

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Waikato Regional  
Plan Change 1: Waikato and Waipā River  
Catchments

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**OVERVIEW OF S 42A REPORT BY MATTHEW McCALLUM-CLARK, PRIMARY AUTHOR**

**DATED 15<sup>th</sup> FEBRUARY 2019**

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## **Introduction**

1. My name is Matthew McCallum-Clark. I am the primary section 42A report author for this hearing.
2. I am a Resource Management Consultant and a director of the firm Incite, which has offices in Auckland, Wellington, Christchurch and Dunedin.
3. I hold a Bachelor of Laws from Canterbury University, a Bachelor of Commerce (Economics) from Otago University and have undertaken a postgraduate diploma in Environmental Auditing through Brunel University in the UK.
4. Apart from a short period employed by Dunedin City Council in the mid 1990's, I have been a resource management consultant for about 22 years. Over the last ten years I have specialised in providing policy advice to a range of clients, particularly local authorities. This has included significant involvement in regional plan development for the Canterbury, Waikato and Southland Regional Councils, and the Marlborough District Council. I have been, or am currently, involved in the development of a number of district plans.
5. I have been engaged by the Waikato Regional Council (Council) to prepare the section 42A reports for Plan Change 1, and to present the reports at this hearing.

## **Scope of This Overview**

6. The purpose of this statement is to:
  - a. Provide a very brief explanation of Plan Change 1;
  - b. Briefly summarise the Section 42A Report for Block 1 of the hearings process;
  - c. Alert the Hearing Panel to the key issues in the Report; and
  - d. Provide an update on the Reporting for Blocks 2 and 3 of the hearing.

## **Brief Explanation of Plan Change 1**

7. Plan Change 1 (PC1) is a first step in the planning framework required to achieve the Vision and Strategy for the Waikato and Waipā Rivers. It was developed by a collaborative stakeholder group (the "CSG"), with independent technical support (the "TLG"). Achievement of the Vision and Strategy goes far beyond the implementation of regional

plans. To achieve the Vision and Strategy, a number of other regulatory and non-regulatory steps will need to be taken, wide ranging issues such as weed and pest management, erosion control, and the impacts of urban areas will need to be addressed. Plan Change 1 is a start on the regulatory component of that journey. In my view, it is critically important in terms of setting a “direction of travel” toward improvement of water quality, the gathering of information critical to further steps, and reinforcing some of the new methods and behaviours necessary to reduce the contribution of diffuse discharges to contamination of water bodies.

8. Plan Change 1 is focused on the management of diffuse discharges. Point source discharges are addressed by way of additional policy direction, while the rules for those discharges already exist within the operative regional plan. There are several critical components of PC1 that, at a conceptual level:
  - (a) require most farmers to develop and adopt an independently certified farm environment plan (FEP) to identify and prioritise farm specific mitigation actions;
  - (b) require almost all farms to identify, report on, and stay within, an Overseer derived nitrogen cap, known as a nitrogen reference point or NRP;
  - (c) require the top quartile of dairy farms to reduce their nutrient losses; and
  - (d) as an interim step, significantly limit land use change from what are likely to be low discharging activities to high discharging activities, for example converting from forestry to dairy farming.
  
9. There is a very high level of interest in PC1, with well over 1000 submissions lodged, many of which are substantial. There is a great disparity of the views expressed, with many submitters seeking the abandonment of regulatory control over farming; a significant proportion supporting the direction of travel, but seeking different ways or timeframes to get there; and a number of other submitters seeking that more be achieved sooner. On my analysis, practically every provision of PC1 has been submitted on, and almost all have that diversity of views expressed in submissions.

