

In the Environment Court
At Wellington

ENV-2024-WLG-

I te Kōti Taiao o Aotearoa
KiTe Whanganui-a-Tara

Under the Resource Management Act 1991 (the Act)

In the matter of of an appeal under clause 14(1) of the First Schedule of the Act

Between **PORIRUA CITY COUNCIL**
Appellant

And **WELLINGTON REGIONAL COUNCIL**
Respondent

NOTICE OF APPEAL

18 November 2024



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To: The Registrar
Environment Court
Wellington

1. Porirua City Council (**Council or PCC**) appeals parts of the decisions made by the Wellington Regional Council (**Greater Wellington**) on proposed change 1 to the Wellington Regional Policy Statement (**RPS**) (**PC1**).
2. The Council made a submission on PC1, referenced as submission number S30.
3. The decision was made by Greater Wellington to accept most of the recommendations of the Independent Hearings Panel (**Panel**) appointed to hear submissions and make recommendations on PC1.
4. The Council received notice of the decision on 4 October 2024.
5. The Council is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (**RMA**).

Decision / part of Decision being appealed

6. The PC1 decisions being appealed by the Council primarily concern specific provisions of the chapters listed below:
 - 6.1 The Definitions Chapter;
 - 6.2 The Climate Change Chapter;
 - 6.3 The Urban Development Chapter; and
 - 6.4 The Indigenous Ecosystems Chapter.

Reasons for appeal

7. The Council is the territorial authority for the city of Porirua. It has various functions under the RMA, including the responsibility for establishing, implementing and reviewing its District Plan.
8. The Council's submission on PC1 indicated general support for the proposals by Greater Wellington, but also raised specific concerns with various matters and issues. This included concerns about significant increased costs to the Council, as a result of the proposed PC1 provisions, jurisdictional issues, and particular implications for territorial authorities.
9. Several of these concerns continue to form the basis for the Council's appeal.
10. The general reasons for the Council's appeal are that the relevant decisions made by Greater Wellington on PC1:
 - 10.1 Will not promote the sustainable management of resources and will not achieve the purpose of the RMA;
 - 10.2 Are contrary to Part 2 and other provisions of the RMA;
 - 10.3 Will not meet the foreseeable needs of future generations;
 - 10.4 Will not promote the efficient use and development of natural and physical resources;
 - 10.5 Will not give effect to the National Policy Statement on Urban Development (**NPS-UD**) and the National Policy Statement for Indigenous Biodiversity (**NPS-IB**);
 - 10.6 Direct the Council to take action that goes beyond its functions and responsibilities under the RMA; and

- 10.7** Do not represent the most appropriate way of exercising Greater Wellington's statutory functions, having regard to the efficiency and effectiveness of other reasonably practicable options, and are therefore not appropriate in terms of section 32 and other provisions of the Act.
- 11.** Without limiting the generality of the above, further reasons for the Council's appeal are set out below, and in Appendix 1 to this appeal:
- 11.1** The Council is generally supportive of the intent of the Climate Change Chapter, but considers that several provisions require amendment to reduce unnecessary administrative costs for the Council, other territorial authorities and consent applicants. In addition, amendments are needed to remove any reference to requirements that go beyond the matters regulated by, and within the control of, the RMA;
- 11.2** As currently drafted, a number of the definitions are unclear and will lead to unnecessary complexity and ambiguity for consenting processes. This will lead to unnecessary costs for the Council (as consent authority, and generally), other territorial authorities and consent applicants;
- 11.3** A number of the provisions being appealed by the Council lack sufficient clarity in terms of the outcomes that are intended to be achieved, and require amendments so that implementation will be efficient and effective;
- 11.4** PC1 prescribes various timeframes which are considered impossible for the Council to meet. The Council seeks relief to address these inappropriate and/or unrealistic timeframes;
- 11.5** A number of the PC1 provisions, as framed, would require the Council to revisit decisions recently made on its Proposed District Plan (**PDP**), and in a way that would achieve fundamentally different outcomes. This process burden is considered to be inappropriate, ineffective and to result in additional unnecessary costs to the Council;

- 11.6** Certain of the PC1 provisions cannot be given effect to by district plans, resource management plans generally, or are outside the scope of territorial authorities' functions or jurisdiction under the RMA; and
- 11.7** PC1 includes provisions that cut across large parts of the RPS, resulting in unnecessary duplication of requirements across several provisions as well as and interpretation / implementation difficulties and inefficiency.

Relief sought

- 12.** To address the above matters and ensure that the RPS properly achieves the purpose of the RMA, the Council's appeal seeks amendments to specific PC1 provisions, as well as any consequential amendments required to give effect to the specific relief sought.
- 13.** The Council's relief is set out in **Appendix 1**, along with accompanying explanation for the specific relief sought. For completeness, the Council opposes any alternative provisions that are contrary to outcomes raised by the above reasons, and seeks any alternative, consequential or additional relief, to that set out in this appeal, required to give effect to the matters raised generally in this appeal and/or its submission.
- 14.** The Council also seeks costs of and incidental to the appeal.
- 15.** The Council agrees to participate in mediation or other alternative dispute resolution of these proceedings.

Attachments

- 16.** The following documents are attached to this notice:

- 16.1** A table setting out the specific relief sought to the parts of PC1 that are subject to appeal, and the associated reasons and explanation for the relief sought (**Appendix 1**);
- 16.2** A copy of the Council's submission (**Appendix 2**);
- 16.3** A copy of the relevant decisions, or parts thereof (**Appendix 3**); and
- 16.4** A list of names and addresses of persons to be served with a copy of this notice (**Appendix 4**).

Dated: 18 November 2024



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Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,-

- (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in Form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Act for a waiver of the above timing or service requirements (see Form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's further submission and the relevant decision. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix 1: Table setting out the specific relief sought by the Council’s appeal, and associated reasons and explanation

Relief sought by the Council is shown with red underline and ~~strikethrough~~

CHANGE 1 RPS REFERENCE	RELIEF SOUGHT BY THE COUNCIL	REASONS FOR RELIEF SOUGHT
Chapter 2A Definitions		
1 Definition: Ecosystem processes	Delete definition and all uses of the term in the RPS provisions.	The term “ecosystems processes” creates uncertainty in outcomes (including the scope of what is to be protected). This term is not used or defined in the NPS-IB and it is unclear what is being referred to.
2 Definition: Environmentally responsive	Delete definition and all uses of the term in the RPS provisions.	<p>The definition will create unnecessary complexity and ambiguity for consenting processes, creating unnecessary costs for Council and consent applicants.</p> <p>The definition of “environmentally responsive” does not provide sufficient guidance to be clear as to how this term is intended to be applied. There is therefore uncertainty as to what the term will mean in practice.</p>
3 Definition: High density development	Delete definition.	<p>The definition will create issues for Porirua City, particularly in relation to the requirements in the associated policies, i.e. Policy 31 and UD.3, creating unnecessary costs for the Council and the community.</p> <p>The Council considers that the use of this term and the associated definition, which includes requiring ‘anticipated building height of at least 6 stories’ is inconsistent with the NPS-UD. Further, the Council has already given effect to the NPS-UD through its intensification planning instrument, and the outcome that this term (and the associated policies in which it is used) directs is</p>

			inconsistent with the outcomes that the Council (agreeing with the recommendations of the independent hearing panel) determined to be appropriate within the Porirua context.
4	Definition: Medium density development	Delete definition.	While the definition takes wording from the National Planning Standards zone description for the medium density residential development zone, the use of the wording within a definition will create unnecessary complexity and ambiguity for consenting processes. As the definition is taken from the description of the “medium density residential zone” it is focused on residential development, while the concept of medium density development could be applied to all land use types.
5	Definition: Travel choice assessment	Amend definition as follows: <i><u>A travel choice assessment demonstrates An assessment of the extent to which how the subdivision, use and or development has considered and incorporated accessibility and connectivity to active transport, sustainable transport modes and supports redistribution of demand from private car use to and provides for the use of a variety of travel modes including active and public sustainable transport modes.</u></i>	<p>The definition does not actually define what a Travel Choice Assessment is and is overly complex. The relief sought reflects that an assessment should be prepared from a neutral position of the actual outcome sought, and as such the assessment should not be defined to ‘demonstrate’ but rather to be an ‘assessment of the extent to which’ the outcome is achieved. It is inappropriate for a definition to set out a desired outcome, this should be set out in an objective or policy.</p> <p>The relief sought also simplifies the wording of the definition.</p>
6	Definition: Urban zones	Delete definition.	<p>This definition is not consistent with the Porirua PDP which identifies the following as being ‘urban zones’.</p> <p>Urban zones means the following zones:</p> <ul style="list-style-type: none"> • Metropolitan Centre Zone; • General Industrial Zone; • High Density Residential Zone; • Hospital Zone;

