

**BEFORE THE INDEPENDENT HEARINGS PANELS APPOINTED TO HEAR AND MAKE
RECOMMENDATIONS ON SUBMISSIONS AND FURTHER SUBMISSIONS ON PROPOSED CHANGE 1
TO THE REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION**

UNDER Schedule 1 of the Resource Management
Act 1991 (the Act)

IN THE MATTER OF Hearing Submissions and Further
Submissions on Proposed Change 1 to the
Regional Policy Statement for the
Wellington Region

**STATEMENT OF REBUTTAL EVIDENCE OF OWEN EDWARD JEFFREYS
ON BEHALF OF WELLINGTON REGIONAL COUNCIL**

HEARING STREAM 4 –

URBAN DEVELOPMENT

25 September 2023

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INTRODUCTION

1 My full name is Owen Edward Jeffreys. I am an Environmental Planner at GHD Limited.

2 I have reviewed all evidence submitted in relation to Hearing Stream 4 – Urban Development. The following evidence is relevant to the provisions for the Part 1, Schedule 1 process for Hearing Stream 4:

2.1 Hutt City Council (HCC), Torrey McDonnell (Submitter 115)

2.2 Kāinga Ora – Homes and Communities (Kāinga Ora), Brendon Liggett, Matthew Heale, Tim Heath & Nick Whittington (Submitter 158)

2.3 Peka Peka Farm Limited (Peka Peka Farm), Maciej Lewandowski (Submitter 118)

2.4 Porirua City Council (PCC), Rory Smeaton (Submitter 30)

2.5 Powerco Limited (Powerco), Miles Rowe (Submitter 134)

2.6 Summerset Group Holdings Limited (Summerset), Maciej Lewandowski (Submitter 119)

2.7 Upper Hutt City Council (UHCC), Gabriela Rojas (Submitter 34)

2.8 Waka Kotahi NZ Transport Agency (Waka Kotahi), Catherine Heppelthwaite (Submitter 129)

2.9 Wellington City Council (WCC), Joe Jeffries (Submitter 140)

2.10 Wellington Water Limited (Wellington Water), Caroline Horrox & Morgan Slyfield (Submitter 113)

3 My rebuttal evidence addresses the following provisions:

3.1 Policy 30

3.2 Policy 56

3.3 Policy 57

3.4 Policy 58

QUALIFICATIONS, EXPERIENCE, CODE OF CONDUCT

- 4 My qualifications and experience are set out in paragraphs 25-30 of the Hearing Stream 4 Section 42A report, dated 4 September 2023. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO EXPERT EVIDENCE

- 5 This section responds to submitter evidence in relation to the provisions in this topic. Specific amendments to policy wording as requested by submitters through their evidence can be found in Appendix A, and my recommended amendments within this evidence are included as Appendix B to this report. Within Appendix B, my Section 42A report recommended amendments are shown in red underlined or ~~marked-out~~ and further amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike through~~

POLICY 30

6 Policy 30 is addressed in the evidence of:

Hutt City Council [Submitter 115]

7 Mr McDonnell¹ seeks to amend Policy 30 (set out in Appendix A) such that Petone is elevated in the centres hierarchy from a locally significant centre to a regionally significant centre, noting that Petone is the only centre that is identified as being locally significant with a metropolitan centre zoning. Mr McDonnell notes that Petone provides a commercial offering for a wider catchment than just the immediately neighbouring suburbs, and states that it is of greater regional significance than Johnsonville or Kilbirnie. Mr Mconnell also recommends other minor wording changes to Policy 30.

Kāinga Ora [Submitter 128]

8 Mr Heale² recommends aligning the terminology of Policy 30 regarding the centres hierarchy to be consistent with the National Planning Standards (the Standards), being the Wellington City Centre; metropolitan centres; Large Urban Areas; Smaller Urban Areas; and local and neighbourhood centres. Mr Heale refers to economic evidence by Mr Heath³ to suggest specific locations for each of these centres and these are set out in Appendix A of this evidence. Mr Heale states there is a disconnect between Policies 30 and 31 due to the difference in terminology used (RPS terminology versus the Standards terminology), and therefore suggests that Standards terminology be utilised for Policy 30 for consistency. Mr Heale notes that IPI (Intensification Planning Instrument) hearings have already been completed for some district plans, therefore making it difficult for those district plans to give effect to or have regard to the RPS in accordance with RMA requirements. Mr Heale states that the RPS should direct district plans on how to give effect to the National Policy Statement for Urban Development (NPS-UD), rather than the other way around. Mr Heale states that City, Metropolitan and Town centres ought to be managed at the regional level.

Porirua City Council [Submitter 30]

9 Mr Smeaton⁴ disagrees with my recommendation that Johnsonville and Kilbirnie be recognised as regionally significant centres, on the basis that this will undermine the

¹ HS4 S115, HCC, McDonnell, paragraphs 30-38

² HS4 S128, Kāinga Ora, Heale, paragraphs 6.2-6.11

³ HS4 S128, Kāinga Ora, Heath

⁴ HS4 S30, PCC, Smeaton, paragraphs 39-48

overall centres hierarchy, specifically, the importance of regionally significant centres such as Porirua. Mr Smeaton cites commuter data as evidence of this, notwithstanding that Johnsonville and Kilbirnie are within the Metropolitan Centre Zone of the Wellington City Proposed District Plan.

