

**BEFORE THE INDEPENDENT HEARINGS PANEL  
FOR PROPOSED PLAN CHANGE 56 TO HUTT CITY DISTRICT PLAN**

**UNDER** the Resource Management Act 1991 (RMA)  
**IN THE MATTER** of Proposed Plan Change 56 to the Operative Hutt City  
District Plan

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**LEGAL SUBMISSIONS ON BEHALF OF  
WELLINGTON REGIONAL COUNCIL (149 and F02)  
11 April 2023**

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**WYNN WILLIAMS**

**MAY IT PLEASE THE PANEL:****Introduction**

- 1 These legal submissions are filed on behalf of Wellington Regional Council (**WRC** or **Greater Wellington** or **Regional Council**) on proposed Plan Change 56 (**PC56**) to the operative Hutt City District Plan (**District Plan**).
- 2 Greater Wellington lodged a submission on PC56 (#149), together with further submissions (#F02). Greater Wellington supports in part the Plan Change, and seeks some amendments. Greater Wellington supports well-planned urban intensification which contributes to the qualities and characteristics of well-functioning urban environments. It also seeks to ensure that in achieving this purpose, PC56 is consistent with the higher order statutory documents (to the extent that it can be within the relevant statutory framework for an intensification planning instrument).
- 3 These legal submissions address the following matters:
  - (a) The relevance of the National Policy Statement for Freshwater Management 2020 (NPS-FM 2020) to PC56;
  - (b) The weight to be given to relevant provisions in proposed Change 1 to the Wellington Regional Policy Statement (Change 1); and
  - (c) Issues of scope raised in the section 42A Officers' Report.

**The relevance of the NPS-FM 2020**

- 4 This Plan Change is an intensification planning instrument (**IPI**). As an IPI it must incorporate the MDRS and give effect to policies 3 and 4 of the National Policy Statement on Urban Development 2020 (**NPS-UD**).<sup>1</sup> The MDRS means the requirements, conditions, and permissions set out in Schedule 3A.<sup>2</sup> The requirements in Schedule 3A include objectives and policies that must be included in the IPI (and that cannot be amended).<sup>3</sup>
- 5 Of note is Objective 1 (which mirrors Objective 1 of the NPS-UD) which states:

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<sup>1</sup> RMA, s 80E.

<sup>2</sup> RMA, s 2(1).

<sup>3</sup> RMA, Schedule 3A.

A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

- 6 An IPI may also amend or include the following provisions:<sup>4</sup>
- (i) Provisions relating to financial contributions, if the territorial authority chooses to amend its district plan under section 77T:
  - (ii) Provisions to enable papakāinga housing in the district:
  - (iii) Related provisions, including objectives, policies, rules, standards, and zones, that support or are consequential on:
    - (A) the MDRS; or
    - (B) policies 3, 4, and 5 of the NPS-UD as applicable.
- 7 'Related provisions' also include provisions that relate to any of the following, without limitation:<sup>5</sup>
- (a) district-wider matters:
  - (b) earthworks:
  - (c) fencing:
  - (d) infrastructure:
  - (e) qualifying matters identified in accordance with section 771 or 77O:
  - (f) storm water management (including permeability and hydraulic neutrality):
  - (g) subdivision of land.
- 8 This list of 'related provisions' is not an exhaustive list.
- 9 Section 77G further provides that a territorial authority:
- (b) may include objectives and policies in addition to those set out in clause 6 of Schedule 3A to:
    - (i) Provide for matters of discretion to support the MDRS; and

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<sup>4</sup> RMA, s 80E(1)(b).

<sup>5</sup> RMA, s 80E(2).