- *Large Format Retail Zone;*
- *Local Centre Zone;*
- *Medium Density Residential Zone;*
- *Mixed Use Zone;*
- *Neighbourhood Centres Zone; and*
- *Sport and Active Recreation Zone.*

The reference to ‘urban zones’ in Policy 55 is sought to be amended to ‘urban areas’. To ensure that the intended direction of Policy 55 is achieved, the relevant associated definitions also need to be appropriate and consistent. The terms ‘urban zones’ and ‘urban areas’ are both used in Policy 55, making the application of that policy potentially confusing.

Chapter 3.1A Climate Change

7 Table 1A

Amend Table 1A to include Policy 30 (Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – district plans) and Policy 31 (Identifying and enabling a range of building heights and density - district plans).

The Panel stated¹ that:

“We agree with Mr Rachlin for PCC, that Table 1A: Climate change Objectives and titles of policies and methods to achieve the Objectives, should be amended to include Policies 30 and 31. This is consistent with Chapter 7, ERP as Mr Rachlin notes.”

However, this has not been carried over into the PC1 decisions version of Table 1A and would appear to be an oversight.

Inclusion of these objectives would recognise the positive role of urban development in achieving the climate change objectives and strike a more appropriate balance between urban development and environmental protection.

¹ Report and recommendations of the Freshwater and Part 1, Schedule 1 Independent Hearings Panels, 21 June 2024, paragraph 388

8

Objective CC.2

Delete Objective CC.2

The RMA does not direct, or include provision for, cost transfer or sharing as a general concept. The Objective is uncertain about the outcome to be achieved, is not capable of being given effect to in the Council's district plan, and is considered to be beyond the jurisdiction of the RMA.

The objective applies to the effects that the RPS seeks to manage, including those related to urban development and regional form, management of natural hazard risk, as well as climate change.

District plans must give effect to all objectives and policies of the RPS. Because of the uncertainty with Objective CC.2, it is unclear how district plans will be required to give effect to Objective CC.2. In particular the Council is concerned that planning decisions which seek to regulate effects could be challenged by submitters on the basis that they impose additional costs on particular landowners and are therefore not "equitable".

The RPS does not provide a definition or direction on what "equitable" means in practice, and therefore it is uncertain what measure or standard should be used by the Council to determine whether this objective has been achieved.

9

Objective CC.3

Amend Objective CC.3 as follows:

~~*To support the global goal of limiting warming to 1.5 degrees Celsius and New Zealand's greenhouse gas emissions reduction targets, net greenhouse gas emissions in the Wellington Region are reduced; Management of natural and physical resources*~~

~~*(a) to contribute to a 50% percent reduction in net greenhouse gas emissions from 2019 levels by 2030; and*~~

The intent of the objective (as acknowledged in the 'Note' to the chapter introduction) is to recognise that the resource management system, including district plans, contribute to a reduction in net greenhouse gas emissions. Due to its drafting the objective requires that the framework as set out in the district plan results in a reduction of net greenhouse gases (and not just a contribution to that reduction). The Council agrees with the note in the Chapter Introduction in relation to Objective CC.3 but

~~(b) to contribute to achieving net-zero greenhouse gas emissions by 2050 in the Wellington region.~~

because the note does not have legal weight, the Council suggests that the note should be reflected in the policy.

Resource management plans cannot achieve a reduction in net emissions in isolation of wider national policy, legislative and regulatory directions. For example, district plans do not manage emissions from transport or the make-up of the region's transport fleet which is the biggest emitter of net greenhouse gases in the Wellington region.

Chapter 3.6 Indigenous ecosystems

10 Objective 16

Amend Objective 16 as follows:

~~Indigenous ecosystems and habitats with significant indigenous biodiversity values, Significant indigenous vegetation and other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats, are protected and where appropriate, enhanced and restored to a healthy functioning state.~~

Consequential amendments to remaining parts of this Chapter.

Including the words "ecosystem processes" in Objective 16 broadens the area of land required to be assessed, mapped and protected in addition to "Indigenous ecosystems and habitats with significant indigenous biodiversity values, other significant habitats of indigenous fauna."

The Council has recently mapped Significant Natural Areas (SNAs) in its PDP. This included a district wide assessment – resulting in a significant portion of land in Porirua now protected as SNAs. Decisions on the PDP were made and notified in December 2023 and only one SNA was appealed.

The work undertaken by PCC to map SNAs pre-dates the NPS-IB coming into effect.

Council is concerned that including "ecosystems processes" in Objective 16 (and in associated provisions) that:

- it goes further than and/or is inconsistent with the NPS-IB; (noting the term is not used in the NPS-IB);

- there is an insufficient evaluative basis to justify including this term (and expanding requirements around identification and protection of SNAs); and
- with a broad meaning (see related appeal point on the definition) it will create uncertainty in relation to the assessment and mapping of SNAs and any provisions required to protect ecosystem processes.

Of additional concern is that the objective as currently worded refers to:

- indigenous ecosystems and habitats with significant indigenous biodiversity values; and
- other significant habitats of indigenous fauna.

It is unclear why different language is used as compared with section 6(c) of the RMA, and the wording in Appendix 1B.

The wording at the start of this objective - including placement - includes references to “significant indigenous biodiversity values”, and “other” which could result in an interpretation that “significant habitats of indigenous fauna” are of a lesser status or value. To avoid this issue, Council seeks wording consistent with s6(c) of the RMA; *“the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.”*

Chapter 3.9 Regional form, design and function

11	Regional form, design and function chapter introduction	Delete and replace with a shorter, more concise introduction.	Shorter, more concise introductory text would aid interpretation of the RPS. For example, a summary of the provisions in the chapter is not required.
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12 **Objective 22**

Amend the objective so that it is clear what the outcome sought is, and/or replace as follows:

The Wellington regional form:

- A. Is compact, well designed and has good accessibility between housing, employment opportunities, community services, natural spaces, and open spaces, including:
1. A network and hierarchy of commercial centres which support the primacy of the Wellington city centre followed by:
 - i. Metropolitan Centres,
 - ii. Town Centres,
 - iii. Local Centres; and
 - iv. Neighbourhood Centres.
 2. A Regional urban form that is integrated with existing and planned transport network;
 3. Commercial and industrial activities distributed in appropriate locations and in a way that supports the commercial centres hierarchy identified in A.1 above;
 4. More people living in, and more business and community services located in, areas that are in or near a commercial centre and/or well served by public transport;
 5. Urban built environments that meet the health and wellbeing needs of people.

As currently worded, this objective will result in unnecessary administrative costs for Council and financial and resource costs for applicants. These costs will primarily be generated by the duplication of the other provisions in the policy statement creating unnecessary work for users of the policy statement, and the use of confusing terminology which may lead to different and conflicting interpretations.

