

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.

**SUPPLEMENTARY STATEMENT OF EVIDENCE OF
Ms CORINA JORDAN**

3rd March 2010

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1. Introduction

- 1.1 My name is Corina Jordan, and I have the qualifications and experience described in my evidence in chief.
- 1.2 I have read the Environmental Court's Code of Conduct for Expert Witnesses (Section 5 of the Environment Court Consolidated Practice Note 2006), and I agree to comply with it. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state that I am relying on what I have been told by another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed. I will treat my responsibility to this hearing panel as to that of the Environment Court.
- 1.3 I intend, through my supplementary evidence, to address some issues raised by other submitters and experts that are not specifically covered by my evidence in chief, and matters that require further explanation or reiteration. I do not intend to comment on all matters raised during the hearing to date. However, my silence on some matters should not be taken as acceptance of those matters, or the views expressed by other submitters or their experts, on those matters. In general Wellington Fish and Game position remains unchanged from that expressed in our evidence in chief, which stands, unless I expressly state otherwise in our supplementary evidence.

2. Scope of Supplementary Evidence

- 2.1 My evidence will, from a planning and ecological perspective, cover the following matters so far as they relate to Wellington Fish and Game Council's submissions:
 - i. Debate over Standards
 - ii. Recommended Movement of Provisions within RPS to RP
 - iii. Objective 6-1
 - iv. Change in terminology from Waterway or River to Waterbody
 - v. Policy 6-4
 - vi. Schedule D standards
 - vii. Chapter 13 Discharges to Land and Water
 - viii. Water quantity
 - ix. Beds of Rivers and Lakes, including Scope
 - x. Adaptive management
 - xi. Conclusion

3. Standards

- 3.1 There has been some debate on whether the Standards within the Proposed One Plan (POP) water chapters are water quality standards under s69 of the RMA

(1991) or merely guidelines. It has also, been stated that expert caucusing has occurred with the outcome that the standards within the proposed One plan have been determined to be guidelines.

3.2 Firstly, I would like to state that even though Wellington Fish and Game submitted, and presented expert evidence on the standards, we were not involved in discussions around the status of the standards. Secondly, in supporting the overall approach to the plan our understanding was that the standards were in fact standards to be either maintained or achieved through the life of the Plan, and were linked to the rules framework of the Plan.

3.3 As stated by Mr Maassen in his 'Introductory Submissions for Horizons Regional Council' the standards "*provide a measurable framework for assessing progress in maintaining water quality where standards are already met and in achieving better water quality where the standards are not met*" (paragraph 14a). This aim is clearly stated in the overarching provisions of the freshwater chapters of the Plan (scope 6.1.1, Objective 6-2, policy 6-1, policy 6-3, policy 6-4). In supporting the framework of the Proposed One Plan Wellington Fish and Game stated that "*the framework set out in the POP is one, that when read in its entirety, provides a clear link between the stated issues through to the objectives, policies and methods including rules. This approach provides a regionally relevant translation of Schedule 3. The establishment of numerical standards give effect to the narrative within the Resource Management Act (RMA)(1991), ensuring that resources are utilised efficiently, and that the life supporting capacity of water and ecosystems are maintained, and the needs of future generations met*" (Ms Jordan EIC, paragraph 3.5).

Section 69 of the RMA states:

"69 Rules relating to water quality

(1) Where a regional council—

(a) Provides in a plan that certain waters are to be managed for any purpose described in respect of any of the classes specified in Schedule 3; and

(b) Includes rules in the plan about the quality of water in those waters,—

the rules shall require the observance of the standards specified in that Schedule in respect of the appropriate class or classes unless, in the council's opinion, those standards are not adequate or appropriate in respect of those waters in which case the rules may state standards that are more stringent or specific.

(2) Where a regional council provides in a plan that certain waters are to be managed for any purpose for which the classes specified in Schedule 3 are not adequate or appropriate, the

council may state in the plan new classes and standards about the quality of water in those waters.

- (3) *Subject to the need to allow for reasonable mixing of a discharged contaminant or water, a regional council shall not set standards in a plan which result, or may result, in a reduction of the quality of the water in any waters at the time of the public notification of the proposed plan unless it is consistent with the purpose of this Act to do so."*

3.4 In accordance with this section all rules in a plan shall require the observance of water quality standards provided that:

- The plan provides that certain waters are to be managed for any purpose described in respect of any classes specified in Schedule 3; and
- The plan includes rules about the quality of water in those waters

3.5 One Plan takes the following approach water quality standards:

- Schedule D of the One Plan provides that certain waters are to be managed in accordance with standards for the purposes described in Schedule 3 of the RMA.
- Objective 6-1 seeks to manage waters to provide for its values.
- Policy 6-1 seeks to achieve this by the establishment of water quality standards.
- In situations where the quality of waters meets the standards, the waters shall be managed to ensure that the water quality standard continues to be met (Policy 6-3). In situations where the quality of waters does not meet the standards, the waters shall be managed to maintain or enhance the existing water quality (Policy 6-4).
- Chapter 13 sets out rules for discharges to water. These rules relate to the quality of water in those areas described in Schedule D.

