

## **Attachment 3 – Matters for Consideration**

### **Resource Management Act 1991**

Section 104 of the Resource Management Act 1991 outlines the matters that a consent authority is to have regard to when considering an application. Section 104 gives precedence to Part II of the Act.

**Section 104(1)** states that the consent authority shall have regard to:

- (a) Any actual and potential effects on the environment of allowing the activity; and*
- (b) Any relevant regulations; and*
- (c) Any relevant national policy statement, New Zealand coastal policy statement, regional policy statement, and proposed regional policy statement; and*
- (d) Any relevant objectives, policies, rules, or other provisions of a plan or proposed plan; and*
- (e) Any relevant district plan or proposed district plan, where the application is made in accordance with a regional plan; and*
- (f) Any relevant regional plan or proposed regional plan, where the application is made in accordance with a district plan; and*
- (g) Any relevant water conservation order or draft water conservation order; and*
- (h) Any relevant designations or heritage orders or relevant requirements for designations or heritage orders; and*
- (i) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

### **Section 5 - Purpose**

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, “sustainable management” means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-*
  - (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) Avoiding, remedying or mitigating any adverse effects of activities on the environment.*

### **Section 6 - Matters of national importance**

*In achieving the purpose of this Act, all person exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources and provide for the following matters of national importance:*

- (a) The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development:*

- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*

### **Section 7 - Other matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to-*

- (a) *Kaitiakitanga:*
- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (e) *Recognition and protection of the heritage values of sites, buildings, places, or areas:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*
- (h) *The protection of the habitat of trout and salmon.*

### **Section 8 - Treaty of Waitangi**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

### **Section 13 – Restrictions on certain uses of beds and lakes of rivers**

- (1) *No person may, in relation to the bed of any lake or river, -*
  - (a) *Use, erect, reconstruct, place, alter, extend, remove, or demolish any structure or part of any structure in, on, under, or over the bed; or*
  - (b) *Excavate, drill, tunnel, or otherwise disturb the bed; or*
  - (c) *Introduce or plant any plant or any part of any plant (whether exotic or indigenous) in, on, or under the bed; or*
  - (d) *Deposit any substance in, on, or under the bed; or*
  - (e) *Reclaim or drain the bed - unless expressly allowed by a rule in a regional plan and in any relevant proposed regional plan or a resource consent.]*
- (2) *No person may -*
  - (a) *Enter or pass across the bed of any river or lake; or*
  - (b) *Disturb, remove, damage, or destroy any plant or part of any plant (whether exotic or indigenous) or the habitats of any such plants or of animals in, on, or under the bed of any lake or river - in a manner that contravenes a rule in a regional plan or proposed regional plan unless that activity is -*
    - (c) *Expressly allowed by a resource consent granted by the regional council responsible for the plan; or*
    - (d) *Allowed by section 20 (certain existing lawful uses allowed).*

- (3) *This section does not apply to any use of land in the coastal marine area.*  
 (4) *Nothing in this section limits section 9.*

#### **Section 14- Restriction Relating to Water**

- (1) *No person may take, use, dam, or divert any –*  
 (a) *Water (other than open coastal water); or*  
 (b) *Heat or energy from water (other than open coastal water); or*  
 (c) *Heat or energy from the material surrounding any geothermal water*  
 –  
*unless the taking, use, damming or diversion is allowed by subsection (3).*
- (2) *No person may –*  
 (a) *Take, use, dam, or divert any open coastal water; or*  
 (b) *Take or use any heat or energy from any open coastal water, - in a manner that contravenes a rule in a regional plan or a proposed regional plan unless expressly allowed by a rule in a resource consent or allowed by section 20 (certain existing lawful activities allowed).*
- (3) *A person is not prohibited by subsection (1) from taking, using, damming, or diverting any water, heat, or energy if –*  
 (a) *The taking, use, damming, or diversion is expressly allowed by a rule in a regional plan [and in any proposed regional plan] or a resource consent; or*  
 (b) *In the case of fresh water, the water, heat or energy is required to be taken for –*  
 (i) *An individual's reasonable domestic needs; or*  
 (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; or*  
 (c) *In the case of geothermal water, the water, heat, or energy is taken or used in accordance with tikanga Maori for the communal benefit of the tangata whenua in the area and does not have an adverse effect on the environment; or*  
 (d) *In the case of coastal water (other than open coastal water), the water, heat, or energy is required for an individual's domestic or recreational need and the taking, use, or diversion does not, or is not likely to, have an adverse effect on the environment; or*  
 (e) *The water is required to be taken or used for fire-fighting purposes.*