New, unnecessarily complex and poorly defined terms such as 'environmentally responsive' are used in this objective. It is not clear why 'environmentally responsive' has replaced the reference to 'sustainable' from the former Objective 22 in the operative RPS.

The objective also duplicates other provisions within the RPS, such as those relating to giving effect to Te Mana o te Wai, and the protection of regionally significant infrastructure.

The Council considers that the drafting it has proposed in its appeal is more efficient and effective, including because it is more straightforward, and easier to apply. Further, the proposed drafting is considered to better give effect to the NPS-UD.

- B. Supports the competitive operation of land and development markets in ways that contribute to improved housing affordability and business activity, including:*
- 1. A variety of homes that meet the needs, in terms of type and location, of different households.*
 - 2. Sufficient housing and business development capacity in the short and medium term as identified in Table 9A to RPS Objective 22A.*
 - 3. A range of buildings and sites in appropriate locations that provide opportunities for commercial and industrial activities in a way that achieves the commercial centres hierarchy identified in A.1 above and maintains the primacy of the Wellington city centre.*
- C. Optimises the efficient use of existing infrastructure.*

Chapter 4.1 Regulatory policies – direction to district and regional plans and the Regional Land Transport Plan

<p>13 Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure –</p>	<p>Amend the policy so that it provides clear and appropriate direction to plan users in line with objectives, and is within the scope of what can be achieved under RMA, and/or reword as follows:</p> <p><i><u>District and regional plans shall include objectives, policies, rules and/or methods that require that all new and altered upgraded land transport infrastructure to be designed, and constructed, and</u></i></p>	<p>The Council supports the intent of Policy CC.1; however, it considers that this policy needs to be amended to ensure it can be understood and appropriately implemented. The Council also considers that the policy as drafted directs district and regional councils to undertake functions that are outside of their functions and the jurisdiction of the RMA.</p>
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district and regional plans

~~operated in a way that contributes to an safe and efficient transport network; that maximises mode shift from private vehicles to supports and encourages the use of public transport and active modes and reductions es in greenhouse gas emissions. by: (a) enabling multi-modal transport networks and infrastructure to serve and support development in locations which minimise travel distances between residential, employment and other essential services, and within walkable catchments of public transport routes where practicable; and (b) utilising existing space to remove barriers for access to walking, cycling and public transport; and (c) where providing new infrastructure or capacity upgrades on the transport network, prioritise walking, cycling and public transport, such as improved or new bus and cycle lanes and measures, to prioritise the need of pedestrians, cyclists and public transport above the car.~~

The Council seeks replacement of the word ‘altered’ in this policy as otherwise it will be engaged when a consent is sought for very small changes to the transport network, such as making minor changes to the alignment of a road at an existing intersection. In such a situation, clause (c) would mean that walking, cycling and public transport would need to be prioritised above vehicle movements, even if that is not appropriate in the context of the site. An example is the safety upgrades of SH58 being undertaken by Waka Kotahi NZ Transport Agency, which was in a rural context. While greater provision for cycling was sought by the Council in that example, this was not ‘above the car’ as required in clause (c).

District plans cannot control how the transport network is operated. As such, reference to ‘operated’ in the policy should be removed.

The Council also considers that examples should not be included in policy direction; this should be in the explanation, and more certain, consistent and standard planning terms need to be used, such as ‘private vehicles’ rather than ‘the car’. The matters set out in (a) to (c) may not always be appropriate or relevant considerations, and appear to direct specific transport investment decisions in a way that goes beyond territorial authority functions under the RMA.

14 **Policy CC.2:** Travel choice assessment– district plans

Delete policy.

It is not possible for Council to give effect to these policies by 30 June 2025. In addition, the Council does not consider that a date should be set out in the RPS as it is for the Council to determine when it will initiate a planning process to give effect to the RPS.

PCC’s Proposed District Plan, Rule TR-R5 requires a Restricted Discretionary resource consent and an associated Integrated

Transport Assessment for any activity that exceeds the trip generation thresholds in TR-Table 10. Policy CC.2 will require this to be reviewed (unnecessarily) through a plan change process, at significant financial and resource cost to Council.

Further, a district plan cannot dictate transport modes, the policy therefore appears to go beyond territorial authority functions prescribed by the RMA.

15 **Policy CC.2A:** Travel choice assessment local thresholds – district plans Delete policy.

The Council considers the 'regional thresholds' in CC.2A are unnecessary and inappropriate and their status is uncertain as the explanation says they are included "as guidance". It is not clear what their purpose is, particularly how they are to be used 'as a minimum' as well as 'the basis' for development of travel choice thresholds.

The threshold for '100 residential units located within a walkable catchment' is also contrary to the direction of other policies in the RPS, which seek that development occur within walkable catchments. By including this threshold, proposals within walkable catchments that trigger the threshold would need to go through an additional and unnecessary assessment process, despite being appropriately located to support the use of public transport by future residents.

16 **Policy CC.3:** Enabling a shift to low and zero-carbon emission transport – district plans Amend the policy so that it provides clear and appropriate direction to plan users in line with objectives, and/or amend as follows:
By 30 June 2025, district plans shall include objectives, policies, rules and/or other methods that support reductions in greenhouse gas emissions by providing for, and where appropriate for enabling, infrastructure that supports the uptake of zero- and low-

PCC generally supports the intent of policy CC.3. However, it considers this policy would require a review of the INF – Infrastructure chapter of the Council's PDP through a plan change process, at significant financial and resource cost to Council. It is not clear whether the date relates to notification of a plan change/variation, or if this is the time by which decisions are required.

carbon transport modes, and development of multi-modal transport networks that contribute to reducing greenhouse gas emissions.

In either case, achieving this by 30 June 2025 is not possible. Further, the Council considers that it is for territorial authorities to determine when changes to implement higher order documents are to be undertaken; it therefore considers that inclusion of a specific date in this policy is inappropriate.

The reference to 'multi-modal transport' should relate to networks because it is not the use of multiple transport modes that will lead to reduced carbon emissions. 'Zero- and low-carbon' should refer specifically to modes, as construction of transport networks is often carbon intensive. Further, not all infrastructure is appropriate to be enabled in all locations. For example, pedestrian and cycling paths within SNAs. The wording of the policy needs to reflect this.

17 **Policy CC.8:** Delete policy or amend to apply to regional plans only.
Prioritising the reduction of greenhouse gas emissions – district and regional plans

PCC supports the intent of reducing greenhouse gas emissions, but it is unclear how district plans can achieve this given they do not control emissions; this is managed by regional plans.

Accordingly, the Council seeks that this policy should only apply to regional plans.

The explanation to this policy states that the Greater Wellington will work with city and district councils to provide co-ordination and guidance around how to implement this policy. The Council appreciates this, but considers that it should be clear what is required from wording of the policy itself rather than requiring explanation through non-statutory guidance. Further, the Council notes that any non-statutory guidance will have no legal status and therefore it will be unclear as to the extent that guidance can be relied upon.

Climate change objectives and policies in the RPS impact on a range of topic areas including urban form and development, the management of natural resources, and the management of natural hazard risk. Further clarification is considered to be critical to ensure that the Council can give effect to the policy should it be retained.

18 **Policy 23:**
Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna – district and regional plans

Amend title of Policy 23 as follows:

Identifying ~~indigenous ecosystems and habitats with~~ significant indigenous vegetation biodiversity values and ~~other~~ significant habitats of indigenous fauna – district and regional plans

Delete the following words from the start of the Policy 23:

“and by no later than 4 August 2028”;

Amend Clause (1) as follows:

1. District plans shall identify and map ~~indigenous ecosystems and habitats with~~ significant indigenous vegetation biodiversity values and ~~other~~ significant habitats of indigenous fauna in the terrestrial environment that qualify as significant natural areas in accordance with Appendix 1B; and

Any consequential changes to the explanation to Policy 23, including to other related policies and method 21 that contain the same identified timeframe.