3.6 As such, WFG's legal advisor (Simon Berry Law) considered that the One Plan does triggers section 69 of the RMA. Simon Berry Law considered that WFG's submission has scope to support the approach that the water quality standards of the One Plan must be complied with on the following basis:

- WFG's submission supports and seeks to retain the approach of the One Plan in relation to identifying water quality values and maintaining them in accordance with water quality standards.
- WFG's submission supports section 6.6, Anticipated Environmental Results. The anticipated environmental results of Chapter 6 on water seek to ensure that water quality standards are continued to be met and where they are not met to be met when targeted for action.

3.7 The standards within the Plan were obtained via robust research by Horizons and their freshwater experts, and are designed to protect the identified values of each stream, river and lake assessed, as such they provide for the life supporting capacity of the resource, giving effect to the purpose of the Act. As stated by Mr Maassen "*without a meaningful and measurable framework, progress towards ones goals is not achievable*" (Introductory Submissions for Horizons Regional Council, paragraph 14). This concern was also expressed by Ass Prof Death who stated that "*Guidelines can be ignored or enforced inconsistently depending on the perspectives of those judging them, whereas rules provide certainty for all involved*" (EIC, paragraph 22).

4. Recommended Movement of Provisions within RPS to RP

- 4.1 Wellington Fish and Game oppose the recommended movement of provisions from the RPS chapter of the POP to the Plan chapters.
- 4.2 It is Wellington Fish and Games concern that the territorial authorities involved in the One Plan hearing are seeking to have some of the provisions of the RPS moved to the Plan chapters of the One Plan, potentially to avoid having to give effect to those provisions? Our other concern is that by moving provisions from the RPS to the Plan chapters of the POP, this may enable private parties to seek a plan change to amend/delete these provisions.
- 4.3 These concerns are especially relevant to provisions which deal with the reasonable and efficient use of the resource and set criteria to meet these requirements.
- 4.4 Section 74 of the RMA sets out the matters that must be considered by a territorial authority when preparing or changing a district plan. In accordance with this section, a territorial authority shall have regard to any proposed regional policy statement or proposed regional plan of its region.

- 4.5 Section 75 of the RMA, which sets out the content of district plans states however, that a district plan “**must give effect to**” any regional policy statement. But, there is no corresponding requirement to give effect to regional plans.
- 4.6 In relation to the preparation of regional plans and regional policy statements the following applies:
- Clause 2(1) of Schedule 1 of the RMA states that the preparation of a policy statement or plan shall be commenced by the preparation by the local authority concerned.
- 4.7 However, in accordance with Clause 21(2) any person may request the preparation of a regional plan (other than a regional coastal plan).
- 4.8 In relation to changing regional plans and regional policy statements the following applies:
- Clause 21(1) of Schedule 1 of the RMA states that any person may request a change to a district plan or a regional plan (including a regional coastal plan).
 - Clause 21(3) of Schedule 1 of the RMA states that any Minister of the Crown or any territorial authority in the region may request a change to a policy statement.
 - Clause 21(4) of Schedule 1 of the RMA states that where a local authority proposed to prepare or change its policy statement or plan, a person cannot request a change to that policy statement or plan. The policy statement or plan must proceed through Part 1 of the Schedule 1 process.
- 4.9 In summary, any person can apply to prepare a regional plan (other than a regional coastal plan) and to change a regional plan. However, only a local authority in the region or a Minister of the Crown can apply to change a regional policy statement.

5 Objective 6-1

- 5.1 As discussed in my EIC (Ms Jordan EIC, paragraph 6.20), the intent of Objective 6-1 is supported. However, the inclusion of the date “2030” is not supported. Life that is found in surface waters of the region need to be protected now, and not at some established time in the future. As discussed in my evidence and the evidence of Dr Joy and Associate Professor Death, ecosystem values within the region are already compromised to the extent that their life supporting capacity is diminished, as seen by the degradation in macroinvertebrate communities and vertebrate communities, including the regions recreational trout fisheries. If action is not taken now to protect the regions freshwater ecosystems, then their values may be degraded to the extent that current freshwater vertebrate communities cannot be sustained. Part 2, principles and purposes of the RMA outlines in s5 that its purpose is to “*promote the*

sustainable management [own emphasis] *of natural and physical resources*". Sustainable management meaning among other things; "*safeguarding the life-supporting capacity of air, water, soil, and ecosystems*" (s5(b)).