Analysis and recommendations

- 10 Mr McDonnell considers in paragraph 38 of his evidence that Petone should be listed as a regionally significant centre under Policy 30, rather than a locally significant centre. I agree with this recommendation on the basis that Petone has been zoned as a Metropolitan Centre Zone through Plan Change 56 to the Hutt City District Plan, as indicated by Mr McDonnell (paragraph 36 of his evidence). This zoning aligns with the zoning of the other centres identified as regionally significant in Policy 30. I also agree with the other minor changes Mr McDonnell has recommended to the Policy, which in my view improve the policy's clarity and terminology and I recommend accepting his amendments.
- 11 I disagree with Mr Smeaton that Johnsonville and Kilbirnie should not be recognised as regionally significant centres, as stated in paragraph 46 of his evidence. As detailed in my Section 42A report⁵, the identification of these centres as regionally significant reflects their proposed Metropolitan Centre Zoning and so is consistent with the zoning of other regionally significant centres, as well as the level of intensification that they are directed to achieve through the NPS-UD direction (specifically Policy 3).
- 12 Whilst Mr Smeaton provides information to support his argument in the form of commuter data (paragraph 44 of his evidence), I do not consider that this is reflective of the level of development enabled through the Metropolitan Centre Zoning proposed for these centres, and the data does not reflect how these centres will develop in the future with the enablement of high density development. I also note that the arrival and departure numbers presented for Kilbirnie do not differ significantly from other regionally significant centres, for example Upper Hutt and Paraparaumu. I therefore do not support using this data as the foundation for the centres hierarchy in Policy 30.
- 13 Mr Heale is seeking significant changes to Policy 30, as set out in paragraph 6.11 of his evidence. The foundation of Mr Heale's request for additional centres to be included in the hierarchy, as I understand it, is the role of the centres hierarchy in subsequently enabling development within these centres to give effect to the NPS-UD, which is

⁵ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 747 - 749

primarily directed in Policy 31 of the RPS. I note that neither Wellington City Council, Hutt City Council, or Kāpiti Coast District Council have sought in their submissions on Change 1 for these centres to be included as locally significant.

- 14 Whilst I did not draft the amendments to Policy 30 in Change 1, my understanding is that the purpose of the amendments was to reflect the updates to centre zoning across the district and city plans as a result of the authorities giving effect to the Standards. This is evidenced in the response to pre-notification consultation comments by the Section 32A Officer, which specifically states that the amendments to the policy were not made to give effect to the NPS-UD⁶.
- 15 The response in my Section 42A report⁷ to the submission of Kāinga Ora, and specifically the addition of Miramar, Tawa, Newtown, Naenae, Waterloo, Mana, and Paraparaumu Beach to the list of locally significant centres, was on the basis that they were not currently or proposed to be zoned as Town Centres. However, I note that Paraparaumu Beach is zoned as a Town Centre in the Operative Kāpiti District Plan, and I therefore recommend including this centre on the list of locally significant centres.
- 16 I do agree with paragraph 6.10(c) of Mr Heale’s evidence that the RPS has a role to play in identifying the centres hierarchy for the region on the basis that the RPS is seeking to achieve the integrated management of natural and physical resources across the region. However, there is no direct requirement for the RPS to identify a centres hierarchy, and there is no reference or direction to identify a hierarchy within the NPS-UD. I also concur with Mr Heale (in paragraph 6.10(e) of his evidence) that there are benefits in identifying a centres hierarchy within the RPS, which includes direction to maintain and enhance the vitality and vibrancy of these centres, which supports the economic and social benefits that centres provide. Although I have read the economic evidence provided by Mr Heath, my views here represent my expert evidence as a Planner, and I do not consider it is within my expertise to respond to the economic evidence of Mr Heath.
- 17 I note the point raised in paragraph 6.10(d) of Mr Heale’s evidence in relation to the matter of the RPS being “reactive” to the District Plan approach to centres, through relying on the zoning of the centres identified in the District Plan to identify a hierarchy. I do not necessarily consider this to be a fundamental issue or a flawed approach. The Standards provide for a centres hierarchy through the centres zoning framework, which

⁶ RPS Change 1 Section 32 Report, August 2022, page 364

⁷ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraph 751

has been given effect to by the majority of the relevant territorial authorities. To zone these centres as per the Standards, each territorial authority will have (or will have to) determine their own centres hierarchy within each district. Therefore, in my opinion and in the absence of any other supporting evidence to inform the hierarchy classification, this approach is logical for a number of reasons:

- It provides for a consistent zoning of the centres within the hierarchy;
- It aligns with the Standards' description of centres and their relevant characteristics, role, and spatial scale; and
- Reflects that these centres will be subject to similar level of intensification as per the direction of the NPS-UD (specifically Policy 3).

18 I note in Table 1 of Mr Heath's evidence that the centres which Mr Heale is seeking be included have enabled intensification to a reasonably consistent level, regardless of their differences in zoning through their IPI plan changes. If these centres were included in Policy 30, I do not believe they would be directed to provide a greater level of development or intensification than currently enabled, as that is direction that is provided for in Policy 31.

