

**Before the Proposed Hutt District Plan Hearing Panel
In Lower Hutt**

Under the Resource Management Act 1991 (**Act**)

In the matter of Proposed District Plan for the Hutt City Council (Hearing
Stream 6)

Between **Hutt City Council**
Local authority

And **Tiaki Wai Limited**
Successor to submitter #422 and FS36

Further Memorandum on behalf of Tiaki Wai Limited

Hearing Stream 6

Date: 9 October 2026

May it Please the Panel

1. Further to the Panel's minute 18 dated 30 September, Tiaki Wai files supplementary evidence from Timothy Blackman (planning) dated 9 October 2026 regarding the proposed objective to protect the Waiwhetū aquifer.

Territorial Authority's Ability to Regulate Hazardous Materials, Sensitivity of Receiving Environment and 'Residual Risk'

2. Mr Blackman's supplementary evidence contains the proposed definition of 'residual risk' from the Proposed Hutt District Plan (PDP). This definition means that the risk that the plan regulates is the risk *after* other regulatory controls have been taken into account. Tiaki Wai considers that this appropriately reflects the controls that a territorial authority can exercise and a precautionary approach that is appropriate. Notably, residual risk can include the potential effects from chemicals not regulated by the Hazardous Substances and New Organisms Act 1996 that may still have an environmental effect if released into the environment.
3. Moreover, the proposed objective is focussed on the sensitivity of the aquifer as a receiving environment, which is a matter not necessarily managed by other regulation. This is similar to managing for other sensitive receiving environments, such as wetlands or sites of significance to Māori.

Proposed Objective and Policy

4. Tiaki Wai supports the inclusion of a new objective in accordance with its original submission and as included Mr Blackman's supplementary brief of evidence:

Proposed Objective:

Protect the Waiwhetū aquifer from the adverse effects of urban development and adverse effects of existing infrastructure.

5. Further Tiaki Wai further supports:

- 5.1. Including an additional policy to support the proposed new objective. Specifically, Tiaki Wai supports the drafting as set out in Mr Blackman's supplementary brief of evidence:

New Proposed Policy:

Ensure land use, subdivision and development are designed having regard to the values, operational requirements of and any risks to the Waiwhetū Aquifer and associated groundwater infrastructure.

- 5.2. Amending Policy HS-P1(3) as follows:

Locating significant hazardous facilities outside of sensitive environments unless there is an operational need or functional need for the significant hazardous facility to be located within the sensitive environment and the significant hazardous facility appropriately manages the risk to the sensitive environment, and

Scope

6. Tiaki Wai respectfully submits that scope is available to introduce a policy to support the proposed new objective and to amend HS-P1(3) to create a consenting pathway, as consequential amendments. This is based on paragraph 15 of its original submission which reads:

The Hutt Valley is also home to the Waitwhetū aquifer, an important water source for the Wellington region. Water from Waiwhetū aquifer is abstracted from bores in Lower Hutt, which Wellington Water treats and distributes. The water for public supply is treated at the Waterloo Water Treatment plant and is pumped to reservoirs around Hutt Valley and Wellington. The aquifer is of significant importance to Wellington's drinking water supply and therefore needs to be protected from third party actions that could have an adverse effect on it.

7. Tiaki Wai therefore considers that there is scope to include the proposed new policy and amendment to HS-P1(3) as a consequential amendment to seeking the inclusion of the proposed objective.

Legal and Practical Grounds for Including an Objective to Protect the Aquifer

8. As set out in paragraphs 32-36 of the legal submissions filed on behalf of Tiaki Wai dated 17 September 2026, section 104G of the Act imposes an obligation on decision-makers to have regard to effects of and any risks posed by proposed activity to the source of a drinking water supply.
9. This obligation applies to both territorial authorities and regional councils. The proposed objective and policy therefore give effect to the Act as a higher order document.
10. Further, the proposed objective and policy adds specificity to the higher order direction, contextualising it within Lower Hutt, where the key source water is the Waiwhetū aquifer. Additionally, including reference to the aquifer as an objective within the plan alerts plan users, who otherwise would be unlikely to check the Act.
11. This is particularly important where applicants may stage a development, such that land use consents are sought before regional consents. If the proposed district plan does not include reference to the aquifer there is a risk, that Mr Blackman sets out in his supplementary evidence, that applicants obtain a land use consent first and later find that a development needs to be rethought or redesigned to consider effects on the aquifer. Including an objective that addresses aquifer, ensures that applicants know about requirements to address the aquifer and are not required to later re-design a proposal.

Section 75 of the RMA

12. As set out in Mr Blackman's evidence Tiaki Wai considers that the proposed objective is given effect to through existing policies and rules proposed in the PDP. This is further bolstered by the proposed further policy and amendment to Policy HS-P1(3).
13. Section 75 does not require that an objective be given effect to by policies and rules that sit within the same chapter of a plan, but they can be given effect to through the framework of provisions otherwise provided in the plan. We therefore submit that the proposed objective is not "orphaned".

Concluding comments

14. The Waiwhitū aquifer is an important natural resource that provides drinking water security to the metropolitan Wellington Region. As the drinking water supplier for this area Tiaki Wai has an obligation to seek that this water source is protected. It therefore submits that it is appropriate to provide protection of the aquifer from incompatible land uses through the PDP,¹ by including the proposed objective and policy and amendment to policy HS-P1 as set out in this memorandum.



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9 October 2026

¹ In particular to meet the functions of the Council in section 31(1)(a),