Relief Sought

- 5.2 Wellington Fish and Game requests that the recommended inclusion of "2030" be declined.
- 5.3 If the intent is that standards are to be met by "2030" then that needs to be stated. Even if that is the intent the inclusion of "2030" is still opposed, without reference to interim dates and standards by which water quality and quantity standards that are not currently met, can be met by. The Manawatu Catchment Water Quality Regional Plan (1998), specified water quality standards that were linked to water quality objectives, and then set timeframes by which they were to be achieved, these standards have not been met, and the lower Manawatu River remains one of the worst polluted rivers in New Zealand (as discussed by the experts), which indicates that this approach is flawed. If time frames are specified by which standards are to be met in the future, then interim standards and time lines need to be established by which to measure progress towards the achievement of the objective (Ms Jordan EIC, 6-21).
- 5.4 Under the 'Anticipated Environmental Results' section of the POP, and/or appropriate objectives and policies within the plan, set interim target dates and final dates for achieving water quality and quantity standards where they are not currently met. For example if it is intended as stated that "*during the life of this plan, water quality and quantity achieve the values set in this plan*" then the date 2030 should be stated. Wellington Fish and Game supports the recommendation of Mr Deans that 5yearly dates should be set by which interim standards should be obtained, so that Horizons can monitor progress towards achieving final standards by 2030.

6 Change in terminology from Waterway or River to Waterbody

- 6.1 Wellington Fish and Game is concerned with the recommended amendment to the reference of "*waterways*" or "*rivers*" as notified, to "*waterbodies*", in the Proposed One Plan water chapters. Wellington Fish and Game does not support this alteration as the term "*waterbodies*" does not encompass those aspects of freshwater systems which need to be protected, to provide for the sustainability of freshwater ecosystems, especially in regards to the maintenance or enhancement of Natural Character. The definition of 'waterbodies' under the POP glossary does not include margins of rivers or lakes and is contrary to the RMA, which defines 'waterbodies' as "*fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area*".
- 6.2 It is the opinion of Wellington Fish and Game that it is inappropriate to redefine a term defined institute (ultra vires)

- 6.3 As discussed in the EIC of Associate Professor Death, and discussed in my evidence (Ms Jordan EIC, paragraph 6.18), the health of the rivers, streams, lakes, wetlands, and their riparian margins are critical to maintaining a diverse and healthy ecosystem. Riparian habitat is essential for providing both terrestrial inputs of insects to sustain trout populations, and maintaining trout habitat. As discussed in the EIC of Mr Williams, the physical processes and ecological relationships of aquatic and terrestrial habitats form an inter – dependent and interconnected system, with riparian habitats affecting channel form and energy supply webs. The management of rivers, streams, lakes, and wetlands, cannot be considered without the management of their riparian zones which are essential components of river systems.
- 6.4 The RMA refers to “*rivers and their margins*” and defines ‘river’ as “*a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)*”. Therefore the term ‘rivers and their margins’ or ‘rivers, lakes, wetlands, and their margins’ encompasses those characters which Wellington Fish and Game seek to protect, especially in regards to the maintenance or enhancement of Natural Character which includes riparian habitats, and the protection of small ephemeral streams (as discussed by Dr Mike Joy, Supplementary Evidence).

Relief sought

- 6.5 We ask that the wording be changed, in those provisions of the Plan which mean to encompass more than just the water within a river, stream, or lake, to reflect the intent of the RMA, and that definitions given under the Act are retained and not redefined.

7 Policy 6-4

- 7.1 The intent of this policy as indicated by its title “*Enhancement where water quality standards are not met*” was designed to ensure that water bodies which had water quality that did not meet relevant water quality standards would be enhanced. The inclusion of the word “*maintained*” derogates from that intent (EIC). As discussed in my EIC (Ms Jordan EIC, paragraph 6.11 – 6-21), dates by which water quality standards are to be met should be included.

8 Schedule D Standards

- 8.1 The development of specific numerical standards for evaluating POP objectives is a positive and effective way of improving water management. Wellington Fish and Game is in general supportive of the schedule D standards (as discussed by Assoc Prof Death). These standards are a key component of the Proposed One

Plan as they provide the basis for decision making in relation to matters on which the Regional Council has obligations under the Act.