19 I do note that when the proposed amendments by Mr Heath to both Policy 30 and 31 are seen together, there could be much stronger direction to intensify in these centres through identifying them as Town Centre Zones in Policy 30, and then enabling intensification within Town Centre Zones in Policy 31. I maintain that Policy 30 should not adopt centres terminology as per the zone framework of the Standards. Whilst I note Mr Heale has identified that zone names and definitions from the Standards have been used elsewhere in PC1, I do not consider this justifies their inclusion in Policy 30, for the same reasoning provided in my Section 42A report⁸ (that this is a zoning of these centres by proxy, and zoning is a function of the District Councils).

20 I also disagree that there is a disconnect between Policies 30 and 31 as suggested by Mr Heale in paragraph 6.10(g) of his evidence. Policy 31 is very much purposed to give effect to Objective 3 and Policy 3 of the NPS-UD, in terms of directing the level of intensification and where this occurs, and so it is suitable that this policy uses using the zoning

⁸ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 743 - 751

terminology as per the relevant objectives and policies of the NPS-UD. There is no such requirement to use zoning terminology in Policy 30.

21 In summary, I do not consider that not including these centres in Policy 30 will negatively affect their opportunities for intensification and amalgamation, due to the direction for intensification provided through their relevant zoning. This zoning will also support and enable the relevant activities that you would anticipate in centres of this scale. I also contend that due to the purpose of the amendments made to Policy 30 not being to give effect to the NPS-UD, there is not enough supporting evidence to appropriately categorise the centres into a hierarchy based on anything other than their zoning at this point in time.

22 On the above basis, I reject the relief sought by Mr Heale as the requested centres are not consistent with the hierarchy approach of Policy 30, and it is not appropriate to use zoning terminology to effectively zone these centres through Policy 30.

Section 32AA evaluation

23 In accordance with section 32AA, I consider that my recommended amendments to Policy 30 are most appropriate as they:

- The recommended amendments support a consistent approach to the identification of centres that is consistent with the centres hierarchy in the Standards.
- There are no identified costs with the recommended amendments, with continued positive social and economic effects for the centres in Policy 30 where their vibrancy and vitality is directed to be maintained and enhanced.

POLICY 56

24 Policy 56 is addressed in the evidence of:

Hutt City Council [Submitter 115]

25 Mr McDonnell considers there is no reason for consideration policies to continue to apply to resource consents once appropriate plan provisions are in place, due to the risk of

duplication or conflict, as well as adding time and complexity to the resource consenting process⁹.

Peka Peka Farm [Submitter 118]

26 Mr Lewandowski¹⁰ proposes to amend clauses (a), (e) and (g) of Policy 56, set out in Appendix A and described as follows:

- Clause (a) is recommended to be deleted due to these matters already being addressed through the NPS-HPL.
- Clause (e) is recommended to be reworded to be consistent with the wording of the NPS-UD.
- Clause (g) is recommended to be deleted, on the basis that this matter is otherwise given effect to by the RPS and does not require repetition.

Porirua City Council [Submitter 30]

27 Mr Smeaton seeks to remove new clauses (d), (f), (g) and (j) on the basis these are superfluous and being addressed by other provisions. Mr Smeaton also proposes to amend “impacts” to “adverse effects” within the chapeau text of Policy 56¹¹. Mr Smeaton’s proposed changes are set out in Appendix A.

Summerset [Submitter 119]

28 Mr Lewandowski¹² proposes to amend clauses (a), (e) and (g) of Policy 56 as set out in Appendix A:

- Clause (a) is recommended to be deleted due to these matters already being addressed through the NPS-HPL.
- Clause (e) is recommended to be reworded to be consistent with the wording of the NPS-UD.
- Clause (g) is recommended to be deleted, on the basis that this matter is otherwise given effect to by the RPS and does not require repetition.

⁹ HS4 S115, HCC, McDonnell, paragraphs 50-53

¹⁰ HS4 S118, Peka Peka Farm, Lewandowski, paragraphs 5.30-5.33

¹¹ HS4 S34, PCC, Smeaton, paragraphs 61-62

¹² HS4 S119, Summerset, Lewandowski, paragraphs 5.30-5.33

Upper Hutt City Council [Submitter 34]

29 Ms Rojas¹³ recommended that clause (h) of Policy 56 be deleted; and clause (i) be amended, as set out in Appendix A. Ms Rojas states clause (h) appears to preclude mixed use development within a Settlement Zone in favour of residential development, which would undermine the intention of the Settlement Zone in Upper Hutt, being to provide clustered mixed-use development within a rural context. Ms Rojas acknowledged that rural residential development should be consistent with strategic direction or a growth strategy, however highlighted that the 2023 draft Future Development Strategy (FDS) does not contain any direction on rural or residential development. Ms Rojas concludes that rural residential development cannot be consistent with the FDS or other growth strategies as they are generally not discussed within such documents.

Wellington City Council [Submitter 140]

30 Mr Jeffries seeks to amend Policy 56 to improve clarity on the distinction between outcomes that the RPS seeks to provide for, and the outcomes that it seeks to manage or restrict, for example in relation to reverse sensitivity¹⁴. Mr Jeffries' recommended amendments are set out in Appendix A. Specifically, Mr Jeffries proposes to reframe clause (b) (regarding reverse sensitivity) to clearly state the outcome that is sought.