- (ii) Link to the incorporated density standards to reflect how the territorial authority has chosen to modify the MDRS in accordance with section 77H (i.e. when enabling greater development).
- 10 A territorial authority may make the requirements set out in Schedule 3A or policy 3 less enabling of development than provided for in that schedule or by policy 3, if authorised to do so under section 77I.<sup>6</sup>
- 11 Section 77I sets out various qualifying matters in applying medium density residential standards and policy 3 to relevant residential zones. Relevantly, this includes a matter of national importance that decision makers are required to recognise and provide for under section 6 and a matter required in order to give effect to a national policy statement (other than the NPS-UD) or the New Zealand Coastal Policy Statement 2020. A qualifying matter may also be any other matter that makes higher density, as provided for by the MDRS or policy 3, inappropriate in an area, but only if section 77L is satisfied. Section 77L sets out additional requirements for the evaluation report under section 32.
- 12 The requirement to incorporate the MDRS into a relevant residential zone applies irrespective of any inconsistent objective or policy in a regional policy statement.<sup>7</sup> Section 77G does not state that the requirement to incorporate the MDRS applies irrespective of any consistent objective or policy in a national policy statement.
- 13 Therefore, even as an IPI, this Plan Change must still give effect to any national policy statement under section 75(3)(a), including the NPS-FM 2020. This is not a requirement to give full effect to the NPS-FM 2020. Clause 4.1(1) of the NPS-FM 2020 provides that every local authority must give effect to the NPS-FM 2020 as soon as reasonably practicable. Therefore, there is an obligation under section 75(3)(a) for this Plan Change to give effect to the NPS-FM 2020 to the extent that is reasonably practicable.
- 14 The section 32 evaluation report recognised that the NPS-FM 2020 is of significant relevance to urban development.<sup>8</sup> However, it noted that it is

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<sup>6</sup> RMA, s 77G(6).

<sup>7</sup> RMA, s 77G(8).

<sup>8</sup> Section 32 Evaluation at [22].

largely implemented through regional councils.<sup>9</sup> At the time that the section 32 report was prepared, Greater Wellington's Change 1 which implements the NPS-FM 2020 had not yet been notified. The report then goes on to state that the NPS-FM is addressed through provisions that address stormwater runoff from development.<sup>10</sup>

- 15 The requirement to “give effect to” is a strong one and requires positive implementation of the superior instrument.<sup>11</sup>
- 16 The High Court confirmed in *Environmental Defence Society Inc v Otago Regional Council*<sup>12</sup> that specific and unqualified policies (with directive wording, such as “avoid”) prevail over the less directive provisions.<sup>13</sup>
- 17 Clause 1.3(2) provides that Te Mana o te Wai is relevant to all freshwater management and not just to the specific aspects of freshwater management referred to in the NPS-FM.
- 18 As recognised by the Environment Court in *Re Otago Regional Council*<sup>14</sup>, the NPS-FM's sole objective is directive – it is to “ensure” natural and physical resources are managed in a way that prioritises:
- (a) First, the health and well-being of water bodies and freshwater ecosystems
  - (b) Second, the health needs of people (such as drinking water)
  - (c) Third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
- 19 The objective is implemented through policies, Policy 1 being that “freshwater is managed in a way that gives effect to Te Mana o te Wai”. Te Mana o te Wai “recognises that protecting the health of freshwater protects the health and well-being of the wider environment”<sup>15</sup>. Te Mana

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<sup>9</sup> Section 32 Evaluation at [22].

<sup>10</sup> Section 32 Evaluation at [22].

<sup>11</sup> *Environmental Defence Society Incorporated v New Zealand King Salmon Company Limited* [2014] NZSC 38 at [77].

<sup>12</sup> This decision was appealed to, and subsequently confirmed by the Court of Appeal on the question of law of whether the High Court misapplied the Supreme Court's decision in *King Salmon* – see *Port Otago Ltd v Environmental Defence Society Incorporated* [2020] NZCA 246. The Court of appeal decision has been appealed to the Supreme Court – see *Port Otago Ltd v Environmental Defence Society Inc* [2022] NZSC 23.

<sup>13</sup> *Environmental Defence Society Incorporated v Otago Regional Council* [2019] NZHC 2278 at [45].

<sup>14</sup> *Re Otago Regional Council* [2021] NZEnvC 164 at [352].

<sup>15</sup> NPS-FM 2020, cl 1.3; *Re Otago Regional Council* [2021] NZEnvC 164 at [353].

o te Wai is relevant to all freshwater management<sup>16</sup> and must inform the interpretation of the NPS-FM 2020<sup>17</sup>.

20 The objective of the NPS-FM 2020 is implemented by an integrated management approach.<sup>18</sup>

21 Every regional council must make or change its RPS to the extent needed to provide for the integrated management of the effects of:

- (a) The use and development of land on freshwater; and
- (b) The use and development of land and freshwater on receiving environments.