## **Regional Policy Statement**

### **Chapter 4 – The Iwi environmental Management System**

#### **4.3 Objectives**

- Objective 1** *A mutually satisfactory relationship is developed and maintained between the Wellington Regional Council and the iwi of the Region.*

#### **4.4 Policies**

- Policy 2** *To support<sup>5</sup> the active participation of tangata whenua in the development and implementation of resource management policy and plans, and in the resource consent granting process.*
- Policy 4** *To recognise and provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*
- Policy 8** *To recognise the Treaty right of iwi development and to facilitate resource development initiatives which are practical and permissible under the Act. This includes supporting, where appropriate, tangata whenua to develop and enhance their resources in accordance with their own tikanga and values.*

## Chapter 5 – Fresh Water

### 5.3 Objectives

- Objective 1** *The quantity of fresh water meets the range of uses and values for which it is required, safeguards its life supporting capacity, and has the potential to meet the reasonably foreseeable needs of future generations.*

### 5.4 Policies

- Policy 1** *To manage the quantity of fresh water so that it is available for a range of uses and values, and:*

- (1) *Its life supporting capacity is safeguarded; and*
- (2) *Its potential to meet the reasonably foreseeable needs of future generations is sustained; and,*
- (3) *For surface water, any adverse effects on aquatic ecosystems are avoided, remedied, or mitigated.*

- Policy 2** *To promote the conservation and efficient use of fresh water*

- Policy 4** *To maintain and protect the quality of fresh water so that it is available for a range of uses and values, and:*

- (1) *Its life supporting capacity is safeguarded; and*
- (2) *Its potential to meet the reasonably foreseeable needs of future generations is sustained; and*
- (4) *For surface water, any adverse effects on aquatic and riparian ecosystems are avoided, remedied, or mitigated.*

- Policy 6** *To ensure that the effects of contaminants contained in point source discharges on the quality of fresh water and aquatic ecosystems are avoided, remedied, or mitigated and allowing for reasonable mixing:*

- (1) *Do not render any fresh water unsuitable for any purpose specified in any regional plan for that water;*
- (2) *Do not prevent the receiving fresh water from meeting any standards established in any regional plan for that water;*
- (3) *Do not render any water in the coastal marine area unsuitable for any purpose specified in a regional coastal plan for the Wellington Region.*

<b>Policy 7</b>	<i>To avoid, remedy, or mitigate adverse effects on water quality and aquatic ecosystems of contaminants contained in non-point source discharges.</i>
<b>Policy 9</b>	<i>To avoid, remedy, or mitigate the adverse effects of modifications to the beds of water bodies on water quality, groundwater, aquatic ecosystems, and the amenity and cultural values of water.</i>
<b>Policy 12</b>	<i>To avoid, remedy, or mitigate any adverse effects of any new or existing use and development where these effects impact on the natural character of wetlands, lakes, rivers, and other water bodies, and their margins.</i>
<b>Policy 13</b>	<i>To recognise the cultural relationship of the tangata whenua with rivers, lakes, wetlands, and other water bodies, and to promote the management of fresh water in ways that take into account iwi values and beliefs. In addition, to promote the protection and management of sites of significance to iwi within the beds of water bodies.</i>

## **Chapter 9 – Ecosystems**

### **9.3 Objectives**

<b>Objective 1</b>	<i>The overall quality of ecosystems in the Region is increased.</i>
<b>Objective 2</b>	<i>Healthy, functioning ecosystems are distributed throughout the Region, including the rural and urban environments.</i>
<b>Objective 3</b>	<i>The area and quality of indigenous ecosystems in the Region is increased.</i>
<b>Objective 4</b>	<i>The Region has a diversity of healthy ecosystems which represent the full range of regional flora, fauna and habitats.</i>