- 8.2 The only provisions under the Schedule D standards that Wellington Fish and Game oppose are the recommended change from QMCI to MCI, and the lack of a deposited sediment standard. These issues have been discussed in my EIC (Ms Jordan EIC, paragraph 7.16 – 7.21) and in the expert evidence of Assoc Prof Death and Dr Mike Joy. I defer to their expertise on these matters.

Relief Sought

- 8.3 We ask that the Officers recommendations to retain schedule D, be accepted along with the numerical standards as discussed in my EIC (Ms Jordan EIC, paragraph 7.16 – 7.21), and Assoc Prof Deaths supplementary evidence, including the addition of a deposited sediment standard, which can be determined in consultation with relevant Ecological experts. Ass Prof Death has recommended a standard of
- 8.4 While the Proposed One Plan establishes non regulatory Whole Farm Plans to deal with the issue of land use practices, and hill country erosion, no numerical deposited standards are established. This is seen as serious weakness within the Proposed One Plan.

9 Chapter 13 Discharges to Land and Water

- 9.1 A number of submitters have challenged the establishment of regulatory methods to control some farming practices in the Proposed One Plan. The issues of voluntary vs regulatory methods to control farming activities and the concerns of landowners are addressed in Mr Botha's, Mr Deans and Mr Johnsons evidence. All support the approach of the Plan. The justification for a regulatory framework is based on the premise that without such a framework freshwater values will not be maintained or the purposes of the Act met. Evidence clearly shows that intensification of agricultural/horticultural land uses are significantly impacting on freshwater ecological integrity, including significantly impacting on the regions recreational trout fisheries and recreational angler values. With even Federated Farmers stating that "*land use practices including dairy, horticulture, and sheep and beef farming impact on the health of our freshwater resources*" (Tessa Mills, paragraph 9).
- 9.2 Wellington Fish and Game support the recommendation by Federated Farmers of the establishment of a catchment care approach (Mills paragraph 27), and share their view on the importance of community buy in and support for community based management initiatives to address issues of degraded water quality. However, as discussed in the evidence of Dr Botha and Mr Johnson we do not support a completely non regulatory approach to controlling farming activities which impact on freshwater resources.
- 9.3 Wellington Fish and Game does not agree that non regulatory methods are currently adequate to protect freshwater resources (Clean Streams Accord

discussed by Mr Deans, and Mr Johnson), a fact which is evident in the current state and continued degradation of freshwater resources. Research by numerous scientists including Dr Mike Joy, Assoc Prof Death, Dr Roger Young, and Horizons scientists has shown that freshwater in the regions lowland rivers is generally in a poor state with many catchments nutrient enriched. The Manawatu River is among the worst polluted rivers nationally.

- 9.4 Wellington Fish and Game support the regulatory approach to controlling intensive farming and horticulture in target catchments, and any new intensive farming and horticulture ventures, and ask that it be retained.
- 9.5 The addition of the new provisions: Objective 13-1a Regulation of discharges affecting land and water, Policy 13- 8 Circumstances when exceptions to the nitrogen leaching values will be made (grandparenting provision), and policy 13 – 9 Transfer of N-loss entitlement, are supported, as long as rule 13-1 is retained as controlled.
- 9.6 Table 13.1 - Is supported. As discussed in the case studies (Ms Jordan EIC), intensification of agriculture is significantly impacting on the health and sustainability of our trout fisheries. The identification of catchments where non point source inputs are the predominant pollutants are supported. Out of the 36 sites identified 50% impact on essential trout spawning habitat, 27.8% impact on “*regionally significant*” trout fisheries including the Mangatainoka and Makakahi (which have local water conservation notices), and 16.7% impact on our “*other*” trout fisheries.
- 9.7 As stated in ‘Response to questions on rule 13-1 and related policies and tables’ in reference to Rule 13-1, if this method is adopted by the panel, then some further changes to the rule will be required to provide for consideration of BMP’s that address phosphorus loss, faecal contamination and sediment inputs into waterbodies. The importance of these BMP’s to improved water quality outcomes has been outlined in the technical evidence and should be included in the regulation” (paragraph 13). This approach is supported by Wellington Fish and Game.
- 9.8 As discussed by our witnesses rivers, wetlands, and lakes: should be protected by the establishment of an appropriate riparian margin, full stock exclusion, sediment control, and nutrient enrichment control.
- 9.9 My understanding is that the FARMS strategy applies the same definition of a river as the clean streams accord. Protection to small and ephemeral streams is not then considered. The importance of small/ephemeral streams, and the need to protect them was discussed by Dr Joy, and Assoc Prof Death. Wellington Fish and Game requests that any control of farming give effect to ‘rivers’ as defined under the Act.

