

Before the Hearings Commissioners

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

In the matter of a submission by Waka Kotahi NZ Transport Agency
(Submitter S129 and Further Submission FS3) on Plan
Change 1

and in the matter of Wellington Regional Policy Statement

**Summary statement of evidence of Catherine Lynda Heppelthwaite for
Waka Kotahi regarding Plan Change 1 on the Wellington Regional Policy
Statement**

Dated 31 August 2023

1 INTRODUCTION, QUALIFICATIONS AND EXPERIENCE

1.0 My Primary Statement sets out my qualifications and I confirm my commitment to comply with the Environment Court's Code of Conduct for Expert Witnesses (2023).

1.1 My Primary Statement¹ describes:

- a. Waka Kotahi relief which includes submissions either supporting or seeking amendments to the various provisions;
- b. the statutory and higher order planning framework; and
- c. my recommendations on the Councils section 42A reports.

2 SCOPE OF STATEMENT

2.0 My summary statement today addresses changes where new matters are proposed in rebuttal and I do not share the same opinion or wish to update my position from my previous statements. It will cover:

- a. rebuttal evidence of Mr Wyeth on Climate Change (General);
- b. rebuttal evidence of Dr Dawe and Mr Beban on Natural Hazards; and
- c. rebuttal evidence of Ms Allwood on Transport, all dated 22 August 2023.

2.1 I provide an updated version of my primary statement **Appendix A** to reflect updates to my preferred position having considered the additional evidence on these matters:

- a. Climate Change Method CC.2.
- b. Natural Hazards Policy 29
- c. Transport Policy CC.1

¹ Dated 14 August 2023.

3 CLIMATE CHANGE (GENERAL) METHOD CC.2

- 3.0 Mr Wyeth proposes² a consequential amendment to Method CC.2³ to include “avoiding” in the title and “avoiding and” in the text of the Method.

Method CC.2: Develop carbon emissions offsetting guidance on avoiding, reducing and offsetting greenhouse gas emissions

Greater Wellington will work with city and district councils and mana whenua/tangata whenua to develop guidelines to implement Policy CC.8 by the end of 2024, including how to prioritise avoiding and reducing gross greenhouse gas emissions and when and how to allow for greenhouse gas emissions to be offset Develop offset guidelines to assist with achieving the regional target for greenhouse emissions where reduction cannot be achieved at the source.

- 3.1 I agree with the reason why the change is proposed (to support Policy CC.8), however I note that Policy CC.8 uses the wording avoided **or** reduced whereas Mr Wyeth’s change to Method CC.2 uses the wording avoided **and** reduced.

*Policy CC.8: Prioritising the reduction of greenhouse gas emissions – district and regional plans District and regional plans shall District and regional plans shall prioritise reducing greenhouse gas emissions by applying the following hierarchy in order:
a) in the first instance, gross greenhouse gas emissions are **avoided or reduced** where practicable; and
(bold added)*

- 3.2 In this regard, I recommend a deletion of “and” and replacement with “or” for consistency.

4 NATURAL HAZARDS POLICY 29

- 4.0 Mr Beban does not agree with my proposal to remove “functional and operational” need from Policy 29 as he considers NZCPS Policy25(a) allows for “avoid” approach⁴.
- 4.1 I agree with Mr Beban that NZCPS Policy 25 (a) (and (b)) sets out an ‘avoid’ framework⁵. I also note also that Policy 25 clauses (a) to (f) should be read

² Paragraphs 98 and 99.

³ Text copied from page 40 of Mr Wyeth’s Rebuttal Evidence.

⁴ Paragraph 68, Rebuttal Evidence of Mr Beban and Dr Dawe.

⁵ Paragraph 68, Rebuttal Evidence of Mr Beban and Dr Dawe.

together (based on the “and” which follows 25(e)). I also acknowledge that the NZCPS approach is relevant for coastal environments and this policy applies to all hazards (regardless of location). Coastal hazards are however significant issue for the Region (and the transport network).

- 4.2 In my opinion, the ‘avoid’ framework of 25(a) (and (b)) refers to **avoiding increased risk** of harm and adverse effects; it does not require that all activities in hazard areas are avoided.