31 Mr Jeffries also seeks to delete the words "an application for a resource consent" from the opening text, as he considers that once a district plan has given effect to the RPS, that it is unnecessary for consideration of a resource consent application to directly refer back to higher order policy¹⁵.

32 Mr Jeffries recommends that all references to the FDS are removed, as the recommended wording to be "consistent with" is more directive and constraining than the "have regard" wording of the NPS-UD¹⁶.

Analysis and recommendations

33 In paragraph 64 of her evidence, Ms Rojas states that the 2023 draft Future Development Strategy (FDS) does not contain any direction on rural or rural residential development. I have reviewed the draft FDS, and whilst I note there is no specific direction to rural-residential development, the FDS does provide context of where it supports development,

¹³ HS4 S34, UHCC, Rojas, paragraphs 62-67

¹⁴ HS4 S140, WCC, Jeffries, paragraphs 53-56

¹⁵ HS4 S140, WCC, Jeffries, paragraphs 53-56

¹⁶ HS4 S140, WCC, Jeffries, paragraphs 58-62

and subsequently where it does not support development, including in relation to the rural areas where the balance between primary production and urban development is recognised. Furthermore, there is the potential that the adopted FDS or a future FDS may provide even stronger direction in relation to rural development, that should therefore be captured in Policy 56.

- 34 I also do not agree with Ms Rojas that all references to regional or local strategic growth and/or development frameworks or strategies are removed, as these can provide relevant direction for rural-residential development. For example, the KCDC Growth Strategy (Te Tupu Pai – Growing Well¹⁷) identifies that in Kāpiti, rural-residential living on larger blocks of land will be provided for, noting that this is a character of the local environment. I also note that this is existing direction of the operative RPS Policy 55 in terms of development in the rural area being consistent with a relevant growth strategy. I therefore do not support deleting this clause from the policy.
- 35 The Settlement Zone is captured under the definition of rural areas in Change 1¹⁸, and so Policy 56 would be relevant when considering development within this zone. I agree with Ms Rojas that as per the wording of clause (h), which references rural-residential development specifically, the mixed-use development that could occur within a Settlement Zone would not be captured.
- 36 The addition of this clause was to reflect that there was a duplication between policies 56 and 55 and inconsistencies in how the policies considered out-of-sequence and unanticipated development capacity. The recommended amendments therefore specifically recognise that urban development should be considered only through Policy 55 in relation to consistency with growth strategies and frameworks. I consider that mixed-use development should be captured in this policy given that it can occur in the Settlement Zone as described in the zone definition in the Standards. Rather than delete the reference to rural-residential development, I recommend broadening the wording to “other development” and including a reference of mixed-use development within the explanation text of the policy for clarity.
- 37 With regard to Mr McDonnell’s opinion regarding consideration policies as stated in paragraph 52 of his evidence, the function of these policies has already been considered in

¹⁷ <https://www.kapiticoast.govt.nz/media/42mmy4nr/growth-strategy-2022.pdf>

¹⁸ As directed by the National Planning Standards - Settlement Zones show as rural zones and the definition of settlement zone is for clusters located in rural areas or coastal environments.

Hearing Stream 2 and Hearing Stream 3. I agree with other reporting officers in that these policies are important to provide a consistent level of direction across the region that is within the purpose of an RPS under section 59 of the RMA (to achieve integrated management of the natural and physical regions of the whole region), and so should be retained even when the regulatory policies have been given effect to. I also consider that in principle there would not be a consistency issue between the district and city plan policies and the RPS policies, due to the fact that district and city plans need to give effect to the RPS.

38 I also note that under Section 104 (1)(b)(v), when assessing consent applications consent authorities are directed to have regard to a regional policy statement. Therefore, I do not agree with the argument that it is not appropriate for the RPS to include policies for consideration at the consenting level. For the same above reason, I do not agree with Mr Jeffries recommendation in paragraph 57 of his evidence to not apply Policy 56 at a resource consents level. I also disagree with Mr McDonnell in relation to these policies considerably lengthening the preparation and processing of consent applications, noting these are largely existing operative policies. In my experience in preparing consent applications, I would not consider that the proposed amendments to Policy 56 for example would significantly lengthen the preparation of an application.

39 I agree with Mr Jeffries' recommendation in paragraph 54 of his evidence that the wording of the introduced clause on reverse sensitivity should be amended to provide clarity as he has suggested, with my recommended amendment shown in Appendix B of this report.

40 In paragraph 51 of his evidence, Mr Jeffries also considers the policy should not reference the FDS. As discussed in paragraph 33 of this statement in response to the sought amendment by Ms Rojas, I consider it is appropriate for the policy to reference the FDS. I agree with Mr Jeffries that the FDS may be pitched at a strategic level, but that this strategic level in relation to rural development can still be had regard to when considering consent applications. I therefore do not support Mr Jeffries' recommendation to remove all reference to growth and development strategies and frameworks in Policy 56, due to the strategic direction they can provide for considering rural land use, that can contribute to achieving the regional form Objective 22.

