

**EXPERT WITNESS CAUCUSSING CONFERENCE
AND JOINT WITNESS STATEMENT**

IN THE MATTER	of appeals pursuant to Clause 14 of Schedule 1 of the Resource Management Act 1991 (the Act)	
BETWEEN	Te Taiwhenua o Heretaunga, Te Runanganui o Heretaunga, Te Manaaki Taiao o Heretaunga and Ngati Kahungunu Iwi Incorporated; Royal Forest and Bird Protection Society of New Zealand; and The Māori Trustee	ENV-2021-AKL-000104 ENV-2021-AKL-000105 ENV-2021-AKL-000106
AND	Hawke's Bay Regional Council	

Facilitator	Ian Buchanan
Date	16 October 2023
Venue	Hawke's Bay Regional Council

Witnesses*¹	For
Belinda Harper (BH)	Hawke's Bay Regional Council
Maurice Black (MB)	Te Taiwhenua o Heretaunga
Richard Matthews (RM)	Genesis Energy

JOINT WITNESS STATEMENT

¹ Note that not all experts will have scope to attend all the sessions, so the experts who are required are listed under each issue.

ISSUES

PLANNING

The expert conference is to discuss matters that have arisen in evidence and technical expert conferencing.

Topic: Definitions

Experts:

- Belinda Harper
- Maurice Black
- Richard Matthews

1. Outstanding water body: Inclusion of estuaries in OWB definition

Matters of Agreement

There are values that span freshwater and estuarine environments.

There should be consistent management of outstanding and significant values and effects that span freshwater and estuary environments.

There is a risk of gaps in implementation if there is overlap of inter-related values because of the differences between the NPSFM and NZCPS. The NZCPS does not have an exactly equivalent term to 'outstanding water body'.

Matters of Disagreement

BH: PC7 achieves this by using one term 'outstanding water body' which encompasses estuaries. While there is no requirement in the NZCPS to identify outstanding coastal waters, given that outstanding values often span freshwater and coastal systems, the management and protection of outstanding water bodies needs to be integrated between the two environments. This is supported by Parts 1.5 and 3.5 of the NPSFM which recognise the interconnectedness of the whole environment from mountains to sea.

MB: There should be differentiation in policy for managing the effects on outstanding values within the coastal and freshwater environments in PC7 due to the high-level directions from the parent documents (RMA, NPSFM and NZCPS). Different terminology should be in PC7 to separate outstanding coastal waters from outstanding water bodies. The definitions of 'outstanding water body' should be amended so they do not relate to estuaries and a new term 'outstanding coastal waters' should be added to PC7. This would require a consequential amendment to the definition of 'outstanding' to include coastal water. PC7 should not undermine existing management regimes for these effects in the RCEP and RRMP.

2. Significant values

Matters of Agreement

The process for identifying significant values of outstanding water bodies requires a robust process of evaluation. This evaluation of 'significant' values was not undertaken by HBRC as part of PC7.

In the absence of PC7 including these significant values (and until the RRMP is reviewed to give effect to the NPSFM), by default consenting will be on a case-by-case approach against the identified outstanding values of Schedule 25 and potential significant values identified in NPSFM Appendices 1A and 1B, as introduced in the HBRC Preferred Version 13 July 2023.

In the HBRC Preferred Version, the reference to Appendices 1A and 1B only relates to Policy LW3B (existing activities). Consideration should be given to including this in Policy LW3A. BH will expand on this in her rebuttal.

Matters of Disagreement

MB: The default position for consenting does not provide for appropriate consideration of significant cultural and spiritual values. Te Taiwhenua o Heretaunga and Ngāti Kahungunu Iwi Incorporated have undertaken

exercises identifying the significant cultural and spiritual values of their water bodies. These cultural and spiritual values should be listed as significant values in PC7 Schedule 25. These cultural and spiritual values can be supplied to the Environment Court to enable their incorporation into Schedule 25.

3. Consumptive and economic uses

Matters of Agreement

The definition of 'outstanding water body' excludes consumptive and economic uses from being an outstanding value. However, significant values currently include consumptive and economic use values.

Matters of Disagreement

BH, RM: If the water body is able to support significant consumptive and economic values, these may be considered 'significant values'. NPSFM Appendices 1A and 1B require consideration of these values as set out in Policies LW1 and LW2(bA)(i).

MB: Outstanding and significant values are intrinsic within the water body and should not apply to water once it is removed from the water body.

4. Water quality and quantity

Matters of Agreement

The experts agree that Objective LW1 and Policy LW1(1)(d) and (dA) in the HBRC Preferred Version are appropriate for both water quantity and water quality considerations

5. Screening criteria

Matters of Agreement

1. The experts agree the intent of the screening criteria is to provide clear, objective, and transparent criteria that can be used to assist with the identification of water bodies that are highly likely to meet the definition of outstanding in PC7. That is the best of the best water bodies in the region.

2. The experts agree that the test as to what is outstanding is a reasonably rigorous one and that to qualify as outstanding a characteristic would need to be quite out of the ordinary on a regional basis.

3. The experts agree that to qualify as outstanding the water body must clearly and unambiguously meet the screening criteria for the relevant value set and the definition of 'outstanding'.

Ecology criteria

The Planners agree that in light of the advice from the Ecology expert conferencing, the List A criteria should be developed to provide a high threshold but without excluding two water bodies featuring similarly outstanding value. The use of the term 'unique' in the Preferred Version and the 15%/2% thresholds is problematic.

BH will consult with the ecologists and planners to find a better solution that defines a high test for 'outstanding' in terms of bird diversity, abundance and distinctiveness, without restricting that to one waterbody for each and will advance this through her rebuttal statement.

Natural Character/Geology

After considering the JWS for Geology, the experts agree there are three significant issues:

- Use of the Geo-preservation Inventory
- Braided rivers
- The overlap of geological values with natural character

The experts consider that combining the Geology and Natural Character criteria could be the best way forward. BH will consult with the relevant experts accordingly and will advance this through her rebuttal statement.

Cultural

After considering the JWS for Cultural, BH will consult with the relevant experts accordingly and will advance this through her rebuttal statement to ensure consistency throughout the outstanding water body framework.

Remaining value sets

BH will ensure consistency of the framework across all criteria.

6. Adding new water bodies to Schedule 25

Matters of Agreement

The experts note that the JWS Cultural requests inclusion of further water bodies to Schedule 25 for cultural and spiritual values and JWS Geology requests inclusion of part of the braided section of the Ngaruroro River. HBRC will need to consider their inclusion, on the basis of evidence available and any implications in relation to Section 32AA analysis. BH will report on this through her rebuttal evidence.

Signatures:

Belinda Harper



Maurice Black



Richard Matthews