### **9.4 Policies**

<b>Policy 1</b>	<i>To increase understanding of the Region's ecosystems to a level to enable the effective monitoring of change.</i>
<b>Policy 3</b>	<i>To integrate ecological principles, derived from Maori and western environmental thought and practice, throughout resource management policy, planning and practice.</i>
<b>Policy 4</b>	<i>To avoid, remedy or mitigate the adverse effects of activities on ecosystems,</i>

*and in particular, to avoid, remedy or mitigate any of the following effects:*

- (1) Reduction in the indigenous biodiversity of an ecosystem;*
- (2) Prevention of the natural processes of an ecosystem, including nutrient cycles and energy flows, from operating effectively;*
- (3) Simplification of the structure of indigenous ecosystems; and*
- (4) Reduction in the quality or quantity of the non-living parts of an ecosystem (e.g., decaying plant and animal remains, water, air, soil) to a level which adversely affects the life-supporting capacity of the ecosystem.*

**Policy 9** *To prevent the isolation of ecosystems by providing linking corridors and buffer zones and avoiding the fragmentation of ecosystems.*

**Policy 10** *To encourage the planting of native vegetation, and particularly, regionally appropriate species.*

## **Regional Freshwater Plan for the Wellington Region**

### **Chapter 4 – General Objectives and Policies**

#### **4.1 Objectives**

##### **The relationship of tangata whenua with fresh water**

- 4.1.1 The relationship of tangata whenua and their culture and traditions with fresh water, and with ancestral sites, waahi tapu and other taonga within the beds of rivers and lakes, is recognised and provided for.
- 4.1.2 The mauri of water bodies and river and lake beds is protected.
- 4.1.3 The principles of the Treaty of Waitangi are taken into account in the management of the Region's water bodies and river and lake beds.

##### **Natural values**

- 4.1.4 The natural character of wetlands, and lakes and rivers and their margins, is preserved and protected from inappropriate subdivision, use and development.
- 4.1.5 The life-supporting capacity of water and aquatic ecosystems is safeguarded from the adverse effects of any subdivision, use and development.

##### **Amenity values and access**

- 4.1.7 The amenity and recreational values of wetlands, lakes, and rivers are maintained and, where appropriate, enhanced.

## **Flood mitigation**

- 4.1.10 The adverse effects of flooding on natural values and physical resources, including people's property, are at an acceptable level.

## **Use and development**

- 4.1.11 People and communities are able to use and develop freshwater resources to provide for their social, economic, and cultural well being and for their health and safety.
- 4.1.12 The adverse effects of the use and development of freshwater resources are avoided, remedied, or mitigated.
- 4.1.17 Conditions placed on resource consents are used as a means of avoiding, remedying or mitigating adverse effects.

## **4.2 Policies**

### **The relationship of tangata whenua with freshwater**

- 4.2.1 To manage sites of special value to the tangata whenua in water bodies and river and lake beds so that the cultural values of those sites are not adversely affected.
- 4.2.2 To encourage applicants to consult directly with affected tangata whenua when making an application for a resource consent which is for an activity within, upstream, or immediately downstream of any identified site of special value to the tangata whenua. As part of this consultation the applicant should determine:
- (1) Whether granting the resource consent could have any adverse effects on the special values of the site.
  - (2) How any potential adverse effects that might result from the activity could be avoided or remedied.
- 4.2.3 To not allow the use or development of water bodies and river and lake beds that would restrict the access of tangata whenua to any identified site of special value in a publicly owned river or lake bed, unless that access can specifically be provided for, or the loss can be adequately remedied or mitigated.

### **Natural Values**

- 4.2.9 To have regard to the following characteristics of wetlands, and lakes and rivers and their margins, when considering the protection of their natural character from the adverse effects of subdivision, use, and development:
- ecosystems, habitats and species; and
  - water quality; and
  - the natural flow characteristics and hydraulic processes (such as sediment transport) of rivers or the pattern and range of water level fluctuations that occur naturally in wetlands or lakes; and
  - the topography and physical composition of river or lake beds and the course of the river.

- 4.2.11 To avoid, remedy or mitigate the adverse effects of the use and development of water bodies and river and lake beds on aquatic habitats and freshwater ecosystems by having regard to:
- the maintenance of biological and physical processes; and
  - the maintenance of habitat for feeding, breeding and sheltering aquatic life; and
  - the maintenance of the diversity of aquatic life; and
  - the maintenance of the ability of fish to disperse and migrate; and
  - the times which will least affect feeding, spawning, dispersal or migratory patterns of fish and other aquatic species; and
  - the prevention of irreversible adverse effects.
- 4.2.12 To promote the maintenance and enhancement of aquatic habitats and ecosystems when considering the adverse effects of the subdivision, use and development of land outside river and lake beds.