41 I agree with Mr Smeaton's recommendation to amend the chapeau of Policy 56 to change "impacts" to "adverse effects". However, his additional amendments to delete policies (d),

(f), (g), and (j) are not supported. These are all new clauses that I recommended to be included in Policy 56 in response to matters raised by submitters. I consider these clauses align the policy with the scope of Change 1 and the outcomes of Objective 22 and they are relevant matters which are important when considering development in rural areas and associated potential adverse effects. Whilst I agree there are other provisions which also address these matters, I do not consider there is any conflict between these provisions, and in my opinion these clauses are not superfluous but provide for appropriate integration of such matters across provisions within the RPS.

42 I do not agree with paragraph 5.32 of Mr Lewandowski's evidence that clause (a) of Policy 56 should be deleted in light of the NPS-HPL. Clause (a), by virtue of considering productive capability, has a broader consideration than the NPS-HPL.

43 I partially agree with the proposed amendment to clause (e) by Mr Lewandowski (paragraph 5.33 of his evidence) to change the wording to "support reductions in greenhouse gas emissions", which I agree is more appropriate than "minimised demand for non-renewable energy resources". However, I suggest retaining "through appropriate location, design and density of development", as it provides beneficial direction to how this can be achieved. I do not agree that the reference to Te Mana o Te Wai should be deleted, as it is a relevant consideration for development in the rural environment as per the National Policy Statement for Freshwater Management (NPS-FM).

Section 32AA evaluation

44 In accordance with section 32AA, I consider that my recommended amendments to Policy 56 are most appropriate as they:

- Make minor amendments to policy wording with benefits in ensuring the policy uses standard RMA terminology.
- Retain benefits associated with ensuring rural development, including mixed-use development associated with the Settlement Zone, is consistent with a relevant growth strategy or framework where relevant with positive social and environmental effects for overall regional form and no identified environmental, social or economic costs.

POLICY 57

45 Policy 57 is addressed in the evidence of:

Hutt City Council [Submitter 115]

46 Mr McDonnell considers that Policy 57 would be better articulated as a transitional policy which falls away once regulatory policies are given effect to¹⁹.

Kāinga Ora [Submitter 158]

47 Mr Heale seeks to amend Policy 57 to reference the Rapid Transit Network and the Johnsonville Rail Line, so the language is consistent with the Wellington Regional Growth Framework and it aligns more closely NPS-UD Policy 3(c)²⁰. Mr Heale's proposed amendments are set out in Appendix A.

Porirua City Council [Submitter 30]

48 Mr Smeaton seeks the deletion of my recommended amendments to this policy, such that Policy 57 only applies to resource consents and notices of requirements, as set out in PCC's initial submission. Mr Smeaton considers that the introduction of the term 'equitable' is a concept that is unable to be addressed through RMA processes²¹. Mr Smeaton's proposed changes to Policy 57 are set out in Appendix A.

Waka Kotahi [Submitter 129]

49 Ms Heppelthwaite does not support my recommended amendments to the chapeau text for Policy 57, on the basis that they weaken the policy, do not reflect the need to give effect to the policy when considering district/regional plan changes/variations and do not reflect the need to have regard to the policy when considering notices of requirement and resource consents²². Accordingly, Ms Heppelthwaite recommends (Appendix A) that the chapeau text for Policy 57 be amended to reflect a cascade from 'require' (for plan changes/reviews) to 'have regard to' (for resource consents and notices of requirement), on the basis that this approach better reflects the likely development scale differences enabled by the respective processes/applications.

Wellington City Council [Submitter 140]

50 Mr Jeffries seeks to delete the words "an application for a resource consent" from the opening text, as he considers that once a district plan has given effect to the RPS, it is

¹⁹ HS4 S115, HCC, McDonnell, paragraphs 54-56

²⁰ HS4 S158, Kāinga Ora, Heale, paragraphs 6.20-6.22

²¹ HS4, S30, PCC, Smeaton, paragraphs 64-66

²² HS4 S129, Waka Kotahi, Heppelthwaite, paragraphs 7.11-7.15

unnecessary for consideration of a resource consent application to directly refer back to higher order policy²³.

Analysis and recommendations

- 51 In paragraph 7.13 of her evidence, Ms Heppelthwaite considers that my recommended amendments to Policy 57 significantly weaken the policy and so seeks amendments to the chapeau text. My Section 42A proposed amendments to the policy chapeau reflected the overall consideration that can be given to all policies in Chapter 4.2 of the RPS²⁴. This is directed through the Chapter 4.2 introduction text, which has been recommended for amendment by Mr Jerome Wyeth in his right of reply on Hearing Stream 2²⁵. I understand no further recommended amendments have been made to this text in recommendations from reporting officers in Hearing Stream 3.
- 52 I consider the amendments recommended to the chapeau of Policy 57 by Ms Heppelthwaite align with the explanation already provided by the Chapter 4.2 introduction, but do not reflect the different weighting afforded to the policy when considering a resource consent (have regard to) or a notice of requirement (have particular regard to). However, I consider the justification behind the amendment is sound, and I agree the policy can be strengthened by accepting the recommended amendments by Ms Heppelthwaite in relation to the integration of land use and transport during plan making and plan changes. I therefore recommend adopting the changes to the chapeau as proposed in paragraph 7.14 of Ms Heppelthwaite's evidence, with amendment to reflect the difference between the policy at a resource consent and notice of requirement level. I do note that this makes the chapeau of Policy 57 inconsistent with the phrasing and structure of other policy chapeaus in Chapter 4.2, but I do not consider this inconsistency will result in any implementation issues.
- 53 I agree with the recommended amendment in paragraph 6.22 of Mr Heale's evidence to identify the rapid transport network in clause (e) of Policy 57 on the basis that the network is an integral part of the direction from the NPS-UD in relation to where development should be enabled. Mr Heale also seeks that the Johnsonville Rail Line is identified in clause (e). The current corridors identified under clause (e) relate to those identified in the WRGF, whereas the Johnsonville corridor is only identified as a possible

