Wellington Fish and Game (submission 417 point 87) submitted in opposition to Table 16.1(c) and (d). Expert caucusing between Fish and Game, the Department of Conservation, Horizons, and Associate Professor Death resulted in agreed wording which met the concerns of all parties. Subsequent discussion with Mr Lambie (12 March 2010) resulted in agreement on further amendments which better reflect the intent of expert caucusing on the issue. Wellington Fish and Game Council submit that Mr Lambie's final recommendation be accepted.

(c) Any discharge[^] of sediment directly caused by the activity shall not be undertaken for more than 5 consecutive days, or for no more than 12 hours on any one of those 5 days, be for no more than a total of 12 hours over no more than 5 consecutive days and no more than one event in any 12-month period.

(d) Any discharge[^] of sediment under condition (c) shall not, after reasonable mixing*, cause any conspicuous change in the colour of water[^] in the receiving water_body^{^*}, or any change in horizontal visibility of greater than 30% the standard set in the clarity % change column of Schedule Ba., more than 24 hours after completion of the activity.

Table 16.1(k)

10. Wellington Fish and Game Council submit that the Hearing Committee has scope to amend Table 16.1(k). Taranaki Fish and Game (submission number 406 point 75) and Wellington Fish and Game (submission number 417 point 87) submitted in opposition to Table 16.1(k). Expert caucusing between Fish and Game, the Department of Conservation, Horizons, and Associate Professor Death resulted in agreed wording which met the concerns of all parties. Subsequent discussion with Mr Lambie (12 March 2010) resulted in agreement on further amendments which better reflect the intent of expert caucusing on the issue. Wellington Fish and Game Council submit that Mr Lambie's final recommendation be accepted.

Any permanent straightening or channelling of a river must not exceed a length equal to two times the bed width of the river in any 2km length of the river in any 12-month period and shall not be permanent.

Matters subsequently agreed (by email communication)

It is recognised that some activities, such as the construction and maintenance of culverts, bridges and fords will result in permanent but minor straightening of the channel. Noting that Table 16.1 is a set of standards for activities that reference the standard, it was agreed that activities covered by the following three rules should be exempted from permitted activity standard (k):

- Rule 16-6 (Maintenance and repair of structures, and associated removal of bed material and plants)
- Rule 16-11 (Culverts)
- Rule 16-12 (Other structures including bridges, fords and other access structures).

Deposited sediment standard in schedule D

11. Wellington Fish and Game Council submit that the Hearing Committee has scope to amend Schedule D. Specifically, scope is contained within the following aspects of Wellington Fish and Game Council's submission:

- a. The Wellington Fish and Game Council raised issues of land use practices and associated sediment loadings to freshwater resources in a general way in their submission (submission number 417 point 1, 11, 16, 17, 20);
 - b. The Wellington Fish and Game Council submitted specifically in regards to establishing standards and monitoring the effectiveness of the non regulatory methods for controlling land use mediated sedimentation of the regions freshwater resources (submission 417, 12, 13, 15, 29);
 - c. Submission number 417 point 12 - partial support for Objective 5-1 "supporting the reference to water quality standards *"sediment loads entering waterways as a result of accelerated erosion are reduced to the extent required to be consistent with the water management objectives and policies set out in Chapter 6 of this plan and the targets established in schedule D for those water management zones with elevated sediment levels"*.
 - d. Submission number 417 point 29 – support for Policy 6.7 Land Use Activities Affecting Surface Water Quality which sets out the policy for addressing the sediment impacts on freshwater resources from land uses (policy 6-7(c)(i)), and links the means of addressing the issue back to Chapter 5.
 - e. Submission number 417 point 15 - opposition to 5.6 AER stating that *"it would be better to either refer to the water quality standards (with respect to sediment) as Objective 5-1(b) does) or introduce some targets, here, related to that standard"*. A number of other submitters also opposed AER 5.6 (372/26 and 406/17) requesting more specific targets and timeframes.
 - f. The following submissions also provide the hearing panel with scope to include a deposited sediment standard in schedule D. These include, but are not limited to: 433/28 Manawatu Branch of the Green Party *"what the actual target is for HEL areas"*; 386/51 and 427/51 promote the inclusion of clearer cross references to other chapters within the POP; 460/18, 433/27, 305/2 x 506/6, a number of submitters requested, in regards to objective 5-1, amendments to provide greater clarity, and the establishment of a trigger point; a number of submitters requested evidence that land use practices were adversely affecting water quality; 35/2, 61/12, 101/2, x 481/7 schedule D standards reviewed taking into consideration linkages between water quality and practices; 372/26, 406/17, 417/15, submitters request the inclusion of specific measures and timeframes in AER 5.6; 473/3 support the use of numeric water quality standards to describe the desired state of the river in each management zone.
12. The establishment of deposited sediment standards in schedule D gives effect to, and provides greater clarity around, sediment standards necessary to maintain the life supporting capacity of the resource. It also provides a means by which to measure POP implementation effectiveness in regards to controlling land use activities which cause freshwater sedimentation impacts, and would provide a robust alternative to turbidity standards, as notified but now recommended in the s42a officers report for deletion.

