

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

**I MUA I TE KŌTI TAIAO O AOTEAROA
TE WHANGANUI A TARA ROHE**

ENV-2024-WGN-

IN THE MATTER OF the Resource Management Act 1991

AND

IN THE MATTER OF an appeal under clause 14(1) of Schedule 1 of
the Resource Management Act 1991

BETWEEN **HUTT CITY COUNCIL**
Appellant

AND **WELLINGTON REGIONAL COUNCIL**
Respondent

**NOTICE OF APPEAL TO THE ENVIRONMENT COURT AGAINST DECISIONS
OF THE WELLINGTON REGIONAL COUNCIL ON PROPOSED CHANGE 1
AND VARIATION 1 TO THE WELLINGTON REGIONAL POLICY STATEMENT**

18 NOVEMBER 2024

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To: The Registrar
The Environment Court
Wellington

Hutt City Council (HCC) appeals parts of the decisions of the Wellington Regional Council (**GWRC**) on Proposed Change 1 (**PC1**) and Variation 1 to the Wellington Regional Policy Statement (**RPS**) (**Decisions**).

Background

1. HCC is a Tier 1 territorial authority under the National Policy Statement on Urban Development 2020 (**NPS-UD**).
2. HCC made a submission on PC1 on 14 October 2022 (**Submission**).
3. HCC is not a trade competitor for the purposes of section 308D of the RMA.
4. HCC received notice of the Decisions by GWRC on 4 October 2024.
5. HCC is appealing parts of the Decisions for the reasons given below.

Parts of Decisions subject to appeal

6. HCC is appealing parts of the Decisions that relate to Chapter 2A: Definitions, Chapter 3.1A: Climate change, Chapter 3.8: Natural hazards and Chapter 3.9: Regional form, design and function, and that were the subject of HCC's Submission.
7. In particular, and without limiting the above, HCC is appealing the following definitions, objectives and policies, as set out in the Decisions:
 - (a) **Chapter 2A: Definitions:** "*Urban zones*";
 - (b) **Chapter 3.1A: Climate change:** Objectives CC.2 and CC.3; Policies CC.2, CC.2A and CC.4;
 - (c) **Chapter 3.8: Natural hazards:** Objective 19; Policies 29 and 51; and
 - (d) **Chapter 3.9: Regional form, design and function:** Policy 57.

Reasons for appeal and relief sought

8. HCC's general reasons for appeal relate to:
 - (a) the role of the RPS within the hierarchy of planning documents, and the scope and purpose of the resource management system;

- (b) the workability of certain proposed changes, and uncertainties arising from unclear, unnecessary and/or unachievable provisions; and
 - (c) inconsistencies and/or duplication with parts of the NPS-UD and the HCC Proposed District Plan (**PDP**).
9. More broadly, HCC considers that parts of the Decisions Version do not serve a resource management purpose, promote the sustainable management of natural and physical resources in accordance with section 5, further the principles of Part 2, or otherwise accord with the RMA.
10. Without limiting the above, HCC's more specific reasons for appeal, and relief sought, are set out below.

Chapter 2A: Definitions

11. The Decisions Version includes amendments to the "*Urban areas*" definition as well as a new definition for "*Urban Zones*" (the latter is also mentioned in the amended "*Urban areas*" definition).
12. HCC does not have any particular concerns with the amended "*Urban areas*" definition, however considers that the new "*Urban zones*" definition is overly restrictive/narrow. For example, it does not include special purpose zones, future urban zones or open space zones (which, instead, are only captured under the amended "*Urban areas*" definition).
13. Greater flexibility within the "*Urban zones*" definition is needed to reflect that decisions about which zones, within a city or district, are "*urban*" sit more comfortably and appropriately with the relevant territorial authority, rather than specified in the RPS.
14. Further, because the term "*Urban zones*" (rather than the broader "*Urban areas*") has been used in various places throughout the Decisions Version,¹ there is an incompatibility between the Decisions Version and the NPS-UD and PDP, with the NPS-UD and PDP both treating those other zones (and/or allowing for them to be treated) as urban for the purposes of development and/or intensification.
15. The new definition of "*Urban zones*" therefore inappropriately inhibits intensification / development.

¹ For example Objective 22(d), Policies 31 and 55 and new Policies UD 3 and UD 4.

Relief sought:

16. **"Urban zones"** definition: HCC seeks amendments to ensure this definition allows for the relevant territorial authority to determine which zones within its city or district are *"urban"*, which may include (but are not limited to) a list of zones including future urban zones, relevant open space and recreation zones, and relevant special purpose zones (see Appendix A).

Chapter 3.1A: Climate change

17. As currently worded in the Decisions Version, Objectives CC.2² and CC.3³ raise uncertainties, workability/achievability concerns, and are generally overly burdensome from a regulatory standpoint.
18. Objective CC.2 is an unclear and uncertain objective that cannot be met through the resource management system, and therefore imposes an unachievable regulatory burden on HCC, its residents and resource consent applicants.
19. Similarly, Objective CC.3 cannot wholly be achieved through the resource management system, requiring a variety of non-RMA regulatory methods as well as wider national policy, legislative and regulatory direction.
20. Policies CC.2 (travel choice assessment – district plans) and CC.2A (travel choice assessment local thresholds – district plan) are unnecessary, unduly onerous, and contain timeframes (30 June 2025) that are unachievable.
21. Policy CC.4 (Climate responsive development – district plans) is not sufficiently clear for users of the RPS to understand and therefore could create uncertainties and overly onerous regulatory burdens for district councils.