Recent changes to the RMA made by the Resource Management (Freshwater and Other Matters) Amendment Act 2024, have suspended the requirement to identify SNAs, in accordance with criteria in the NPS-IB, by three years. This change means the prescribed timeframe in Policy 23 (of 4 August 2028) has become out-of-date. The timeframe in the policy should be deleted to negate a conflict in timeframes reoccurring.

The Council proposes amendments to Policy 23 to implement Objective 16 (as sought to be amended through this appeal). The proposed redrafting of this policy is considered to be more efficient and effective in achieving those outcomes, and better reflects the language used in section 6(c) and the wording in Appendix 1B.

<p>19 Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna – district and regional plans</p>	<p>Amend title of Policy 24 as follows: <i>Protecting indigenous ecosystems and habitats with significant indigenous <u>vegetation biodiversity values</u> and other significant habitats of indigenous fauna – district and regional plans</i></p> <p>Amend the start of Policy 24 as follows:</p> <p><i>As soon as reasonably practicable, and by no later than 4 August 2028, district and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values, <u>significant indigenous vegetation and other</u> significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats, from inappropriate subdivision, use and development, including by applying:</i></p> <p>(...)</p> <p>And any consequential amendments to explanation of Policy 24.</p>	<p>The Council proposes amendments to Policy 24 to implement Objective 16 (as sought to be amended through this appeal), including the removal of the requirement to protect “ecosystem processes”. The proposed redrafting of this policy is considered to be more efficient and effective in achieving those outcomes, and better reflects the language used in section 6(c) and Appendix 1B.</p>
<p>20 Policy IE.1: Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – district and regional plans</p>	<p>Amend Policy IE.1 so that it is more specific about what the outcomes that it is seeking to achieve.</p>	<p>The policy lacks clarity of the outcome to be achieved.</p> <p>PCC is unclear as to the intended meaning of the phrase ‘managing indigenous biodiversity’ in this policy as it does not consider that management of indigenous biodiversity is a territorial function. Rather the Council considers that it is required to manage actual and potential effects on indigenous biodiversity. Furthermore, it is unclear whether the intention of this policy is to ‘manage’ all ‘indigenous biodiversity’, or whether this policy is intended to relate to biodiversity values. The explanation to the policy includes the use of ‘values’ but this is not included in the policy itself.</p>

PCC also questions the use of the term 'managing' in this policy. While 'manage' is used in Clause 3.3(2) of the NPS-IB the RPS should be more specific and directive.

Overall, the Council supports the involvement of mana whenua / tangata whenua in ensuring indigenous biodiversity is appropriately protected. The Council values the ongoing partnership it has with Ngāti Toa. Through the PDP process their iwi authority Te Rūnanga O Toa Rangatira provided input to the tangata whenua values as part of the SNA assessment.

21 Policy 29: Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans	The Council does not support Policy 29 in its current form, and seeks that it be amended to: <ul style="list-style-type: none">• Recognise and provide for subdivision, use and development in high hazard areas in urban areas where risk to life, property, or infrastructure will be reduced when compared with the existing lawful use of the site or area;• Remove the requirement for district plans to minimise or not increase the risks to existing subdivision, use and development, unless it is from new subdivision, use and development;• Allow a pathway for subdivision, use and development in high hazard areas where risk can be managed; and• Better implement Objective 19, Objective 21, proposed Objective CC.6 (RPS PC1 Decision version), and section 6(h) of the RMA.	As currently drafted Policy 29 is considered to extend district plan controls and rules relating to existing development, not just new subdivision, use, and development. It is not clear how this policy is intended to be implemented where existing lawful development has already been established. Policy 29(d) would result in any new subdivision, use or development and hazard sensitive activities being avoided in high hazard areas unless there is a functional or operational need for the activity to be located in that area. As such, all such subdivision or development would need to be a non-complying activity, regardless of sensitivity of that activity or development to natural hazard risk, with only functional or operational need provided as a consent pathway. The Council considers this to be an overly blunt approach to hazard management. This approach is considered to potentially be unworkable in the Porirua context given the location of hazards through urban areas (including the City Centre)
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Policy 29 does not identify what natural and physical resources are to be protected from risk², such as property, life, or infrastructure.

PCC seeks that the Policy 29 be amended to more efficiently and effectively implement Objectives 19, 21, and CC.6 as well as section 6(h) of the RMA.

22 Policy 30: Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – district plans	<p>Amend policy so that it provides clear and appropriate direction to plan users in line with objectives, and/or reword policy as follows:</p> <p><i>District plans shall include <u>objectives, policies, rules and/or methods that enable and manage appropriate subdivision, use and development</u> a range of land use activities that maintains and enhances the viability and vibrancy of the regional central business district in the Wellington city and the:</i></p> <p><i><u>(a) central Wellington as the main centre of the Wellington Region; and</u></i></p> <p><i><u>(b) other regionally significant centres</u> (a) Sub-regional centres of:</i></p> <p style="margin-left: 40px;"><i>(i) Upper Hutt city centre;</i></p> <p style="margin-left: 40px;"><i>(ii) Lower Hutt city centre;</i></p> <p style="margin-left: 40px;"><i>(iii) Porirua city centre;</i></p> <p style="margin-left: 40px;"><i>(iv) Paraparaumu town centre;</i></p> <p style="margin-left: 40px;"><i>(v) Masterton town centre; and the</i></p> <p style="margin-left: 40px;"><i><u>(vi) Johnsonville;</u></i></p> <p style="margin-left: 40px;"><i><u>(vii) Kilbirnie;</u></i></p> <p style="margin-left: 40px;"><i><u>(viii) Petone; and</u></i></p> <p><i><u>(c) the locally significant centres of</u> (b) Suburban centres in:</i></p> <p style="margin-left: 40px;"><i>(i) Petone;</i></p> <p style="margin-left: 40px;"><i><u>(ii) Kilbirnie; and</u></i></p>	<p>Based on existing data of daily commuter behaviour provided by the 2018 Census, the Council does not consider that there is sufficient evidential justification to identify Johnsonville and Kilbirnie as regionally significant centres.³</p> <p>Enabling commercial activities within Kilbirnie and Johnsonville to support elevating these areas as being ‘regionally significant centres’ in the future could result in further loss of economic activity, or a loss of potential additional activity, within Porirua’s centre. As such, the maintenance and enhancement of the viability and vibrancy of the Porirua centre, as sought by the policy, may in the future be compromised by the inclusion of Johnsonville and Kilbirnie as ‘regionally significant centres’ in this policy.</p>
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² Risk is defined in RPS as “A combination of the probability of a natural hazard and the consequences that would result from an event of a given magnitude. Commonly expressed by the formula: risk = hazard x vulnerability.”

³ See ‘Statement of evidence of Rory Smeaton on behalf of Porirua City Council (Planning)’, dated 15 September 2023.

- (iii) Johnsonville;
- (i) Ōtaki Main Road;
- (ii) Ōtaki Township;
- (iii) Raumati Town;
- (iv) Waikanae;
- (v) Featherston;
- (vi) Greytown;
- (vii) Carterton;
- (viii) Martinborough; and

(d) other local and neighbourhood centres that provide for the daily and weekly needs of their residential catchments.