## The Block 1 S42A Report

10. The s42A hearing report prepared for Block 1 is in two parts. Part A (labelled 1 to 6 in the report) summarises the history, statutory context and the current state and trend for water quality in the plan change area. Part A does not respond to any submissions, it is merely context and scene setting. That said, there may be submitters who disagree with its content or conclusions. Of importance in Part A is a summary of the PC1 process, including Variation 1. The legal and statutory context is addressed with particular emphasis on the overriding importance of giving effect to the Vision and Strategy and the National Policy Statement for Freshwater Management (NPS-FM). The particular co-governance arrangements for development of PC1 are explained, as is the CSG and its independent technical advice.
11. The CSG process, while not unique, certainly appears to have been one of the most intensive, inclusive and well-informed collaborative planning groups formed to deal with a freshwater quality issue.
12. The technical support for the CSG was, in my opinion, led by a very experienced and talented range of technical experts, who were appropriately resourced and independent. The technical reporting and analysis provided to the CSG is extensive and comprehensive, and while it is obvious that a significant number of submitters do not agree with that technical reporting, or have a range of outstanding questions about it, the technical support was, in my opinion, far more comprehensive and informative than other freshwater planning processes that I have been involved in. In my experience there are always submitters seeking more data and more science.
13. The state and trend information in the s42A report has largely been gleaned from the TLG reporting and more recent state and trend reporting from the WRC monitoring network.
14. Part B of the Block 1 s42A report addresses the high-level elements of PC1. This includes the objectives, values and uses, sub-catchments and targets and limits. Two of the five sections of Part B are a little different in nature. The first addresses some of the overriding issues and submissions on PC1. These issues became apparent as the submission points were being considered, it became clear that a very large number essentially boil down to a few fundamental issues. The intention of Part B1 of the report is to respond to those fundamental issues, without necessarily addressing any specific submission points, but

rather set out some reasoning so that this would not need to be repeated, ad nauseam, throughout the reporting. I understand this has led to some uncertainty for submitters as to when their submission points will be dealt with. I apologise for any confusion as to the intention of including these higher-level comments, without making it clear that the provisions they relate to will be addressed later in the process with specific recommendations.

15. Section B3 of the Block 1 hearing report addresses, again at a high-level, the scientific and economic reporting and analysis. This has been questioned in a range of submissions, some of which are quite detailed. The scientific and economic reporting, like the section 32 reporting, is not something that the Hearing Panel necessarily makes decisions specifically on, but rather addresses through its consideration of the provisions of PC1 and the submissions on those provisions. The commentary and issues addressed in Part B3 of the report are primarily raised in submissions as general statements, or as part of the reasons for particular decisions being requested. They are not decisions requested of themselves.
16. Parts B2 and B4 set out the values and uses of the catchment and the PC1 objectives. Overall, I would suggest that the values and uses and objectives of PC1 are largely supported in the submissions. Fundamentally, most people do want better water quality in the catchment, support the Vision and Strategy, and mostly support the CSG outcomes.
17. The PC1 issues with respect to the drafting style become apparent with respect to the objectives, with many submitters seeking greater clarity, wording changes and simplification.
18. Part B5 of the Block 1 s42A report addresses a range of matters relating to sub-catchments, including mapping issues, prioritisation of the sub-catchments and most importantly the targets and limits in Table 3.11-1. Table 3.11-1 is detailed, but also of fundamental importance to both PC1 and for setting the future direction toward giving effect to the Vision and Strategy. While there are a very large number of submissions on these matters of detail, few are very specific, such that the issue of whether the changes requested by submitters are adequately clear is something that the Hearing Panel will need to carefully consider.

## **Key Issues for Block 1**

19. The Block 1 hearing report essentially addresses the question of “where are we going”, rather than “how are we getting there”. The how are we getting there is addressed in Blocks 2 and 3. There are some key issues which the Hearing Panel will need to consider in some detail, including:

### ***Following the CSG’ s Lead***

20. The CSG ran an extensive process to consider and respond to a number of fundamental issues addressed through PC1. The CSG put considerable weight on how to achieve the Vision and Strategy, what that means in practice, and how long it will take to do that, all within a framework of acceptable social, economic and cultural implications. This led to the identification of values and uses, the objectives specifying timeframes and outcomes, the targets and limits in Table 3.11-1 and an overall philosophy of an immediate halt to further water quality decline and starting a path toward water quality improvement.
21. The high-level outcomes from the CSG are not universally accepted by all submitters.
22. As the s42A report author, I am very hesitant to suggest changes to a set of collaboratively developed “where are we going” parameters. Therefore, the changes that have been recommended are primarily relating to clarity, simplicity, drafting and robustness, rather than fundamentally shifting the outcomes. Understandably, many submitters will continue to disagree with this.
23. As I understand it, there are a number of issues that the CSG may have sought to resolve differently, if the information to support those methods was available. For example, a number of submitters have sought recognition in the objectives of a different nitrogen management regime, such as land-use capability or the ability to trade in nitrogen losses. I understand that the CSG considered that some of these options may be attractive, but that the required information and mechanisms to implement them were simply not available. Therefore, one of the fundamental aims of PC1 is to gather better information, which by necessity must come directly from the farming community, to support future planning processes.

24. A number of submitters seek greater emphasis on maintaining economic growth and other economic outcomes. Again, I understand the CSG carefully considered this and concluded that achieving the Vision and Strategy will have considerable economic impacts, as have been detailed in the s32 Report. Whether there is a balance to be struck between economic effects and giving effect to the Vision and Strategy and the NPS-FM is a question the Hearing Panel will be asked by many submitters.

### ***Achievement of NPS-FM 2014/2017***

25. Questions have been raised in a number of submissions, most clearly from the Department of Conservation, that PC1 fails to give effect to the NPSFM. Further complicating matters is the publication, following notification of PC1, of the 2017 amendments to the NPSFM. There are two key areas where full compliance with the NPSFM (as amended) would appear to be lacking:
1. Values and uses are not clearly specified for each FMU, and as the targets and limits are based on sub-catchments, it is not clear what the targets and limits are for each FMU; and
  2. Not all compulsory attributes from the NPSFM are included in the targets and limits.
26. Whether it is necessary to 'correct' these issues, how to do this and whether there is scope in the submissions are outstanding issues.

### **Hearing Blocks 2 and 3**

27. Block 2 of the hearing, and its associated s42A report, will address the core policies and rules that implement the objectives of PC1. That hearing block has by far the most submission points, albeit with a high level of repetition. It addresses key issues, including nutrient management, controls on intensification, stock exclusion from water bodies and detail on the use and limitations of the Overseer model.
28. The reporting for Block 2 is now largely complete, with review, integration of different recommendations and cross-checking underway. Due to the timing of the hearing blocks being uncertain, a publication date for Block 2 has not yet been set, but is likely to occur during the Block 1 hearings. Almost all submitters are expected to have an interest in matters addressed in Block 2, as even submitters who have made a general point not

necessarily associated with any PC1 provision, would likely see their request addressed in Block 2.

29. Block 3 is based around the three issues for which conferencing or mediation is set down. These are commercial vegetable production, for which a conferencing session has already occurred, the content of Schedule 1 on farm environment plans, and sub-catchment planning. A range of other miscellaneous and minor matters will also be dealt with in Block 3. Some draft reporting for Block 3 will be published to enable more focused discussion at the three conferencing or mediation sessions, but will be updated and finalised, based on the outcome of those sessions for the Block 3 hearing process.
30. Of particular note is the sub-catchment planning mediation session, which involves a very large number of participants. As is mentioned in the Block 1 report, many hundreds of people have suggested sub-catchment planning as a preferred option, some with considerable detail as to what this might entail, while for others it is uncertain as to what that idea might mean. The intention of the sub-catchment planning session is to refine these submitter positions so that most submitters coalesce around some defined, and probably not mutually exclusive, options for the Hearing Panel's consideration.
31. Again, the publication date for the third and final block of the s42A report is not yet set.
32. Subject to the Hearing Panel's directions, it is anticipated that at the end of each hearing block I will be able to provide some interim guidance on each hearing block, in response to the legal submissions, evidence, questions from the Hearing Panel, and any directions or requests from the Hearing Panel. A complete and integrated set of final recommendations and response to any outstanding issues will be able to be presented at the end of the hearing of all the Blocks.