22 Greater Wellington has implemented this requirement in the NPS-FM 2020, in part, by notifying Change 1.

23 In order to give effect to the NPS-FM, local authorities that share jurisdiction over a catchment must co-operate in the integrated management of the effects of land use and development on freshwater.<sup>19</sup>

24 Also, of particular note is the direction that local authorities must:<sup>20</sup>

Clause 3.5 (1)(d) encourage the co-ordination and sequencing of regional or urban growth.

Clause 3.5(4) Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

25 These are mandatory directions and the direction in clause 3.5(4) has been further articulated in Policy FW-3 of Change 1.

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<sup>16</sup> NPS-FM 2020, cl 1.3.

<sup>17</sup> NPS-FM 2020, cl 3.2(4); *Re Otago Regional Council* [2021] NZEnvC 164 at [353].

<sup>18</sup> Including NPS-FM 2020, Policies 3 and 4; *Re Otago Regional Council* [2021] NZEnvC 164 at [355].

<sup>19</sup> NPS-FM 2020, cl 3.5(3).

<sup>20</sup> NPS-FM 2020, cl 3.5; *Re Otago Regional Council* [2021] NZEnvC 164 at [355].

- 26 These directions are also consistent with the following territorial authority functions:<sup>21</sup>
- (a) establishment, implementation, and review of objectives, policies and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district:
  - (aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district:
  - (b) the control of any actual or potential effects of the use, development, or protection of land...
- 27 The adoption of integrated management is also a strong theme in the NPS-UD 2020.<sup>22</sup>
- 28 The NPS-FM 2020 and NPS-UD 2020 are to be read together and reconciled under the regional policy statement and the district plans.<sup>23</sup> Intensification and growth in development capacity does not outweigh (trump) Te Mana o te Wai. As the Environment Court stated in *Re Otago Regional Council*, Te Mana o te Wai is a fundamental concept of freshwater management: any thinking to the converse would not give effect to either national policy statement.<sup>24</sup>
- 29 It is acknowledged that this Plan Change cannot give full effect to the NPS-FM 2020. However, it is important that it does to the extent that it is reasonably practicable so that it does not undermine further work required by the local authorities to fully implement the NPS-FM 2020.
- 30 Accordingly, to the extent that there is scope to do so, this Panel should strive to give effect to the NPS-FM 2020.

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<sup>21</sup> RMA, s 31(1)(a), (aa) and (b).

<sup>22</sup> *Re Otago Regional Council* [2021] NZEnvC 164 at [356].

<sup>23</sup> *Re Otago Regional Council* [2021] NZEnvC 164 at [369].

<sup>24</sup> *Re Otago Regional Council* [2021] NZEnvC 164 at [369].

### **Weight to be given to Proposed Change 1 to the Wellington Regional Policy Statement (Change 1)**

- 31 RPS Change 1 was notified on 19 August 2022. It is the subject of submissions which have not yet been heard.
- 32 As set out in the evidence of Mr Sheild, RPS Change 1 includes significant new regional direction on several topics, including climate change, urban development, indigenous biodiversity, and freshwater.
- 33 Of particular importance to the impacts of urban development on freshwater, Policy FW.3 articulates Greater Wellington's method to give effect to clause 3.5(4) of the NPS-FM.
- 34 As set out above, the requirement to incorporate the MDRS into a relevant residential zone applies irrespective of any inconsistent objective or policy in a regional policy statement.<sup>25</sup> This applies to an operative regional policy statement under section 43AA of the RMA, not a proposed change.
- 35 The effect of section 77F is that an inconsistent objective or policy in a regional policy statement is not a barrier to the inclusion of the MDRS, despite the requirement to give effect to an operative regional policy statement. However, that does not mean that a decision-maker is still not required to have regard to a proposed change to an RPS or give effect to an operative RPS where it would not be a barrier to including the MDRS.
- 36 This Hearings Panel must have regard to Change 1 to the RPS. To 'have regard to' means that the decision makers need to give genuine thought and attention to the matter, but it is not necessary that it is accepted. It is a matter for the Hearings Panel of what weight to give to its provisions.
- 37 There are two aspects to weight. First, the weight to be given to the provisions of Change 1 given it is still in a proposed state and second, the weight (or strength of direction) of its individual provisions.<sup>26</sup>

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<sup>25</sup> RMA, s 77F.

<sup>26</sup> *Granger v Dunedin City Council* [2018] NZEnvC 250 at [42].