23 **Policy 31:** Enabling intensification to contribute to well-functioning urban areas – district plans

Amend policy so that it provides clear and appropriate direction to plan users in line with objectives, does not result in inconsistency with district plans that have already given effect to the NPS-UD through an Intensification Planning Instrument, and/or reword policy as follows:

~~Where a district plan has not already been amended through an Intensification Planning Instrument, district plans shall include policies, rules and/or methods that enable intensification within existing urban zones where it contributes to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban environment areas by:~~

(a) for any tier 1 territorial authority, identifying a range of building heights and urban form densities (while recognising identified qualifying matters in that area) to:

- (i) realise as much development capacity as possible in city centre zones, and

The wording of the policy could be interpreted as requiring high density development (enabling at least six storeys) in Pukerua Bay and Paremata. Both of these areas are served by train stations on the Kapiti Line and therefore are identified as being on a rapid transit line. This outcome is contrary to the Panel's recommendation, and ultimately the Council's recent decision on, PCC's Intensification Planning Instrument (IPI).

Given PCC has already given effect to the NPS-UD and incorporated the medium density residential standards in its PDP (through its IPI), it seeks amendments to ensure that this policy cannot be inappropriately interpreted as imposing an additional requirement on it to notify a further plan change for intensification purposes.

The phrase 'compact, well-designed, climate-resilient, accessible and environmentally responsive regional form' is unnecessary and introduces terms that are not well defined. This will create unnecessary confusion for users of the policy statement, and consequent unnecessary administrative costs. It is therefore not

(ii) enable high density development within metropolitan centre zones; and any other locations, within at least a walkable catchment of:

- a. existing and planned rapid transit stops, along networks identified as existing and planned transit in the current Regional Land Transport Plan, or
- b. edge of city centre zones and metropolitan centre zones, or
- c. areas with a range of commercial activities and community services, and

(iii) enable medium density development, and

(iv) otherwise reflect the purpose of, and level of commercial activity and community services, within and adjacent to town, local and neighbourhood centres; and

(b) for any other territorial authority not identified as a tier 1 territorial authority, identifying areas for greater building height and urban form densities within, and adjacent to town centre zones where appropriate and either:

(i) where there is good access to existing or planned active and public transport to a range of commercial activities and community services, or

(ii) to meet relative demand for housing and business use in that location.

considered to be efficient or effective in implementing the higher order objectives (including those in the NPS-UD).

The reference to 'urban environment' is more consistent with and better gives effect to the NPS-UD, rather than the use of 'urban areas'.

24 **Policy 32:**
Identifying and protecting key industrial-based employment locations – district plans

Amend policy as follows:

District plans ~~should~~ shall include policies, rules and/or methods that identify and protect key industrial-based employment locations where they contribute to ~~maintain and enhance a compact, well-designed, climate-resilient, accessible and environmentally responsive and sustainable regional form with~~

PCC generally supports the intent of this policy, but seeks amendments to reflect the drafting in the NPS-UD. The PDP achieves the policy through the zoning framework and associated activity based rules, along with the Future Urban Zone in Judgeford Flats which is identified for future industrial activities.

~~well-functioning urban areas and rural areas a well-functioning urban environment~~ by:

- (a) recognising the importance of industrial based activities and the employment opportunities they provide; and
- (b) identifying specific locations and applying zoning suitable for accommodating industrial activities and their reasonable needs and effects including supporting or ancillary activities; and
- (c) identifying a range of land sizes and locations suitable for different industrial activities, and their operational needs including land-extensive activities; and

managing the establishment of non-industrial activities, in industrial zones, by avoiding activities likely to result in reverse sensitivity effects on industrial activities, or likely to result in an inefficient use of industrial zoned land or infrastructure.

The reference to “a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas and rural areas” results in additional complexity and uncertainty into this policy which could result in additional administrative costs for the Council.

25 **Policy UD.4:**
Achieving a compact regional form – district and regional plans

Delete policy.

This policy was not included in PC1 as notified, and was introduced through the hearing process. The matters addressed in the policy are covered by other RPS policies.

It is also considered that this policy is inconsistent with the RMA and NPS-UD, as the Council considers that priorities that it sets out will not necessarily result in a well-functioning urban environment. The policy will overly constrain the development of housing, and therefore will result in social, cultural and economic costs for people and communities, as well as leading to unnecessary administrative costs for Council.

It is not clear how brownfield development would be ‘unanticipated or out-of-sequence’. This may refer to out-of-zone developments. If so, clause (a) may unintentionally prioritise

inappropriate developments, such as high-density residential zones within industrial zones.

Clause (ii) is also not sufficiently clear, as in some cases existing infrastructure may be supplemented through the construction of new infrastructure, such as laying parallel wastewater pipes, rather than increasing the size of the existing pipe, as this is more cost effective to achieve the same outcomes.

Clause (iv) is inappropriate, as the criteria for out-of-sequence development, as required by the NPS-UD, is contained in a separate policy and an assessment of the appropriateness of a plan change is set out in a section 32 evaluation report under the RMA.

Chapter 4.2 Regulatory policies – matters to be considered

26 Policy CC.9: Reducing greenhouse gas emissions associated with subdivision, use or development – consideration	Amend the policy so that it provides clear and appropriate direction to plan users in line with objectives, and ensures the requirements are within the scope of what a district plan can achieve, and/or reword as follows: <i><u>When considering an application for a resource consent, or a notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to whether the subdivision, use or development has been planned in a way that contributes to reducing greenhouse gas emissions by optimising overall transport demand, by maximising enabling the use of public transport or active transport modes -mode shift from private vehicles to public transport or active modes, and supporting the use of other low and zero-carbon modes.</u></i>	PCC generally supports the intent of reducing greenhouse gas emissions, but considers further refinement of this policy is required. As currently drafted, policy CC.9 would need to be considered through any future plan change processes as well as resource consent decisions. While it may be relevant to some plan changes (such as introduction of a new Development Area), it would place an unnecessary regulatory burden for most plan changes. This has subsequent administrative costs for Council and financial and resource costs for applicants. The changes sought by Council aim to reduce this potential administrative burden. The phrase ‘optimising overall transport demand’ was deleted from Policy CC.1 due to uncertainty and therefore should also be removed from this policy.
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Finally, it is beyond the jurisdiction of the RMA to require mode-shift from one transport mode to another. It is therefore unclear how this policy could be achieved within the RMA context. PCC's suggested amendments are proposed to address this concern.

27 Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration	Amend the policy so that it provides clear and appropriate direction to plan users in line with the objectives, and/or reword as follows: <i><u>Policy CC.10: Freight movement efficiency and minimising greenhouse gas emissions – consideration</u></i> <i><u>When considering an application for a resource consent, or notice of requirement, or a change, variation or review of a regional or district plan for a freight distribution centres, and new industrial areas, or other similar activities, with that will generate significant freight movements-servicing requirements, particular regard shall be given to the proximity availability of safe connections to appropriate of efficient transport networks and locations that will contribute to the efficiency of freight movements and minimising associated greenhouse gas emissions.</u></i>	PCC generally supports the intent of Policy CC.10, but considers that this policy, will result in inefficiencies and unjustified administrative costs for Council and resource costs for applicants because of the inherent uncertainty in its wording. As currently drafted, the policy is not considered to be efficient or effective in achieving the climate change objectives set out in Change 1, and in the RPS more broadly. This uncertainty is created by the use of terms such as 'similar activities' with 'significant freight servicing requirements', and the 'proximity of efficient transport networks'. The Council considers that it is the availability of safe connections to appropriate transport networks, rather than the 'proximity' of efficient transport networks, that will be relevant to decision making regarding the activities that result in higher levels of freight movements. Other policies capture the matters through plan change processes, and therefore it does not need to apply to those processes.
28 Policy CC.11: Encouraging whole of life greenhouse gas emissions assessment for transport	Amend to a non-regulatory policy as follows: <i><u>Policy XX CC.11: Encouraging whole-of-life greenhouse gas emissions assessment for transport infrastructure – non-regulatory consideration</u></i> <i><u>Encourage whole-of-life greenhouse gas emissions assessments to be provided with resource consent applications to Wellington</u></i>	PCC generally supports the intent of Policy CC.11, but seeks changes to this policy to clarify its application, and to minimise unnecessary administrative costs for Council and financial and resource costs for applicants. The provision of whole-of-life greenhouse gas emissions assessment should be restricted to the regional council's

infrastructure – consideration

Regional Council ~~and resource consent applications and notices of requirement to city and district councils for all new or upgraded land transport infrastructure. This information will assist with evaluating the potential greenhouse gas emissions, options for reducing direct and indirect greenhouse gas emissions and whether the infrastructure has been designed and will operate in a manner that contributes to reducing transport-related greenhouse gas emissions in the Wellington Region.~~

consideration of consents as discharges to air are outside of the functions of territorial authorities under the RMA.