²³ HS4 S140, WCC, Jeffries, paragraphs 63-67

²⁴ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraph 847

²⁵ Reply evidence of Jerome Wyeth – Hearing Stream 2 – Integrated Management – Page 19

new growth corridor under the WRGF, and therefore potentially has less certainty in relation to its direction for growth. I do not consider the specific identification of the Johnsonville Rail Line is therefore appropriate under this policy, and largely not necessary as it could be captured as a rapid transport network regardless. I am aware that the matter of whether the Johnsonville Rail Line is part of the rapid transport network (and subsequently it's level of intensification as directed by the NPS-UD) is a matter that is currently relevant for the WCC IPI process, on which decisions have not yet been released.

54 I do not agree that Policy 57 should be a transitional policy as requested in paragraph 56 of Mr McDonnell's evidence. It provides for an integrated approach to managing land use and transport that is consistently applied across the region, and so should remain in effect even when the relevant district and city plans have given effect to regulatory policies in the RPS. This policy also supports the relevant Objective 22, and I consider the use of transitional policies in the RPS could lead to the objective not being supported by appropriate policies. Whilst I agree with Mr McDonnell that the same relevant matters may be considered through relevant district and city plan policies, and potentially at a more nuanced level, this policy ensures that where there may be discrepancies between policies at a local level, the consistent regional approach is maintained.

55 I do not agree with Mr Jeffries that Policy 57 should not be applied to resource consents (as stated in paragraph 66 of his evidence), with my Section 42A response²⁶ to the original submission by WCC remaining unchanged, and as per my response to similar relief sought in relation to Policy 56 and addressed in paragraph 38 of this evidence.

56 In paragraph 65 of his evidence, Mr Smeaton considers that my proposed amendments to Policy 57 do not address the concerns raised in the submission by PCC, and seeks all amendments be deleted and the policy restricted to applying to resource consents and notices of requirement. I consider my assessment in the Section 42A report²⁷ on PCC's original submission has already addressed this matter, and Mr Smeaton has not provided any additional information that changes my assessment, and I therefore do not recommend accepting his relief sought.

57 Also in paragraph 65 of his evidence, Mr Smeaton considers that the introduction of the term 'equitable' is a concept that is not able to be addressed through RMA processes. Whilst I acknowledge that the RMA cannot alone ensure equitable access to transport and

²⁶ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 837 - 844

²⁷ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 837 - 861

an equitable transport network, managing the integration of land use and transport planning can support ensuring that equitable access to the transport network is achieved, through managing the location of development in relation to the transport network.

Section 32AA evaluation

58 In accordance with section 32AA, I consider that my recommended amendments to Policy 57 are most appropriate as they:

- Provide for stronger direction at the change, variation or review of a district plan level for integrating land use and transport planning with positive social, environmental and economic effects associated with achieving integration, and potential additional costs in achieving this integration.
- Will direct supporting and enabling the rapid transport network which will lead to positive social, economic and economic effects in supporting public transport in the region.

POLICY 58

59 Policy 58 is addressed in the evidence of:

Hutt City Council [Submitter 115]

60 Mr McDonnell considers that Policy 58 would be better articulated as a transitional policy which falls away once regulatory policies are given effect to²⁸.

Peka Peka Farm [Submitter 118]

61 Mr Lewandowski seeks to amend clause (c), on the basis that it would be impossible for unanticipated development to achieve consistency with this policy. Accordingly, Mr Lewandowski also proposes reframe the wording for the explanation for Policy 58, and to remove the word “avoid”²⁹.

Porirua City Council [Submitter 30]

62 Mr Smeaton seeks that Policy 58 only applies to resource consents and notices of requirements, as set out in PCC’s initial submission. Mr Smeaton’s proposed changes to Policy 57 are set out in Appendix A. Mr Smeaton states that the wording “infrastructure

²⁸ HS4 S115, HCC, McDonnell, paragraphs 5.34-5.42

²⁹ HS4 S119, Peka Peka Farm, Lewandowski, paragraphs 5.34-5.42

servicing in the area in question” is inappropriate and cites clause (c) as an example of not recognising that the approval and funding of infrastructure are different matters³⁰.

Powerco [Submitter 134]

63 Mr Rowe seeks amendments to clause (c), and the explanation for Policy 58 as set out in Appendix A, such that the wording “prior to development occurring” is reinstated. Mr Rowe states that my recommendations for Policy 58 do not address all infrastructure equally, namely privately funded infrastructure, which are not always provided for in long-term plans, transport plans or infrastructure strategies as well as publicly funded infrastructure is. Mr Rowe suggests that this can be captured within the policy explanation³¹.