*Weight (or strength of direction) of Change 1 provisions*

- 38 The policies of Change 1 that are applicable to this Plan Change are strongly directive in their nature. These include:

**Policy CC.4: Climate resilient urban areas – district and regional plans**

District and regional plans shall include policies, rules and/or methods to provide for climate-resilient urban areas by providing for actions and initiatives described in Policy CC.14 which support delivering the characteristics and qualities of well-functioning urban environments.

**Policy CC.7: Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate change – district and regional plans**

District and regional plans shall include objectives, policies, rules and/or methods that provide for nature-based solutions to climate change to be part of development and infrastructure planning and design.

**Policy CC.12: Protect, enhance and restore ecosystems that provide nature-based solutions to climate change – consideration**

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may adversely affect a nature-based solution to climate change and, in determining whether the proposed activity is appropriate, particular regard shall be given to the impact on those climate change characteristics and functions.

**Policy FW.2: Reducing water demand – district plans**

District plans shall include policies, rules and/or methods to reduce demand of water from registered suppliers and users, including where practicable:

- (a) Provisions improving the efficiency of the end use of water on a per capita basis for new developments; and
- (b) Provisions requiring alternate water supplies for non-potable use in new developments.

**Policy FW.3: Urban development effects on freshwater and the coastal marine area – district plans**

District Plans shall include objective, policies, and methods including rules, that give effect to Te Mana o te Wai and section 3.5(4) of the NPSFM, and in doing so must do the listed things.

[my emphasis]

39 It is well-established in case law that policies:<sup>27</sup>

*Expressed in more directive terms will carry greater weight than those expressed in less directive terms. Moreover, it may be that a policy is stated in such directive terms that the decision-maker has no option but to implement it.*

40 If Change 1 was operative, this Hearing Panel would have no option but to implement these policies. However, Change 1 is still a proposed change and therefore consideration must be given to the weight to be given to it as a proposed change under section 74(2)(a) of the RMA. However, given these policies are expressed in directive terms it makes it difficult for a decision-maker to ignore them.

**Weight to be given to Change 1 as a proposed change**

41 Factors which influence the weight to be properly placed on a proposed plan that have been distilled from case law include:<sup>28</sup>

- (a) The extent that the plan has progressed through the plan-making process (the closer the proposed plan comes to its final content; generally more regard may be had to it);<sup>29</sup>
- (b) The extent that the proposed measure has been subject to independent testing or decision-making;
- (c) Circumstances of injustice;

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<sup>27</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd* [2014] NZSC 38, at [129]. This approach was recently applied in *Environmental Defence Society Inc v Otago Regional Council* (2019) 21 ELRNZ 252 (HC).

<sup>28</sup> *Keystone Ridge Ltd v Auckland City Council* HC Auckland AP24/10, 3 April 2001, at [16] and [37]; *Mapara Valley Preservation Society Incorporated v Taupo District Council* EnvC Auckland A083/07, 1 October 2007, at [51].

<sup>29</sup> *Queenstown Central Ltd v Queenstown Lakes District Council* [2013] NZHC 815 at [9].

- (d) The extent to which a new measure, or the absence of one, might implement a coherent pattern of objectives and policies in a plan<sup>30</sup>; and
  - (e) Whether there has been a significant shift in Council policy and the new provisions are more in accordance with Part 2 of the RMA.
- 42 Change 1 is at a relatively early stage of the process and has not yet been subject to independent testing or decision-making. The closer a proposed change comes to its final content, generally speaking the more regard is had to it. However, each case depends on the particular circumstances and in this case there are number of factors which justify giving more weight to Change 1 than the minimal or extremely limited weight suggested by the section 42A officers.
- 43 Change 1 has been notified to implement new national direction. It includes:
- (a) Enabling urban development and infrastructure in appropriate locations. Encouraging more intensive urban development that is sensitive to the environment and meets the needs of more people.
  - (b) Developing objectives with Greater Wellington's mana whenua partners to protect waterways, including:
    - (i) How Te Mana o te Wai applies to freshwater in the region.
    - (ii) Long-term visions for freshwater bodies in areas with completed whitua processes.
  - (c) Responding to the climate emergency:
    - (i) Through provisions to reduce emissions.
    - (ii) By recognising the role that natural ecosystems play.
    - (iii) By reducing the impacts of climate change.
  - (d) Strengthening the existing provisions for indigenous ecosystems to maintain and restore ecosystem processes and biodiversity generally, not just significant biodiversity.