29 **Policy 47:** Managing effects on indigenous biodiversity and habitats with significant biodiversity values – consideration

Amend the start of Policy 47 as follows:

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 affect ~~indigenous ecosystems and habitats with significant indigenous biodiversity values, significant indigenous vegetation and other significant habitats of indigenous fauna, and the ecosystem processes that support these ecosystems and habitats,~~ and in determining whether the proposed activity is inappropriate particular regard shall be given to:

(...)

And, amend the policy to:

- make clear that it would not apply once the regulatory policies have been given effect to; and
- only apply to resource consents (until the above has been achieved).

The amended wording to the first part of the policy is sought to implement Objective 16 (as sought to be amended by this appeal), including the removal of the requirement to protect “ecosystem processes”.

The explanation to the policy identifies that this policy is intended for an interim period only until the regulatory policies have been given effect to. This needs to be included within the policy itself given that the explanation has no statutory weight.

Any plan change or variation is already required to give effect to relevant regulatory policies, once the regulatory policies regarding management of indigenous biodiversity and habitats have been given effect to it should be clear that there is no longer a requirement for this policy to be considered when assessing a resource consent application or notice of requirement.

As set out above in the reason for the appeal point on Objective 16, the Council has already mapped SNAs in its PDP and included provisions to protect SNAs.

This is the result of a comprehensive district-wide assessment - with SNAs now settled in the PDP (and only one SNA under appeal).

Policy 47 effectively requires an assessment as part of any resource consent application, of whether an area is an SNA. This is irrespective of whether SNAs are already scheduled and protected in a district plan.

There is insufficient justification for this policy direction. It does not take into account the work undertaken to identify and protect SNAs through the associated regulatory policy. As noted, the intent of the policy (as identified in the policy explanation) is to be an interim measure, until the regulatory policies have been given effect to. This intent needs to be reflected in the policy.

30 **Policy IE.2:** Giving effect to mana whenua / tangata whenua roles and values when managing indigenous biodiversity – consideration

Amend Policy IE.2:

- to make clear that it would not apply once the regulatory policy has been given effect to.
- to only apply to resource consents (until the above has been achieved).
- so that it does not have unintended consequences of being broader than the regulatory policy.
- so that it is more specific about what is sought to be recognised and provided for.

PCC generally supports the intent of Policy IE.2 but considers that it should not continue to apply after the regulatory policy has been given effect to.

Any plan change or variation is already required to give effect to relevant regulatory policies. As such it is not appropriate to also require ongoing application of this consideration policy.

The policy is considered to have broader application than regulatory Policy IE.1. As a 'consideration policy' it is not efficient or effective for the matters covered to be broader than the regulatory policy.

The policy also lacks clarity and should be more specific. The first part of the policy uses the words "may" and "impact on" in relation to indigenous biodiversity. Impact on, is not defined and the threshold for impact is therefore uncertain. The wording of the policy means it is likely to result in a very low threshold or trigger – and would capture a wide range of resource consents, notices of requirements and plan changes, without an associated clear

direction about what is to be specifically ‘recognised and provided for’. This is not an efficient or effective approach.

31 Policy IE.2A: Maintaining indigenous biodiversity in the terrestrial environment – consideration	Amend the policy so that: <ul style="list-style-type: none">• it is a regulatory policy (directing implementation within plans) instead of a consideration policy; and• it gives better gives effect to clause 3.16(2) of the NPS-IB.	Policy IE. 2A relates to indigenous biodiversity outside of SNAs and should be a regulatory policy instead of a consideration policy. As a regulatory policy this would provide for appropriate thresholds to be identified for ‘significant adverse effects’ and for ‘adverse effects’ (under clauses (b) and (c) of the Policy IE.2A respectively). This would better give effect to the requirements of 3.16 of the NPS-IB. Clause 3.16(2) of the NPS-IB states: <i>All other adverse effects of any activities that may adversely affect indigenous biodiversity that is outside of and SNA (other than indigenous biodiversity on specified Māori land (see clause 3.18), must be managed to give effect to the objective and policies of this National Policy Statement.</i> ” However, clause (c) of IE.2A only integrates part of the NPS-IB “objective and policies” (i.e. Objective 2.1(1)(a).
32 Policy 51: Avoiding or minimising the risks and consequences of natural hazards – consideration	Amend Policy 51 to: <ul style="list-style-type: none">• Recognise and provide for subdivision, use and development in high hazard areas in urban areas where risk to life, property, or infrastructure will be reduced from the lawful use of the site or area; and• Allow a pathway for subdivision, use and development in high hazard areas where risk can be managed.	Policy 51 has a similar effect as Policy 29 above, except it does not apply to existing development. In particular, the Council does not consider that the drafting of Policy 51 is efficient or effective in implementing Objectives 19, 21 and CC.6 of the RPS, nor does it appropriately give effect to section 6(h) of the RMA. As currently drafted Policy 51 is very blunt in its application. Within the Porirua context there are possible hazards identified in existing urban areas, including the City Centre. While hazard management is vital, the inclusion of an overly blunt framework in the RPS has the potential to result in existing lawful activities remaining rather than those activities being replaced with lower risk activities.

33 **Policy 55:** Managing greenfield development to contribute to well-functioning urban areas and rural areas – consideration

Amend policy so that it provides clear and appropriate direction to plan users in line with objectives, and/or reword policy as follows:

~~When considering an~~ An application for a resource consent, notice of requirement, or a change, variation or review of a district plan for urban development beyond the region's existing urban zones areas ~~urban areas (as at March 2009), will contribute to achieving a compact, well designed, climate resilient, accessible and environmentally responsive regional form a well-functioning urban environment if:~~ particular regard shall be given to whether:

(a) ~~the location, design and layout of the urban proposed development is the most appropriate option to achieve Objective 22:~~

1. ~~contributes to well-functioning urban areas, as articulated in Policy UD.5; and~~

2. ~~is well-connected to the existing urban area, which means it:~~

~~i) is adjacent to existing urban zones with access to employment and amenities, and either,~~

~~ii) is along existing or planned transport corridors that provide for multi-modal transport options, including public transport, or~~

~~iii) supports the efficient and effective delivery of planned new or upgraded transport infrastructure including for public transport; and~~

3. ~~concentrates building heights and densities to:~~

~~i) maximise access to, and efficient use of, existing infrastructure,~~

This policy will unduly restrict provision of housing within the region, and is inconsistent with Objective 2 and Policy 8 of the NPS-UD.

In the PDP the Future Urban Zone (**FUZ**) protects areas identified for future urban development. These areas give effect to the Porirua Growth Strategy 2048, and are also reflected in the Wairarapa-Wellington-Horowhenua Future Development Strategy (**FDS**).