Summerset [Submitter 119]

64 Mr Lewandowski seeks to amend clause (c), on the basis that it would be impossible for unanticipated development, or a retirement village development, to achieve consistency with this policy. Accordingly, Mr Lewandowski also proposes reframe the wording for the explanation for Policy 58, and to remove the word “avoid”³².

Waka Kotahi [Submitter 129]

65 Ms Heppelthwaite does not support my recommended amendments to Policy 58, on the basis that the replacement of “require” with “seek to achieve” weakens the policy and is not consistent with Council’s ‘consideration policy’ approach. Ms Heppelthwaite considers that there is a need for Policy 58 to recognise that development should be enabled to match infrastructure provision, as the final step to ensure that land use and infrastructure delivery is well-coordinated³³. Accordingly, Ms Heppelthwaite proposes new clause (d) to Policy 58, as set out in Appendix A.

Wellington City Council [Submitter 140]

66 Mr Jeffries recommends amendments to clause (c) on the basis that my recommended wording is inconsistent with how development occurs in practice and does not enable development to proceed concurrently with the provision of associated infrastructure.

³⁰ HS4 S30, PCC, Smeaton, paragraphs 67-70

³¹ HS4 S134, Powerco, Rowe, paragraphs 3.1-3.4

³² HS4 S119, Summerset, Lewandowski, paragraphs 5.34-5.42

³³ HS4 S129, Waka Kotahi, Heppelthwaite, paragraphs 7.17-7.19

67 Mr Jeffries³⁴ seeks to delete the words “an application for a resource consent” from the opening text, as he considers that once a district plan has given effect to the RPS, that it is unnecessary for consideration of a resource consent application to directly refer back to higher order policy³⁵.

Wellington Water [Submitter 113]

68 Ms Horrox proposes additional changes to clauses (a) and (c) to achieve the stated intent of the policy explanation. Specifically, Ms Horrox recommends that clause (a) is reframed to focus on “optimising” existing infrastructure rather than making “efficient use” of it; and that clause (c) be reframed to more clearly state that infrastructure needs to be delivered in an appropriate timeframe to service the needs of the development³⁶.

69 Mr Slyfield³⁷ provides legal evidence which questions if clause (b) adds benefit to Policy 58. He states the wording of the clause may potentially exceed a decision-maker’s powers in a situation where the subject is not itself an infrastructure project. Mr Slyfield also questions if clause (b) is of specific benefit for clause (c).

Analysis and recommendations

70 I do not agree with paragraph 31 of Ms Horrox’s evidence that clause (a) should be amended to reference the ‘optimisation’ of existing infrastructure rather than the ‘efficiency’ of existing infrastructure. However, I agree that the clause could reference effectiveness as well as efficiency, which is clearer in my opinion than just ‘optimising’. I agree with paragraph 33 of Ms Horrox’s evidence, in that the wording in clause (c) of “timeframe commensurate to the scale and type of infrastructure” could be improved. The purpose of this proposed wording was to minimise the potentially significant timeframes between infrastructure being anticipated to be delivered as per a relevant long-term plan, transport plan or Infrastructure Strategy, but where this delivery could be potentially up to 10 years or more away from the completion of a particular development. I consider that the wording “in a timeframe appropriate to service the development” is clearer and recommend an amendment to this effect. I also recommend amendments in the explanation text to support this text for interpretation purposes.

³⁴ HS4 S140, WCC, Jeffries, paragraphs 74-75

³⁵ HS4 S140, WCC, Jeffries, paragraphs 68-73

³⁶ HS4 S113, Wellington Water, Horrox, paragraphs 30-33

³⁷ HS4 S114, Wellington Water, Slyfield, paragraphs 10-12

- 71 I recommend amending the chapeau of Policy 58 to be consistent with the amended chapeau of Policy 57, as per paragraph 7.14 of Ms Heppelthwaite’s evidence. With regards to the proposed new clause in paragraph 7.19 of Ms Heppelthwaite’s evidence, I do not consider this is required. I did address the matter of only enabling development where infrastructure is currently available within my Section 42A report³⁸. In my interpretation of the NPS-UD, the direction is that development should still be enabled where there is certainty over the future of supporting infrastructure (e.g. Policy 3 (c)(i) directs the enablement of at least 6 storeys within walkable catchments of planned rapid transport stops). In my opinion, the new clause proposed by Ms Heppelthwaite would prevent this enablement, on the basis that the infrastructure is not available at that point in time, and so is contrary to the direction of the NPS-UD in this regard.
- 72 I do not agree with paragraph 68 of Mr Smeaton’s evidence that the phrase “infrastructure serving the area in question” is inappropriate, as it reflects the fact that the application of this policy could apply at a variety of spatial scales (for example a single site subject to a resource consent application, or a whole suburb at the plan change level). This phrasing therefore provides the necessary nuance in the consideration of this policy for the scale of which infrastructure servicing needs to be considered.
- 73 I do agree with paragraph 69 of Mr Smeaton’s evidence that my proposed amendments to clause (c) could result in the exclusion of infrastructure that is to be provided, as per his example, via developer agreement, or other non-publicly funded means. Mr Rowe also identifies this in paragraph 3.2 of his evidence, stating that the policy clause does not deal with all infrastructure equally. In paragraph 72 of his evidence, Mr Jeffries has identified that the policy does not provide for the funding and delivery of infrastructure by a developer. The intention of this amendment was to provide additional clarity on how infrastructure could be programmed to be delivered, as well as ensuring significant timeframes between development and infrastructure delivery are managed³⁹.
- 74 I agree in part with the proposed amendment from Mr Rowe (in paragraph 3.4 of his evidence) and Mr Jeffries (in paragraph 75 of his evidence) to delete this text from clause (c) and the recommended amendment of Mr Rowe to include it in the explanation text of the policy, where it will be able to further support interpretation of the delivery of infrastructure. I do not agree with Mr Rowe with regards to reinstating “prior to