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<sup>30</sup> *Hanton v Auckland City Council* [1994] NZRMA 289 at 305.

- 44 Change 1 constitutes a significant shift in Council policy and the national direction it is implementing is also a significant shift in policy. The NPS-FM 2020 and Te Mana o te Wai represent a new paradigm for the way people and communities regard water and use land and water resources. The NPS FM intends for the health and wellbeing of freshwater bodies to be at the forefront of decisions about freshwater.<sup>31</sup>
- 45 The NPS-UD also represents a fundamental change in how urban development is managed in New Zealand. The Government's climate-change work programme is a significant change in policy to help us reduce greenhouse emissions and adapt to the effects of climate change, and although still in draft the National Policy Statement for Indigenous Biodiversity is also a significant shift in policy to halt the decline of New Zealand's indigenous biodiversity.
- 46 The NPS-FM and NPS-UD have been developed in accordance with Part 2 of the Act. In seeking to implement the NPS-FM and NPS-UD, Change 1 is more in accordance with Part 2 of the Act. It also introduces a coherent pattern of objectives and policies
- 47 For these reasons, together with the strength of the direction of the provisions, it is submitted that greater weight should be placed on the provisions of Change 1 than the minimal or extremely limited weight suggested by the section 42A officers.

#### **Scope issues raised in the section 42A officer report**

- 48 The section 42A officers have rejected a number of Greater Wellington's submissions points for the reasons that they are outside of scope. This is based on the legal opinion of DLA Piper dated 16 February 2023.

#### *Scope of an IPI*

- 49 What can be included in an IPI is more limited than a standard plan change under Schedule 1 of the Act. I have set out above at paragraphs 4 to 13 above what PC56 as an IPI must and may do.
- 50 At paragraph 5 of the DLA Piper opinion, counsel also set out a summary of the requirements. In my submission, this has over

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<sup>31</sup> *Aratiatia Livestock Limited v Southland Regional Council* [2019] NZEnvC 208 at [16].

summarised the MDRS provisions of the Act which has influenced the section 42A officers' view on scope.

- 51 At paragraph 5.3, in respect of residential zones the opinion states that an IPI:
- (a) may enable more permissive development than the MDRS, but cannot be less enabling of development than required by the MDRS or Policy 3 of the NPS-UD, unless there is an identified qualifying matter. (Section 77G, 77H RMA)
- 52 This is an oversimplification of section 77G(6) of the RMA. Section 77G(6) states that:
- A specified territorial authority may make the requirements set out in Schedule 3A or policy 3 less enabling of development than provided for in that schedule or by policy 3, if authorised to do so under section 77I.
- 53 This relates specifically to making the requirements set out in Schedule 3A or policy 3 less enabling, not less enabling of development generally. For example, the density standards set out in Schedule 3A cannot be less enabling unless there is an identified qualifying matter. However, section 77G(6) does not prevent additional matters of discretion being included in a restricted discretionary activity or the inclusion of new or amended objectives and policies.
- 54 Hutt City has included the provisions in Schedule 3A in PC56. It has identified qualifying matters and it has also included related provisions that support or are consequential on the MDRS and policies 3 and 5 of the NPS-UD in accordance with section 80E(b)(iii). In doing so it has expanded the scope of the plan change beyond what is set out in Schedule 3A whilst still within the bounds of what an IPI can include.

*Scope of changes that can be made to proposed PC56*

- 55 Submissions on a plan change must be in the prescribed form. The form requires a submitter to give details of the specific provisions of the plan change that the submission relates to, and to give precise details of the decision which the submitter seeks from the local authority.<sup>32</sup>

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<sup>32</sup> Resource Management Act 1991, Sch 1, cl 6(5). See Form 5 in the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