The definition of 'urban zones' does not include the FUZ, so any plan changes to upzone FUZ to live zoning would need to give effect to this policy. This policy may therefore unnecessarily restrict the upzoning of FUZ areas to live zoning, particularly through the cross-reference to policy UD.3. This could result in social and economic costs for the people and community of Porirua by restricting the release of greenfield land to the market, as well as restricting the ability to achieve the outcomes sought in the Porirua Growth Strategy and the FDS. This would be avoided if the policy referred to 'urban area' which includes FUZ in the definition.

Phrases such as 'concentrates building heights and densities', 'climate-resilient' and 'environmentally responsive' are not clearly able to be implemented through district plans, as they do not have a clear meaning. It will therefore be difficult for the Council to determine how it can give effect to this policy within the district plan.

Clause (a)(2)(i) to (iii) will unnecessarily restrict the location of greenfield growth. While the areas described in those sub-clauses may sometimes be considered to be "well connected" to existing urban areas, there are additional areas that the Council considers

- ~~ii) use land to be zoned urban efficiently,~~
 - ~~iii) support viable and vibrant neighbourhood, local, town, metropolitan and city centres, and~~
 - ~~iv) support reductions in greenhouse gas emissions by use of low and zero-carbon emission transport modes, including efficient provision of public transport services; and~~
4. ~~applies specific management or protection for values or resources required by this Regional Policy Statement, including:~~
- ~~i) managing subdivision, use and development in accordance with the risk from natural hazards as required by Policy 29,~~
 - ~~ii) protecting indigenous ecosystems and habitats with significant indigenous biodiversity values as identified by Policy 23,~~
 - ~~iii) protecting outstanding natural features and landscape values as identified by Policy 25,~~
 - ~~iv) protecting historic heritage values as identified by Policy 22,~~
 - ~~v) giving effect to Te Mana o te Wai consistent with Policy 42,~~
 - ~~vi) providing for climate resilience and supporting a low and zero-carbon multi-modal transport network consistent with~~
-

to be well connected. For example, the Judgeford Flats FUZ is located on SH58 and is well-connected for the industrial land uses it is identified for, despite SH58 not providing well for multi-modal transport options. The Council considers that inclusion of those clauses unnecessarily restricts Clause (a)(2).

The Council considers that building heights and densities cannot be 'concentrated' as required in Clause (a)(3). The NPS-UD Policy 3 requires district plans to 'enable' building heights and density of urban form. The policy wording is therefore inconsistent with the NPS-UD.

The references to other RPS policies in Clause (a)(4) are unnecessary, as all other provisions in the RPS will need to be given effect to alongside this policy. Additionally, the policy cross-reference to UD.3 in clause (d) compounds the identified issues of that policy being overly restrictive in relation to providing for housing within the region.

The phrase 'that describes where and how future urban development will occur' in (b) is unnecessary and is inconsistent with clause (i)(i) in Policy 56.

There are other policies in the RPS relating to how Councils partner with mana whenua, and therefore clause (c) does not need to specifically refer to that partnership.

Policies CC.1, CC.4, CC.4A, CC.9, CC.14
and CC.14A;

- vii) providing for mana whenua / tangata
whenua values, including their
relationship with their culture, ancestral
lands, water, sites, wāhi tapu and other
taonga;
- viii) protecting Regionally Significant
Infrastructure from incompatible or
inappropriate adjacent land uses,
consistent with Policy 8;
- ix) protecting significant mineral resources
from incompatible or inappropriate
adjacent land uses, consistent with
Policy 60, and
- x) managing effects on natural character in
the coastal environment, consistent with
Policy 36; and

- (b) it the proposed development has regard to is consistent
with the Future Development Strategy the Council's
growth and/or development framework or strategy that
describes where and how future urban development
should will occur in that district; and/or
 - (c) a structure plan has been prepared to a level of detail
commensurate to the scale of the urban development, in
partnership with mana whenua / tangata whenua where
undertaken by a local authority; and
 - (d) for a plan change, it would add significantly to
development capacity in accordance with Policy UD.3.
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34 **Policy 56:** Managing development in rural areas – consideration

Amend policy as follows:

When considering an application for a resource consent or a change, variation or review of a district plan for subdivision, use and development, in rural areas avoid inappropriate subdivision, development and/or use (as at March 2009), seek to manage adverse effects on rural areas by considering whether the proposal: and in determining whether a proposal is appropriate have regard to the extent to which the proposal: ~~particular regard shall be given to whether:~~

- (a) ~~the proposal will result in a loss of~~ retains the productive capability capacity of the rural area, including cumulative impacts that would reduce the potential for food and other primary production ~~and reverse sensitivity issues for existing production activities, including extraction and distribution of aggregate minerals; and~~*
- (b) minimises the potential for reverse sensitivity issues, including on existing production activities, and extraction and distribution of aggregate minerals operations; and*
- (c) ~~(b) the proposal will reduce~~ retains or enhances the amenity aesthetic, cultural and open space values in rural areas between and around settlements; and*
- (d) provides for mana whenua / tangata whenua values, including the relationship with their traditions, ancestral lands, water, sites, wāhi tapu and other taonga; and*
- (e) ~~(c) the proposals location, design or density will~~ supports reductions in greenhouse gas emissions minimise demand for non-renewable energy resources through appropriate location, and design and density of development; and*
- ~~(f) is climate resilient; and~~*
- ~~(g) gives effect to Te Mana o Te Wai; and~~*
- ~~(h) for urban development, is consistent with Policy 55; and~~*
- (f) ~~(d) for other development~~ the proposal*

As currently worded this policy will result in potential unnecessary administrative costs for Council and financial and resource costs for applicants, as it contains unclear wording meaning is application is uncertain.

The phrase ‘seek to manage’ in the chapeau has no meaning under the RMA. A similar phrase ‘seek to avoid’ in the National Policy Statement for Electricity Transmission (which is currently being reviewed) has caused confusion for implementation of that policy statement. The chapeau needs to have a clearer direction to be implemented.

The chapeau refers specifically to ‘adverse effects on rural areas’; however, some of the clauses relate to adverse effects beyond the rural environment.

The wording in clauses (f), (g) and (h) is unnecessary as all other policies in the RPS will need to be read alongside this policy, and the matters in these clauses are addressed by other policies.

- i. ~~has regard to is consistent with the Future Development Strategy the relevant city or district council growth and/or development framework or strategy that addresses future rural development,~~
or
- ii. ~~where inconsistent with the Future Development Strategy (j) in the absence of a framework or strategy, the proposal would~~ increase pressure for public services and infrastructure beyond existing infrastructure capacity.

35	Policy 57: Integrating land use and transportation	Delete all changes to the policy, or amend the policy so that it provides clear and appropriate direction to plan users in line with objectives.	<p>This policy would likely have significant costs for consent applicants, as it could be interpreted as only allowing development to occur within areas near centres and well-served by existing or planned public transport, as other areas would not achieve integration with transport. This would have social and economic costs for people and communities by limiting where development could occur.</p> <p>Specifically, it appears that clause (a) could be interpreted as restricting the location of development to only within the stated areas. However, this is made less clear by the wording in the chapeau using the phrase ‘seek to achieve’ which is difficult to interpret within an RMA context. Additionally, clause (e) does not appear to make sense in the context of the RPS, or be able to be given effect to through a district plan, as the ‘rapid transport network’ and the listed ‘Growth Corridors’ are not identified or defined in the RPS.</p>
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Clause (b) to (e) are not able to be directed by district plans, and these are more appropriately dealt with through other mechanisms such as the Regional Land Transport Plan.

Clause (f) is already addressed through other policies relating to protection of regionally significant infrastructure.

Further, the explanation refers to the Wellington Regional Land Transport Plan as a 'Strategy', whereas it is a 'Plan' under the Land Transport Management Act 2003.