- 9.10 As stated in my EIC for the Land Chapters - Riparian zones are three dimensional zones of direct interaction between terrestrial and aquatic ecosystems. They provide both a link and a buffer between the terrestrial and aquatic zones. Riparian zones act to stabilise banks, reducing erosion risk, and act as a filter system for nutrients, soil, microbes and pesticides in overland flow. Riparian zones provide shading, which reduces periphyton growth, and assists in reducing instream temperatures, greatly contributing to the health of the aquatic ecosystem. Native riparian zones offer essential habitat and dispersal areas for birds, insects, and amphibians, as well as providing instream food supplies and habitat for vertebrates and invertebrate species (EIC Land chapters)

10 Water quantity

- 10.1 The importance of establishing minimum flow thresholds and maintaining hydrological variability has been discussed in the EIC and supplementary evidence of Ass Prof Death.
- 10.2 Wellington Fish and Game support the amended version of Policy 6-18 'Supplementary Water Allocation, (as discussed in Mr Hayes supplementary evidence point 3 pg1) and we ask for it be retained as written.
- 10.3 Under Rule 15-5 WFG request the inclusion of a new clause under 'Conditions/standards/Terms' and 'control/discretion' stating:
- 15-5 (f) "Will not lead to a significant departure from the natural flow regime, including frequency of flushing flows"* or wording to the same effect.
- 15-5 (l) "impacts on the natural flow regime including frequency of flushing flows"
- 10.4 Recommended change to Schedule B to alter the cumulative core allocation from m³/s to m³/day is partially supported. WFG ask that a maximum instantaneous rate of take be specified in the schedule to ensure water is not abstracted at a rate which would cause a significant adverse effect on aquatic life.
- 10.5 It is the understanding of Wellington Fish and Game that the Permitted activity rule 15-1 as currently written is being challenged by some submitters on the grounds that the provisions for permitted activity takes of surface water "*Do not allow sufficient surface water takes for most dairy operations*" (Mills, para 25.1, pg9).
- 10.6 Wellington Fish and Game share the concerns of Dr Roygard as discussed in his supplementary evidence (page 4-5) on proposed changes to rule 15-1
- 10.7 Legal advice on this matter states that:

"As we understand it, you are concerned with the ability of corporate dairy operators to rely on section 14(3)(b)(ii) to take and use water for their animals' drinking needs. This

has given rise to the issue of what is “reasonable” in terms of the take and who may classify as an “individual” in terms of that individuals’ animals.

Section 14(3)(b)(ii) states:

“(3) A person is not prohibited by subsection (1) from taking, using, damming, or diverting any water, heat, or energy if—

(b) In the case of fresh water, the water, heat, or energy is required to be taken or used for—

(ii) The reasonable needs of an individual's animals for drinking water,—

and the taking or use does not, or is not likely to, have an adverse effect on the environment”

In accordance with section 14(3)(b)(ii) water can only be taken if:

- a. It is “required”;
- b. It will be used for the “reasonable” needs of animals;
- c. The animals are an “individuals”; and
- d. The take will not result in an adverse effect on the environment.

Reasonable

Whether a take is “reasonable” within the context of section 14(3)(b)(ii) will be dependent on the factual context of the particular case.

The Concise Oxford Dictionary (8th ed.) defines “reasonable” to mean:

“1. having sound judgement; moderate; ready to listen to reason. 2. not absurd. 3a. not greatly less or more than might be expected. ... c. tolerable, fair.”

Most regional plans include a permitted activity rule whereby a relatively small amount of water can be taken as of right. The One Plan has set that threshold at 30 cubic metres per day per property. The Canterbury Regional Council have set that threshold at five litres per second and 10 cubic metres per day per property (Rule QWN1 of the Proposed Canterbury Natural Regional Resources Plan). The threshold set in these permitted activity rules dictate to a certain degree what is “reasonable” in accordance with section 14(3)(b)(ii) and are therefore the starting point for any assessment of a reasonable take.

Individual

“Individual” is not defined in the RMA. The Concise Oxford Dictionary (8th ed.) defines “individual” as:

“1. a single member of a class. 2. a single human being as distinct from a family or group.”

We consider that in accordance with the plain and ordinary meaning of the word an “individual”, in the context of section 14(3)(b)(ii), is intended to refer to a natural person not a group or corporation.

In accordance with the above, we do not consider that corporate dairy operators will be able to take water for their animals’ drinking needs as of right. Even if they were, such take will only be permitted up to the threshold set in the One Plan” (Simon Berry Law).

- 10.8 Wellington Fish and Game oppose any amendment to Rule 15-1, including an increase in allowance for properties over 50ha, or ultimately the exclusion of section 14(3)(b) takes. It was our understanding that this rule gave effect to RMA reasonable use and ensured that freshwater aquatic ecosystems were protected. If this rule is amended then Wellington Fish and Game will no longer support the core allocation limits, or minimum flows as no surety can be given that the life supporting capacity of the resource will be protected.