- 56 Submissions must be “on” PC56,<sup>33</sup> and if a submission is not “on” PC56, then the Hearing Panel does not have jurisdiction to consider it.
- 57 The Courts have endorsed a bipartite approach when considering whether a submission is “on” a plan change. First, the submission must reasonably fall within the ambit of the plan change by addressing a change to the status quo advanced by the proposed plan change. Secondly, the Hearing Panel should consider whether there is a real risk that persons potentially affected by the changes sought in a submission have been denied an effective opportunity to participate in the plan change process.<sup>34</sup>
- 58 If a management regime in a plan for a particular resource is unaltered by the plan change, a submission seeking a new or different management regime for that resource is unlikely to be “on” the plan change (unless the change is incidental or consequential).
- 59 If the effect of regarding a submission as being “on” a plan change would be to permit a planning instrument to be appreciably amended without real opportunity for participation by those potentially affected, that will be a “powerful consideration” against finding that the submission was truly “on” the plan change.<sup>35</sup>
- 60 While the Hearing Panel may make recommendations that are “related to a matter identified by the panel or any other person during the hearing, but are not limited to being within the scope of submissions”,<sup>36</sup> submissions (and ultimately also the recommendations) are still required to be “on” the plan change, in order to avoid the situation where a plan could be appreciably amended without the public appreciating a particular provision was up for amendment.

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<sup>33</sup> Resource Management Act 1991, Sch 1, cl 6(1). Clause 95(2) of Schedule 1 confirms that cl 6 also applies to instruments proceeding through the ISPP.

<sup>34</sup> *Palmerston North City Council v Motor Machinists Ltd* [2013] NZHC 1290 at [90], endorsing the approach of William Young J in *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003. See also *Mackenzie v Tasman District Council* [2018] NZHC 2304 for a more recent application of the test.

<sup>35</sup> *Clearwater Resort Ltd v Christchurch City Council* HC Christchurch AP34/02, 14 March 2003 at [66].

<sup>36</sup> RMA, Sch 1, cl 99.

**Analysis of relief sought identified as being ‘out of scope’ in section 42A officer report and addressed in evidence for Greater Wellington**

*Submission point 149.2*

- 61 Submission point 149.2 seeks the insertion of objectives, policies and rules that ensure adverse effects on the Hutt Valley Aquifer from urban intensification area avoided, as well as provisions or advice notes referring to the probable need for resource consent under the Regional Plan where excavations may penetrate the Hutt Valley Aquifer. This relief is further developed in the evidence of Mr Loe.
- 62 The officers’ reason for rejecting this submission was that it relates to a regional council responsibility. However, these matters are squarely within the functions of a territorial authority and its obligations under clause 3.5 of the NPS-FM 2020 as set out at paragraphs 23 and 24 above. Further, Greater Wellington is seeking that Hutt City play an information sharing and education role relating to land use activities that might affect the Aquifer, rather than be a consenting authority for the matter.<sup>37</sup>

*Submission point 149.26*

- 63 Submission point 149.26 seeks the insertion of a policy that requires hydrological controls for use, development and subdivision of land.
- 64 This policy is directly connected to managing stormwater runoff which is addressed in the plan change. It is seeking to protect against adverse effects that might arise as a result of further intensification and as such is consequential on the MDRS.

*Submission points requesting amendments to incorporate nature-based solutions and provide for improved climate resilience*

- 65 Greater Wellington has sought a number of amendments to reduce water demand through efficient water use and embed nature-based solutions, including the implementation of water sensitive urban design. A number of these have been identified as being outside of scope by the section 42A officers.
- 66 These matters directly support and are consequential on the MDRS.

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<sup>37</sup> Statement of Evidence of Barry Loe dated 29 March 2023 at [27].

67 The MDRS includes Objective 1 which has been incorporated in PC56 as follows:

**Amendment 3**

**Objective**

A well-functioning urban environment that enables all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.

68 The amendments sought in the evidence of Ms Guest all seek to achieve this objective of a well-functioning urban environment.

69 Policy 1 of the NPS-UD requires that planning decisions contribute to well-functioning urban environments. The Policy sets out at a minimum what these well-functioning urban environments are. This includes environments that:

- (e) support reductions in greenhouse gas emissions; and
- (f) are resilient to the likely current and future effects of climate change.

70 This directly implements Objective 8 of the NPS-UD which seeks that New Zealand's urban environments:

- (a) support reductions in greenhouse gas emissions; and
- (b) are resilient to the current and future effects of climate change.

71 Policy 6 also requires that when making planning decisions that affect urban environments, decision-makers have particular regard to a number of matters, including:

- (c) the benefits of urban development that are consistent with well-functioning urban environments (as described in Policy 1);
- (e) the likely current and future effects of climate change.

72 The section 32 Evaluation identified that a well-functioning urban environment is an outcome sought through the MDRS and NPS-UD<sup>38</sup> and that policies 1 and 6 have been implemented in the plan change process.<sup>39</sup>

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<sup>38</sup> Section 32 Evaluation at [39].