36 **Policy 58:** Co-ordinating land use with development and operation of infrastructure – consideration

Amend the policy so that it provides clear and appropriate direction to plan users in line with objectives, and/or as follows:

When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan, ~~for subdivision, use or development, seek to achieve development that is integrated subdivision, use and development with infrastructure, in a way that: particular regard shall be given to whether the proposed subdivision, use or development is located and sequenced to:~~

- (a) ~~makes effective, efficient and safe use of existing infrastructure capacity; and~~*
- (b) ~~makes provision for coordinates the development, funding, implementation and operation of any new infrastructure required to service the subdivision, use or development serving the area in question; and~~*
- (c) ~~ensures all infrastructure required to service new subdivision, use and development is available, or is able to be delivered in a timeframe appropriate to service the subdivision, use or development, and recognise that this~~*

The delivery of infrastructure by the Council is planned through a Long-Term Plan, which may not necessarily be known at the time for zoning in the district plan. The Council often uses Development Agreements under the Local Government Act 2002 to ensure sufficient infrastructure is provided for developments.

The phrase 'seek to achieve' is difficult to interpret within an RMA context. Additionally, the phrase 'the area in question' is not sufficiently clear for an RMA planning document. Amendments are proposed to remove those terms.

may require timing or staging of the subdivision, use or development accordingly.

- ~~(a) make efficient and safe use of existing infrastructure capacity; and/or
(b) coordinate with the development and operation of new infrastructure.~~

37 **Policy UD.3:** Plan changes that provide for significant development capacity – consideration

Amend policy so that it provides clear and appropriate direction to plan users in line with objectives; and/or amend as follows:

For local authorities with jurisdiction over part, or all, of an urban environment, when determining whether a plan change for urban development will be treated as adding significantly to development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release, the following criteria, must be met:

- (a) the plan change makes a significant contribution to meeting a need identified in the latest Housing and Business Development Capacity Assessment, or a shortage identified through ~~other~~ monitoring or assessments otherwise for:
- (i) a variety of housing that meets ~~the~~ regional, district, or local ~~needs shortage of housing in relation to the particular type, size, or format;~~ or
 - (ii) business space or land of a particular size or ~~location~~ type; or
 - (iii) community, cultural, health, or educational facilities; and
- (b) a plan change will make a significant contribution to a matter in (a) if it:

This policy will unnecessarily restrict the release of greenfield land for urban land uses, particularly as it is cross-referenced in Policy 55 and the FUZ is not included in the definition of ‘urban zones’. This could have significant social and economic wellbeing costs for the people and community of Porirua by restricting the planned release of greenfield land as set out in the Porirua Growth Strategy and FDS.

Requiring the proposal to be ‘high yield relative to the forecast demand or the identified shortfall’ could mean that only very large developments would be able to meet that criterion, as the policy wording does not clarify whether the ‘demand or shortfall’ is at the regional, district or local level. Assuming that the demand or shortfall is at the regional level, this would mean that only a proposal that would be ‘high yield’ relative to that regional demand would be able to meet that criterion. This also raises the question of what ‘high yield’ actually means, as this is also a subjective term.

Similarly, the term ‘timely manner’ in clause (b)(ii) is subjective, and may be difficult to reconcile when read alongside the need to respond to a demonstrated demand for the ‘short-medium term’.

In relation to clause (c)(i), medium and high-density residential development may not be appropriate in all locations, particularly if

- (iv) ~~is of high yield relative to either the forecast demand or the identified shortfall;~~
- (v) ~~will be likely to be realised in a timely manner;~~
~~and~~
- (vi) ~~responds to demonstrated demand for the land use types proposed, for the short-medium term in that location; and~~
- (c) ~~where it provides for housing, the plan change will:~~
 - (i) ~~as part of contribute to the availability of a mix of housing typologies within the district, provide for high density development or medium density development;~~ and
 - (ii) ~~contribute to increasing housing affordability through a general increase in supply or through providing non-market housing; and~~
- (d) ~~the required infrastructure can be provided in an integrated, efficient and comprehensive manner. effectively and efficiently for the proposal, and without material impact on the capacity provided by existing or committed infrastructure for other feasible, reasonably expected to be realised developments, in the short-medium term; and~~
- (e) ~~the plan change justifies the need for additional urban-zoned land in that particular location to meet housing and business demand, demonstrating consideration of existing feasible, reasonably expected to be realised development capacity within existing urban zones; and~~
- (f) ~~the plan change can demonstrate it will mitigate any potential adverse effects on the ability of existing urban areas and rural areas to be well functioning, including by minimising potential reverse sensitivity~~

the proposed plan change is out of sequence. The most appropriate zoning for an area will be determined by a range of natural and physical factors relative to a specific location. This will also be informed by the demand identified through the Housing and Building Development Capacity Assessment, which may be for lower density residential development, for which there is currently no pathway provided for in the policy.

Clause (d) is overly complicated, and introduces unnecessarily subjective and unhelpful terms such as 'material impact'.

Clauses (e) and (f) inappropriately impose requirements on the 'plan change'. These matters are already required to be addressed through section 32 evaluation reports under the RMA. As a consideration policy, this policy should only provide guidance on the matters to be considered through that process.

Based on the issues identified above, if this policy was to be retained in its current form, the Council considers that additional guidance would need to be provided through a separate document, which could lead to further uncertainty.

effects and impacts on the feasibility, affordability, or deliverability of urban development anticipated by the district plan.

38	Policy UD.5: Contributing to well-functioning urban areas - consideration	Delete policy.	<p>This policy was not included in PC1 as notified, and was introduced through the hearing process.</p> <p>This policy is considered to be unnecessary as it relates to matters addressed in the policy are covered by other RPS policies.</p> <p>It is also considered that this policy is inconsistent with the RMA and NPS-UD.</p> <p>This policy uses ambiguous terms including the reference to ‘seek to achieve’. This phrase is considered to have an uncertain meaning in an RMA context, and appears to have been included as it reflects drafting from the National Policy Statement on Electricity Transmission (which is currently being reviewed).</p> <p>Clause (e) unnecessarily restricts the management of adverse effects of urban development on the natural environment (which is not defined in the RMA) to avoidance or mitigation, thereby removing the ability to address effects through remediation.</p> <p>Similarly, clause (g) refers to ‘potential reverse sensitivity effects’ which appears to exclude actual reverse sensitivity effects.</p>
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Chapter 4.4 Non-regulatory policies

39	Policy CC.18: Increasing regional forest cover to support climate	Amend as follows: Promote and sSupport <i>the planting and natural regeneration of permanent forest to maximise the benefits for carbon</i>	The Council supports the planting and natural regeneration of permanent indigenous forest. As a non-regulatory policy, and as currently worded, we consider the policy represents an inappropriate direction to territorial authorities.
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change mitigation:
“right tree-right
place” – non-
regulatory

sequestration, indigenous biodiversity, erosion control, freshwater and coastal ecosystems, and the social and economic well-being of local communities. ~~Where appropriate, priority should be given to promoting and incentivising the planting and regeneration of permanent indigenous forest in preference to exotic species, particularly on highly erodible land and in catchments where water quality targets for sediment are not reached.~~

including by:

- a. — identifying where to promote and incentivise the planting and regeneration of permanent indigenous forest representative of the natural type expected in the area in preference to exotic species, and*
 - b. — prioritising planting and regeneration of permanent indigenous forest and associated browsing pest animal control on highly erodible land and in catchments where water quality targets for sediment are not reached and in areas where it will support significant indigenous biodiversity values.*
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PCC seeks amendments this policy to better align with the functions of territorial authorities within the RMA framework. For example, it is not clear how priority for planting and regeneration of permanent indigenous forest can be achieved within an RMA context.