11 Common Catchment Expiry Dates

- 11.1 Wellington Fish and Game supported the establishment of Common Catchment Expiry Dates. However we understand that this provision is being challenged. Policy 15-5 of the One Plan provides that resource consents to take water shall generally be reviewed, and generally expire, in accordance with common consent expiry dates. It states:

“Policy 15-5: Consent review and expiry

Resource consents to take water shall generally be reviewed, and shall generally expire, in accordance with the dates set out in Table 11.1, ~~except municipal takes — long term, which will be reviewed rather than expired on catchment dates.~~ At the time of consent review

or expiry the Regional Council will allocate water resources within each Wwater Mmanagement Ssub-zone in accordance with Policy 15-1 and in a manner which:*

11.2 Our Lawyers advice is that Policy 15-5 is directive in nature. It directs that generally resource consents to take water should be reviewed at the same time. However, it is not absolutely binding on the Council. The policy states that resource consents to take water shall be “generally” reviewed and “generally” expire in accordance with the dates in Table 1.1.1. In this manner, the policy has not placed a fetter on Council’s direction. Policy 15-5 is one policy within the One Plan that the Council must have regard to. It does not preclude an application being made for a different consent term.

12. Beds of Rivers and Lakes – Scope

12.1 The Committee has questioned whether the proposed amendments to Method 6-9 sought by WFG in its evidence are within the scope of WFG’s submission on the One Plan.

12.2 In order to amend a plan the amendments sought must be within the scope of a submission lodged on the plan. The test for whether a proposed amendment is within scope can be summarised as:

- Is the amendment “fairly and reasonably” within the scope of submissions.
- Has the submitter raised a ‘resource management issue’ in a general way.
- Have potentially affected submitters had an opportunity to submit on the proposed amendment to the plan.

The statutory requirements for the Committee’s decision on submissions made on the One Plan are contained in Clause 10 of the First Schedule to the RMA. Clause 10(2) states:

- “(2) The decision -*
- (a) must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to -*
 - (i) the provisions of the proposed statement or plan to which they relate; or*
 - (ii) the matters to which they relate; and*
 - (b) may include -*
 - (i) matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and*
 - (ii) any other matter relevant to the proposed statement or plan arising from the submissions.”*

12.3 The relevant parts of Wellington Fish and Games submission include:

- WFG's submission on Section 7.1.3 - Section 7.1.3 is part of the introduction to Chapter 7. It introduces landscapes and natural character. WFG's submission in relation to section 7.1.3 seeks to better describe what natural character is and to recognise that when natural character is significantly degraded remedial works will be required. Implicit in this is that components of Natural Character ie morphological components need to be first defined, secondly measured, and thirdly monitored for change.

Chapter 7 Living Heritage

7.1.3 Landscapes and Natural Character

Third paragraph, second sentence: Natural character is NOT a sliding scale that varies from a low degree of naturalness to a high degree of naturalness. Natural character and naturalness are not the same. Naturalness is a component of natural character. There are many components of natural character and some may exist in a highly modified environment. For example a pool is a component of natural character in a river and pools exist in highly modified rivers (although they may not be as numerous or of as good a quality as those in an unmodified river).

The approach of the One Plan therefore is to maintain natural character and within that, maintain areas or features of the natural environment.

Decision sought:

Third paragraph, second sentence.

Delete "Natural character is a sliding scale...to a high degree of naturalness (for example Tongariro National Park)." And replace with "*Natural character comprises a number of different components depending on the entity (landscape, river, wetland, native bush) and some of these components can exist even though the entity may be highly modified*".

Fourth paragraph, first sentence.

Reword this sentence to read "*The general approach of the One Plan is to maintain the current natural character of the coastal environment, wetlands, rivers, lakes and their margins, although where this is shown to be significantly degraded remedial works will be encouraged.*"

And, with respect to the two bullet points immediately following sentence:

Delete these two bullet points as they are unnecessary – this is what the objectives, policies and methods spell out in much better detail.

- WFG's submission on Policy 7-8 Natural Character, which sought to include a provision to identify the features affected by an activity and to what extent those features were likely to be impacted. Also, reflects WFG position on the need to identify what components of Natural Character are likely to be affected, and to what extent those components of Natural Character are likely to be affected.

7.4.2 Landscapes and Natural Character

Policy 7-8: Natural character

This Policy is supported in part.

It would be helpful to change the lettering to start at (a).