³⁸ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraph 889

³⁹ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraph 890

development occurring”. I do not agree with Mr Smeaton that the clause should be deleted entirely. I consider that this amendment addresses Mr Smeaton’s argument that clause (c) does not recognise the difference between the approval of and the funding of infrastructure.

75 In addition, I do not support the relief sought by Mr Smeaton to delete all amendment proposed to Policy 58, as I consider the policy is appropriate to address the identified issue of infrastructure capacity to support development.

76 Mr Slyfield, in paragraph 11 of his legal submission, has questioned whether clause (b) adds any benefit. I consider it does add benefit on the basis that it provides a relatively holistic consideration of how infrastructure is to be developed, funding, implemented, and maintained to support development, which is separate to clause (c) which specifically seeks to ensure all infrastructure is available to support development. I do not consider that clause (c) would encompass the funding of infrastructure, its development, its maintenance, and its operation, merely the provision of it.

77 I agree with Mr Slyfield that the use of “provides for” in clause (b) is phrasing that may not be appropriate and potentially is not what the policy intends. Instead, the decision maker in this instance, as per Mr Slyfield’s submission, would be considering whether provision has been made for these matters as part of the proposed development, and would not be providing for them. On this basis, I recommend amending the wording to clause (b) to this effect.

78 As per my reasoning in paragraph 38 of this statement of rebuttal evidence, I disagree with Mr McDonnell that Policy 58 should not apply to resource consents and should be a transitional policy only, and subsequently also do not agree with Mr Jeffries that the policy should not apply to resource consents, as stated in paragraph 74 of his evidence.

79 I agree with Mr Jeffries’ comments in paragraph 72 of his evidence about the potential for development needing a level of guarantee before the delivery of the supporting infrastructure can be confirmed and I can appreciate that the wording of the policy does not necessarily reflect the viable options for the delivery of necessary infrastructure. I therefore recommend accepting his proposed amendment to clause (c). I consider this wording will still ensure that development is either supported by available infrastructure or new infrastructure required to serve it.

80 I disagree with paragraph 5.38 of Mr Lewandowski’s evidence in relation to infrastructure requirements for unanticipated, or out-of-sequence development. As stated in my Section 42A report⁴⁰, I do not consider that the direction of the NPS-UD means unanticipated, or out-of-sequence development should be exempt from the infrastructure requirements of Policy 58.

81 Objective 6 of the NPS-UD directs that decisions on urban development that affect urban environments should be integrated with infrastructure planning and funding decisions. In my interpretation, this includes decisions on unanticipated or out-of-sequence development.

82 Furthermore, my interpretation of the guidance produced by the Ministry for the Environment (MfE) on implementing the NPS-UD is that unanticipated or out-of-sequence development should be supported by the required infrastructure on the basis that unanticipated or out-of-sequence development must provide significant development capacity. The MfE factsheet on responsive planning states, with regard to significant development capacity:

“To create significant development capacity, a proposal should be able to demonstrate how infrastructure is committed and how it will be provided because development capacity includes ‘the provision of adequate development infrastructure to support the development of land for housing or business use’”⁴¹

83 I agree with paragraph 5.41 of Mr Lewandowski’s evidence in relation to the use of “avoid” within the explanation text of Policy 58, and so recommend accepting his amendments to this effect.

Section 32AA evaluation

84 In accordance with section 32AA, I consider that my recommended amendments to Policy 58 are most appropriate as:

- The proposed amendments remove a potential inconsistency in how privately and publicly funded infrastructure was captured, with associated benefits in recognising that infrastructure can be delivered via both means. I do not consider this proposed amendment has any resulting costs.

⁴⁰ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 898 -900

⁴¹ <https://environment.govt.nz/assets/Publications/Files/Responsive-Planning-Factsheet.pdf>

- There are benefits in the proposed amendments associated with continuing to ensure that development is supported by infrastructure, but also recognises the mechanism with how infrastructure can be provided, and that the timeframes between delivering infrastructure to support development should be appropriate. I consider this will have positive social, economic, and environmental benefits for communities.
- Proposed amendments to the explanation text remove inconsistencies in RMA terminology between the policy text and explanation text, with benefits for interpretation of the policy.

DATE:

25 September 2023

Owen Jeffreys

Environmental Planner – GHD Limited

Greater Wellington Regional Council