<sup>39</sup> Section 32 Evaluation at [146].



- 73 The Wellington Regional Growth Framework (**WRGF**) has informed the proposed plan change.<sup>40</sup> The objectives of the WRGF are:<sup>41</sup>
- (a) Increase housing supply, and improve housing affordability and choice.
  - (b) Enable growth that protects and enhances the quality of the natural environment and accounts for a transition to a low/no carbon future.
  - (c) Improve multi modal access to and between housing, employment, education and services.
  - (d) Encourage sustainable, resilient and affordable settlement patterns/urban forms that make efficient use of existing infrastructure and resources.
  - (e) Build climate change resilience and avoid increasing the impacts and risks from natural hazards.
  - (f) Create employment opportunities.
- 74 The WRGF identifies four challenges to growth. One of these is that:<sup>42</sup>
- Many of the urban areas in the region are vulnerable to the impacts of natural hazards and climate change, and as the region grows and becomes more densely settled, it will become increasingly important to improve resilience and protect and enhance the region's natural environment.
- 75 One of the key moves identified for the Wellington-Horowhenua region is:<sup>43</sup>
- Address the urban development challenges of climate change and transitioning to a zero-carbon economy at a regional scale.
- 76 The section 32 Evaluation stated that the direction of the NPS-UD for growth broadly lines up with the goals and constraints identified in the WRGF for urban intensification, and so the proposed plan change will assist with the implementation of the WRGF.
- 77 Whilst nature-based solutions are not directly referenced in the section 32 Evaluation on PC56, well-functioning urban environments and resilience to climate change are. These matters are at issue in this Plan

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<sup>40</sup> Section 32 Evaluation at [150].

<sup>41</sup> Section 32 Evaluation at [151].

<sup>42</sup> Section 32 Evaluation at [151].

<sup>43</sup> Section 32 Evaluation at [151].

Change and the amendments sought by Greater Wellington seek to achieve these objectives. As set out in the evidence of Ms Guest, Greater Wellington has requested amendments to PC56 to ensure that nature-based solutions are an integral part of new subdivision, use and development to support climate change adaptation and mitigation and improve the health and resilience of people, biodiversity, and the natural environment.<sup>44</sup>

- 78 Nature-based solutions are actions to protect, enhance, or restore natural ecosystems, and/or that incorporate natural elements into built environments, to reduce greenhouse gas emissions and/or strengthen the resilience of humans to the effects of climate change, while having co-benefits for indigenous biodiversity and the natural environment.<sup>45</sup>
- 79 The amendments sought are connected to Amendment 3 of the Plan Change and therefore these submissions are 'on' the plan change.

### **Evidence for Greater Wellington**

- 80 In support of its submission, the Greater Wellington has called evidence from:
- (a) Richard Sheild (Senior Policy Advisor, Environmental Policy Team, WRC) in respect of the integration of urban intensification and freshwater management; and
  - (b) Barry Loe (Contracted Policy Advisor, Environmental Policy Team, WRC) in respect of the management of intensification while avoiding adverse effects on the Waiwhetū/Hutt Valley Aquifer, as a source of drinking water for the Wellington Region; and
  - (c) Iain Dawe (Senior Regional Natural Hazards Analyst and Policy Advisor, WRC) in respect of coastal hazard overlays and their recognition as a qualifying matter and exclusion from intensification under the MDRS.
  - (d) Pamela Guest (Senior Policy Advisor, Environmental Policy Team, WRC) in respect of nature-based solutions for climate change; and

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<sup>44</sup> Statement of Evidence of Pamela Guest dated 29 March 2023 at [23].

<sup>45</sup> Statement of Evidence of Pamela Guest dated 29 March 2023 at [24].

- (e) Stuart Farrant (Principal Ecological Engineer and Water Sensitive Design practice lead at Morphem Environmental Ltd) in respect of the importance and drivers for adopting policy which will ensure future development integrates nature-based solutions.

**Conclusion**

81 For the reasons set out above, and in the evidence presented, Greater Wellington respectfully requests that the Hearing Panel make the changes sought in its submission and as refined through evidence the presented.

Dated this 11<sup>th</sup> day of April 2023



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M A Mehlhopt  
**Counsel for Wellington Regional Council**