25. Subdivision, use, and development in areas of coastal hazard risk In areas potentially affected by coastal hazards over at least the next 100 years:

*(a) **avoid increasing the risk** of social, environmental and economic **harm** from coastal hazards;*

*(b) **avoid** redevelopment, or change in land use, that would **increase the risk of adverse effects** from coastal hazards;*

- 4.3 Addressing the first part of Policy 29(d), it requires plan provisions *avoid [...] development [...] where the hazards and risks are assessed as high*. I read this to mean “avoid all development in high hazard risk areas”.
- 4.4 I do not consider this is consistent with NZCPS Policy 25 which requires that activities *avoid increasing risk* of harm / adverse effects. Put another way, if an activity located in a high risk hazard area in a way which does not increase risk of harm/adverse effects; then it should be able to locate there and meet NZCPS Policy 25.
- 4.5 I appreciate that where there is high hazard risk, there is a potentially smaller opportunity of being able to locate an activity without increasing risk of harm/adverse effects, but there remains an opportunity. This opportunity is precluded by the first part of Policy 29 which has an to *avoid all development* approach.
- 4.6 In response to submissions, Mr Beban proposed in his S42A recommendation to include an allowance for any activity with a ‘functional and operational need’. Functional and operational need are not a matter applied within NZCPS Policy 25. NZCPS Policy 6(2)(c) and (d) address activities with a ‘functional need’ but this is a broader matter which provide general guidance, not a specific approach as in NZCPS Policy 25 for coastal hazards.

- 4.7 Overall, based on my assessment above, the requirement of NZCPS Policy 25 is to *avoid increasing risk* of harm / adverse effects, not to *avoid all developments* or to impose a functional and operational need 'test'.
- 4.8 I respectfully suggest that Policy 29 still requires adjustment to provide for activities which *avoid increasing risk* of harm / adverse effects.
- 4.9 In light of Mr Beban's comments regarding the potentially open nature of my proposed addition to Policy 29(d)⁶ and his (understandable) inferred concern of development within high hazard areas, I proposed an alternative

d) include hazard overlays, objectives, policies and rules to avoid subdivision, use or and development and hazard sensitive activities where the hazards and risks are assessed as high, unless ~~there is a functional or operational need to be located in these areas~~ providing for **regionally significant** infrastructure, and hazard risks are appropriately managed or responded to.

5 TRANSPORT POLICY CC.1

- 5.0 I acknowledge Ms Allwood's assessment and proposed changes to Policy CC.1 in response to the various evidence. I consider the Policy is improved as a result but have two remaining concerns:
- a. Retention of the hierarchy approach within the policy; and
 - b. Prioritisation of pedestrians, cyclists and public transport above the car (clause (c)).
- 5.1 I also consider that there is text remaining with the policy which either duplicates the heading (text I propose be deleted in chapeau clause) or does not add anything (text I propose be deleted in (a) and (c)).
- 5.2 With regard to the hierarchy approach, I continue to support an alternative which has more flexibility (and delete the hierarchy), one size will not fit all when dealing with the wide range of transport projects and environments within which this policy will be applied (both directly and through district and regional plans). My preferred version of Policy CC.1 and the associated Explanation proposes to remove the hierarchy.

⁶ Paragraph 70, Rebuttal Evidence of Mr Beban and Dr Dawe.

- 5.3 I also retain concerns on the prioritisation of pedestrians, cyclists and public transport above the car. There are some roads (motorways⁷) where pedestrians and cyclists are not legally permitted⁸ and there may be other constraints which preclude non-car infrastructure.
- 5.4 I propose an addition to (c) which is slightly modified to that in my primary statement by altering the wording from *being consistent with* to *taking into consideration* the primary function of the infrastructure.

[...] prioritise walking, cycling and public transport where this is consistent with the primary function of the infrastructure.

[...] prioritise walking, cycling and public transport taking into consideration of the primary function of the infrastructure.

- 5.5 This change is proposed to enable *consideration of*, the primary function of, for example, a road, but not preclude provision of walking, cycling and public transport simply because they are not *consistent with* (my primary statement wording) the primary function of the road. I consider this better balances the wish to provide walking, cycling and public transport while recognising that there will be some situation where it may not be feasible or appropriate.
- 5.6 My preferred version of Policy CC.1 is:

Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods that optimise transport demand by requiring all new and altered land transport infrastructure to be is designed, constructed, and operated in a way that ~~contributes to reducing greenhouse gas emissions by giving effect to a hierarchical approach (in order of priority), by:~~

- (c) *Supportsing development in locations to minimise travel distances between residential, employment and the location of other essential services in combination with the delivery of multi-modal transport networks ~~and infrastructure to serve developments; then~~*
- (b) *Supportsing development within walkable catchments of public transport routes where practicable, and utilising existing space to remove barriers for access to walking, cycling and public transport; ~~then~~*

⁷ As defined under Section 2(1) of the Government Roading Powers Act 1989.