Dates / interim dates by which water quality standards will be met

13. Wellington Fish and Game Council submit that the Hearing Committee has scope to amend AER 5.6 to include "by 2030", or/and insert interim dates by which water quality standards will be met.

14. The inclusion of recommended timeframes would provide greater clarity to Policy 6.4 and better reflect the intent of section 2.2 of the POP, both of which the Wellington Fish and Game Council submitted in support of. Specifically:
- a. The requested wording addresses issues raised by the Wellington Fish and Game Council in its opposition to inclusion of “by 2030” to Objective 6-1.
 - b. The requested wording provides greater clarity to the intent of 6.6 AER which the Wellington Fish and Game Council supported (submission number 417 point 51). Noting also, that the Royal Forest and Bird Society submitted (submission number 460 point 59) requesting that *“during the life of this plan water quality and quantity will maintain or exceed the values set in this plan”*, and the Ecologic Foundation (submission number 456 point 1) submitted that *“the council should structure its general objectives and policies in a manner which establishes its long term aspirations for environmental bottom lines for the region in Part I, and sets out what it aims to achieve within 5 and 10 years on Part II. In both cases, objectives should be expressed with greatest possible clarity and be linked to dates for achievement”*.
 - c. The requested wording better meets the intent expressed in section 2.2 Plan Monitoring which was supported by the Wellington Fish and Game Council.
 - d. Associate Professor Death recommended in his EIC (paragraph 70 – 72) and his supplementary evidence (point 31) the establishment of key performance indicators by which to evaluate the effectiveness of the POP in meeting its aims. This was primarily in relation to the ecological integrity of the regions freshwater resources and the establishment of an annual formal meeting to discuss the achievement of the POP objectives with other organisations which are also monitoring the state and trends of biological communities. The Wellington Fish and Game Council considers that this approach could be fed into the POP, potentially in section 2.2 Plan Monitoring, and through AER, and that its inclusion would provide greater clarity and better reflect the intent of the POP which Wellington Fish and Game supported.

Scope of Section 14(3)(b)(ii) of RMA

15. Wellington Fish and Game Council has received legal advice in relation to the scope of section 14(3)(b)(ii) of the RMA to the effect that the existence of a specific rule in the One Plan, which provides for daily drinking water requirements of an individual’s animals up to a certain threshold, supersedes section 14(3)(b)(ii). Even if the rule does not supersede the section, the threshold set out in the rule is a proxy for what is “reasonable” in terms of the amount of take and for adverse environmental effects. There must be some question therefore as to whether large corporate dairy farmers can rely on section 14(3)(b)(ii) to take large quantities of water for stock needs.

Status of Rule 13-1

16. The Wellington Fish and Game Council cross submitted in support of the Manawatu Branch of the NZ Green Party’s submission to retain Rule 13-1 as notified. The Wellington Fish and Game Council’s position in relation to Rule 13.1 is as stated in Ms Jordan’s supplementary evidence standards.

Rule 13.1

17. Following direction from the hearing panel, Wellington Fish and Game Council met with Federated Farmers on the 15 of March 2010 to discuss Rule 13.1 in the hope of reaching common ground. These discussions are continuing. However, due to tight time constraints, it has not been possible to reach potential agreement at this stage.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Phillip Teal". The signature is fluid and cursive, with the first name "Phillip" and the last name "Teal" clearly distinguishable.

Mr Phillip Teal
Regional Manager
Wellington Fish and Game Council