Decision sought:

Add a fifth point: *“compromises, and if so to what extent, the component(s) of natural character of the feature affected by the activity”*

- WFG’s submission on Policy 6-27 of Chapter 6 which states:

6.4.4 River and Lake Beds

Policy 6-27

This Policy is supported subject to issues raised under “Natural Character”, Chapter 7, being satisfactorily resolved.

In my EIC (paragraph 11.28) I state that *“Policy 6-27 recommendation WTR 50 opposed. Wellington Fish and Game Council is concerned that the links between chapter 6 and 7 in so far as they relate to the maintenance or enhancement of Natural Character are weak. For Natural Character to be maintained or enhanced it first has to be identified. Following consultation with Mr Williams, Dr Fuller, and Associate Professor Death, Wellington Fish and Game Council recommends either amending Policy 6-27 or including a new Policy 6-27b to address these concerns in regard to the identification, maintenance or enhancement of natural character. Amend wording as follows:*

In considering matters relating to the preservation, restoration or rehabilitation of the natural character of rivers and their margins particular regard will be given to:

- *the natural ‘style’ and dynamic processes of the river in terms of its natural meander pattern, characteristic bed style and width, quality and quantity of bed habitat and connectivity with its flood plain at the appropriate geomorphological scale (whole river, water management zone, and reach):*
- *the desirability of an integrated approach to flood and erosion hazard management ,*
- *including the preservation, restoration or rehabilitation of natural character:*
- *appropriate science-based research and planning mechanisms (including management plans) to support decision making in these matters.*

Policy 6-27b could then tie into the amended methods, and AERs’ in regards to the” maintenance or enhancement of natural character.

Policy 6-27 as currently proposed

Policy 6-27: General management of river[^] and lake[^] beds[^]

Activities in, on, under or over the beds[^] of rivers[^] and lakes[^] shall generally be managed in a manner which:

- (a) recognises and provides for the values identified in Schedule D Ba for the Water Management Sub-zone(s)* in which the activity takes place, in the manner described in Policies 6-28, 6-29 and 6-30 16-4, 16-5 and 16-6
- ~~(b) avoids or mitigates the risk of flood hazards arising from any significant reduction in ability of a river^Δ to convey flood flows, or significant impedance to the passage of floating debris~~
- ~~(c) avoids or mitigates any significant adverse effects^Δ on the stability and function of existing structures^Δ including flood and erosion control structures^Δ~~
- (d) avoids any significant reduction in the habitat diversity, including the morphological diversity, of the water body^{*} and its bed^Δ
- ~~(e) manages effects^Δ on natural character and public access in accordance with the relevant policies in Chapter 7~~
- ~~(f) provides for the safe passage of fish both upstream and downstream~~
- ~~(g) ensures that the existing nature and extent of navigation of the water body^Δ are not obstructed~~
- ~~(h) ensures that access required for the maintenance^{*}, upgrade^{*} and operation of essential works and services infrastructure^Δ is not obstructed.~~

This policy relates to Issue 6-3 and Objectives 6-1 and 6-4.

This submission point therefore provides WFG with the ability to amend Policy 6-27 to deal with any issues raised by WFG in relation to Chapter 7 which remain outstanding.

- WFG's submission on Rule 16-13 seeks to include in the Environmental Code of Practice for River Works (DIR) a section that requires that the morphological characteristics of river systems be maintained. It is implicit in this statement that in order for morphological characters to be maintained their current status first has to be established. Rule 16-13 is a permitted activity rule for activities undertaken by or on behalf of the regional council in water bodies valued for flood control and drainage. Compliance with the Environmental Code of Practice for River Works is required in accordance with the rule.

Rule 16-13: Activities undertaken by the Regional Council in flood control and drainage schemes

It is not clear whether this Rule is intended to apply only to the maintenance of existing structures or lawfully allows the construction of new structures.

The current Code of Practice does not specify any standard(s) for the cumulative effects of the activities contained with the Code. Of concern to Fish and Game is the preservation of

the natural character within designated River Schemes – specifically the maintenance of important morphological characteristics such as pools, runs, riffles, and bars.

The Code does not address issues of river design where the cumulative adverse effects of diversions and structures, is logically dealt with. Therefore it is paramount, that if the Code is to gain our acceptance that there is an over-arching standard, in the Code, that specifies the number of pools and riffles to be maintained within the gravel-bed rivers' being managed by the Regional Council.