⁸ Section 82(a) of the Government Roading Powers Act 1989.

© Where providing new infrastructure or capacity upgrades on the transport network to 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 taking into consideration of the primary function of the infrastructure.

- 5.7 I continue to prefer deletion of the definition of Optimise transport demand, or if retained, some amendments.
- 5.8 To assist the Panel, I have also considered the versions of Policy CC.1 summarised by Ms Allwood in her Appendix A Comparison Table and note the following (in the same order that they appear in Ms Allwood's Appendix A):
- a. I do not support Ms Woodbridge's version; I consider focus is skewed to development itself rather than influence (and inter-relationship) transport infrastructure has on development. The wording also retains a hierarchy approach and proposes very specific language which appears to direct the construction of transport infrastructure (eg. (ii) **Requiring multi-modal transport networks and infrastructure to serve those developments** and (iv) **Providing new infrastructure or capacity upgrades on the transport network to [...]** (bold added)).
 - b. I have no concerns with the change proposed by Ms Hunter.
 - c. The brevity of the Porirua City Council Legal Submission, Mr Lewandowski and Ms Rushmere's versions are supported insofar as they capture the general policy intent and remove the hierarchy of outcomes. I do however prefer some more guidance within the Policy as suggested by my amendments.

6 CONCLUSION

- 6.0 Overall, I continue to support
- a. a minor amendment to Method CC.2 to ensure it is consistent with Policy CC.8;
 - b. changes to Natural Hazard Policy 29 to remove the 'functional and operational need' test and replace with language providing for regionally

significant infrastructure where hazard risks are appropriately managed;
and

- c. modifications to Transport Policy CC.1 which removes the proposed 'hierarchy' and balances prioritisation of non-car modes with the function of the transport network.

Cath Heppelthwaite
31 August 2023

Attachment A: Proposed Changes

Commented [CH1]: Section now complete, all new txt

Base text is taken from Rebuttal Evidence with changes accepted of Mr Wyeth (Climate Change General); Dr Dawe and Mr Beban (Natural Hazards); and Ms Allwood (Transport), all dated 22 August 2023.

All changes are in blue text. New text is underlined and proposed deletions in ~~strike through~~.

Climate Change (General) Method CC.2

Method CC.2: Develop carbon emissions offsetting guidance on avoiding, reducing and offsetting greenhouse gas emissions

Greater Wellington will work with city and district councils and mana whenua/tangata whenua to develop guidelines to implement Policy CC.8 by the end of 2024, including how to prioritise avoiding or and reducing gross greenhouse gas emissions and when and how to allow for greenhouse gas emissions to be offset. Develop offset guidelines to assist with achieving the regional target for greenhouse emissions where reduction cannot be achieved at the source.

Transport Policy CC.1

Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods that optimise transport demand by requiring all new and altered land transport infrastructure to be is designed, constructed, and operated in a way that contributes to reducing greenhouse gas emissions by giving effect to a hierarchical approach (in order of priority), by:

- (a) Support sing development in locations to minimise travel distances between residential, employment and the location of other essential services in combination with the delivery of multi-modal transport networks and infrastructure to serve developments; then
- (b) Support sing development within walkable catchments of public transport routes where practicable, and utilising existing space to remove barriers for access to walking, cycling and public transport; then
- (c) Where providing new infrastructure or capacity upgrades on the transport network to 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 taking into consideration of the primary function of the infrastructure.

Natural Hazards Policy 29

Regional and district plans shall manage subdivision, use and development in areas at risk from natural hazards as follows:

[...]

- d) include hazard overlays, objectives, polices and rules to avoid subdivision, use or and development and hazard sensitive activities where the hazards and risks are assessed as high, unless ~~there is a functional or operational need to be located in these areas~~ providing for regionally significant infrastructure, and hazard risks are appropriately managed or responded to.