Relief sought

22. HCC seeks the following (see Appendix A):
 - (a) **Objective CC.2:** Delete.
 - (b) **Objective CC.3:** Include wording that clarifies that this goal cannot wholly be achieved through the resource management system, and will

² "The costs and benefits of transitioning to a low-emission and climate resilient region are equitable between sectors and communities."

³ "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 (...)"

instead rely heavily on non-RMA-regulatory methods to ensure its success.

- (c) **Policy CC.2:** Delete.
- (d) **Policy CC.2A:** Delete.
- (e) **Policy CC.4:** Delete.

Chapter 3.8: Natural Hazards

- 23. HCC is concerned that Objective 19⁴ and Policies 29 (Managing subdivision, use and development in areas at risk from natural hazards – district and regional plans) and 51 (Avoiding or minimising the risks and consequences of natural hazards – consideration), read together, set inappropriately high 'avoid' standards with overly limiting criteria which would apply to new use and development in key parts of Hutt City, including Lower Hutt⁵, Petone and Seaview.
- 24. The restrictive standards set by the changes to these objectives and policies directly conflict with Policy 30, which focusses on enabling and managing appropriate subdivision and maintaining and enhancing vitality and vibrancy, and Policy 32, which aims to identify and protect "key industrial-based employment locations". This is a particular concern for HCC as Policy 30(b)(vii) specifically lists Petone, and Policy 32 relates directly to Seaview (as a "key industrial-base employment location").
- 25. Finally, Policy 51 requires council consenting teams to have particular regard to a detailed list of prescribed factors when considering individual consent applications and notices of requirement, which HCC considers creates an overly onerous regulatory burden. These considerations are more appropriately dealt with at the plan-making stage, rather than individual resource consents or notices of requirement.

Relief sought:

- 26. HCC seeks changes to the following provisions that address the concerns set out above, including:
 - (a) **Objective 19:** Amend to match the version of Objective 19 sought in HCC's Submission (which aligns with the notified (August 2022)

⁴ "The risks to people, communities, property, and infrastructure from natural hazards and the effects of climate change are avoided or minimised."

⁵ Noting the RPS does not clearly define "Lower Hutt".

version) but retaining the word "and" prior to "infrastructure" and omitting the words "and consequences" and "and the environment" (see Appendix A).

(b) **Policy 29:** Amend to match the version of Policy 29 sought in HCC's Submission⁶ but retaining the wording "unless there is a functional or operational need to be located in these areas" in Policy 29(d) (see Appendix A).

(c) **Policy 51:**

(i) Amend to match the version of Policy 51 sought in HCC's Submission⁷ but retaining the wording "unless there is a functional or operational need to be located in these areas" in Policy 51(f); or

(ii) Alternatively, revert to the notified version of Policy 51 but retaining the wording "unless there is a functional or operational need to be located in these areas" in Policy 51(f);

(see Appendix A)

Chapter 3.9: Regional form, design and function

27. HCC considers that it is inappropriate, inefficient and/or burdensome to require council consenting teams to analyse and apply the overly prescriptive factors contained in Policy 57 (Integrating land use and transportation – consideration) each time they are considering individual consent applications or notices of requirement.

Relief sought

28. **Policy 57:**

(a) Amend to match the version sought in HCC's Submission⁸; or

(b) Alternatively, revert to the notified version.

(see Appendix A)

⁶ That is, Policy 29 as set out in the notified (August 2022) version of PC1 as modified by HCC's Submission.

⁷ That is, Policy 51 as set out in the notified (August 2022) version of PC1 as modified by HCC's Submission.

⁸ That is, Policy 57 as set out in the notified (August 2022) version of PC1 as modified by HCC's Submission.

Consequential relief

29. In addition to the relief sought above (and set out in Appendix A), HCC seeks all further or other consequential relief and amendments as may be necessary to fully give effect to the relief sought.

Attachments

30. HCC attaches the following documents to this notice:
- (a) The relief sought by HCC (to be read together with this notice of appeal) (**Appendix A**);
 - (b) A copy of HCC's Submission (**Appendix B**); and
 - (c) A list of the names and addresses of persons to be served with a copy of this notice (**Appendix C**).
31. Related documents, including the Decisions version of PC1, evidence, Council officers' reports and submissions, can be downloaded from the Council's website at [Greater Wellington — Regional Policy Statement \(RPS\) Proposed Change 1](#)

Dated 18 November 2024



T J Ryan / E L Bennett

Counsel for Hutt City Council

This document is filed by **THADDEUS JOSEPH RYAN** and **ESTHER LOUISE BENNETT**, solicitor for the Appellant whose address for service is at the offices of

Buddle Findlay, Level 17 Aon Centre, 1 Willis Street, Wellington Central,
Wellington 6011

Documents for service on the abovenamed may be couriered or hand delivered to that address or may be:

1. Posted to the solicitor at PO Box 2694, Wellington 6140 (Attention: Esther Bennett); or
2. Emailed to the solicitor at thaddeus.ryan@buddlefindlay.com and esther.bennett@buddlefindlay.com.

Advice to recipients of copy of notice

How to become party to proceedings

You may be a party to the appeal if—

- (a) you made a submission on the matter of this appeal; and
- (b) within 15 working days after the period for lodging a notice of appeal ends, you 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
- (c) within 20 working days after the period for lodging a notice of appeal ends, you 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 Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

Advice

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