Decision sought:

Add, in the Code of Practice, under Generic Good Practice Standards, a new section:

Morphological Characteristics

1. *The current number of pools and riffles in the following rivers will be maintained subject to the agreement below:*

- *Lower KIWITEA*
- *Mangatainoka*
- *Ohau*
- *Oroua (Pohangina/Oroua scheme)*
- *Pohangina*
- *Rangitikei*
- *Upper Manawatu*
- *Lower Manawatu*

It is agreed that:

- *This standard will only apply to the gravel-bed reaches of the above rivers.*
- *The number of pools and riffles to be maintained will be established by counts on each of the above rivers, to be carried out using aerial photography of suitable quality and scale, and will be completed by June 30, 2011. Counts, using the same method, will be repeated on each river every 3-5 years. Fish and Game Officers will be invited by the Scheme manager to assist with the counts.*
- *In comparing pool counts from different surveys, account will be taken of non-river management activities, such as other consented activities and floods.*
- *Where a decrease in pool count is attributable to river management activities, an immediate informal review of river management practices for the affected reach of that river will be undertaken, in consultation with Fish and Game, with the objective of identifying and implementing changes that will redress the loss of pools and/or riffles.*

2. *Any 'significant shortage' of pools and riffles identified in the surveys described in 1. above, will be specifically addressed in the subsequent scheme review process.*

It is agreed that:

- *The pool/riffle counts obtained from the surveys described above will be expressed for each river in relation to the average channel width for that river*
- *A 'significant shortage' for any river will be judged against the ratio of the frequency with which a pool occurs to the average width of the bed, averaged across all rivers. For the avoidance of doubt, refer to the following example:*

Length of river managed by the scheme is 20km

The number of pools counted from the aerial photography is 200, which means that there is 1 pool per 100m.

The bed width is measured at regular intervals from the aerial photography, producing say, an average bed width for the river of 50m.

Therefore there is 1 pool every 2 times the average bed width.

- *Where a 'significant shortage' is identified, then that will be included as a specific issue to be addressed in the next scheduled engineering review of the scheme concerned.*
- *The engineering review will consider alternative management practices with the express objective of redressing the shortage and reinstating pools and/or riffles.*
- *Fish and Game will be identified as a key stakeholder in the review consultation process.*

- 12.4 The relief sought by WFG consistently through the provisions either in Chapter 7 or Chapter 6 that relate to Natural Character are consistent. In order for Natural Character of rivers, lakes and their margins to be maintained or enhanced, as a matter of National Importance under the Act, it first has to be identified what you mean by Natural Character, or what components of Natural Character you need to measure, then you need to measure them to determine current status and identify any alterations. Rule 16-13 and the proposed amendments to Method 6-9 both relate to morphological characteristics of Natural Character.
- 12.5 The impacts of river management are covered in my evidence in chief. Wellington Fish and Game opposes the recommendations as outlined in Ms Mills evidence in regards to BRL provisions of the Plan. Any activity which cannot meet the table 16.1 Standard conditions for Permitted Activities involving the Beds of Rivers and Lakes should be consented as the impacts are likely to be more than minor. Provision (x) only relates to rivers identified as having trout fishery value and the works exclusion only covers weekends and public holidays during the summer months (Mills paragraph 91).
- 12.6 Expert caucusing on permitted activity standards resulted in agreement between the experts in regards to permitted activity thresholds for (c and d) sediment release, and (k) channel straightening, we ask that those recommendations be adopted in full as detailed in Appendix 2.

13 Adaptive Management Approach

- 13.1 As discussed in my evidence in chief (paragraph 6.16), and Associate Professor Deaths evidence, Horizons need to assess the effectiveness of meeting the Proposed One Plan objectives and standards against the ecological integrity of the regions freshwater environments. In this regard Wellington Fish and Game recommends the establishment of a formal process by which Horizons meets annually with key stakeholders including the Wellington Fish and Game Council, the Department of Conservation, Forest and Bird, and Massey University to assess the effectiveness of the standards and objectives of the POP in protecting the identified values, and maintaining or improving ecological integrity within the regions freshwater environments. These organizations are recommended for consultation as they are undertaking their own population monitoring program's to assess the state of native fish and trout populations. Wellington Fish and Game recommends that this formal process be included in the Proposed One Plan. As stated in Associate Professor Deaths evidence *"This would be a mechanism for facilitating an adaptive management strategy for the Proposed One Plan that appears inherent in the sentiment of the Proposed One Plan but appears to lack a specific mechanism"*.

14 Conclusion

- 14.1 Wellington Fish and Games trout fisheries are under threat, with many rivers showing declines in trout abundance. Our once trophy fisheries which were protected under local water conservation notices are now struggling. Poor water quality from point and non point source pollution, low flows due to high abstraction volumes in some catchments, and the degradation of trout spawning habitat is significantly adversely impacting on the sustainability of our recreational fisheries and adversely impacting on our anglers recreational, intrinsic and amenity values (EIC paragraph 5.10).