## **Chapter 6 – Water quantity and the Taking, Use, Damming or Diversion of Fresh Water**

### **6.1 Objectives**

- 6.1.1 People and communities are able to take, use, dam, or divert surface water, and take and use groundwater, while ensuring that the flows in rivers, and water levels in lakes and wetlands, are sufficient to maintain the natural and amenity values of water bodies.
- 6.1.2 People and communities are able to take and use groundwater while ensuring that the construction of bores and abstractions do not:
- exceed the safe yields of aquifers; or
  - adversely affect the yields of nearby bores through interference, inefficient borehole construction, or excessive drawdown; or
  - adversely affect water quality.
- 6.1.3 Water abstracted from rivers, streams, lakes and aquifers is used efficiently and water conservation is promoted.
- 6.1.4 The flows in rivers and water levels in lakes and wetlands are, as far as practicable, consistent with the values of the tangata whenua.
- 6.2.2 To manage the flows in rivers and streams not identified in Policy 6.2.1 by having regard to:**
- the significance of natural, amenity, and tangata whenua values; and
  - the scale/magnitude of any adverse effects on natural, amenity and tangata whenua values; and
  - the reversibility of any adverse effects on natural, amenity and tangata whenua values.
- 6.2.5 To give priority over other users to the abstraction of water for the public health water needs of people including:



- the use of water by any statutory authority which has a duty for public water supply under any Act of Parliament or regulation; or
- the use of water for reticulation into a public water supply network;

**when:**

- water takes exceed the core allocation shown in Table 6.1; or
- water takes exceed the safe yields shown in Tables 6.2, 6.3, 6.4, and 6.5; or
- a water shortage direction is issued under section 329 of the Act.

6.2.9 Where appropriate, to encourage and support “user committees” to assist in managing the taking and use of fresh water.

6.2.18 To have regard to the following when considering an application for a resource consent to take water:

- (1) the amount of water required is reasonable, considering the intended use of the water; and
- (2) the need for accurate measurement of the take from any river listed in Table 6.1 or Method 8.5.5; and
- (3) for any applicant taking water for public supply, the extent of any:
  - demand management programmes; or
  - drought management plans.

## **Chapter 7 – Use of Beds of Rivers and Lakes and Development on the Floodplain**

### **7.1 Objectives**

- 7.1.1 Appropriate uses of the beds of rivers and lakes are allowed while avoiding, remedying, or mitigating any adverse effects.
- 7.1.2 The risk of flooding or erosion is not increased by locating structures or carrying out activities in the beds of rivers and lakes or on the floodplain.
- 7.1.4 The uses of river and lake beds are, as far as practicable, consistent with the values of the tangata whenua.

### **7.2 Policies**

#### **Appropriate Uses within River and Lake Beds**

- 7.2.1 To allow the following uses within river and lake beds:
- structures or activities for flood mitigation or erosion protection purposes;
  - structures for transportation and network utility purposes; or
  - structures for activities which need to be located in, on, under, or over the beds of rivers and lakes; or
  - structures for cultural harvest (e.g., pa tuna); or
  - the maintenance of any lawful structure; or
  - the removal of aquatic weeds from farm drains and urban drains for drainage purposes; or

- the extraction of sand, gravel, or rock; or
- the diversion of water associated with activities that are otherwise authorised; or
- the enhancement of the natural character of any wetland, lake or river and its margins;

provided that any adverse effects are avoided, remedied or mitigated and that the significant adverse effects identified in Policy 7.2.2 are avoided.

7.2.2 To not allow the use of river and lake beds for structures or activities that have significant adverse effects on:

- the values held by tangata whenua; and/or
- natural or amenity values; and/or
- lawful public access along a river or lake bed; and/or
- the flood hazard; and/or
- river or lake bed or bank stability; and/or
- water quality; and/or
- water quantity and hydraulic processes (such as river flows and sediment transport); and/or
- the safety of canoeists or rafters.