

**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

**REPORTING OFFICER RIGHT OF REPLY OF MIKA ZÖLLNER AND
OWEN EDWARD JEFFREYS**

ON BEHALF OF WELLINGTON REGIONAL COUNCIL

HEARING STREAM 4

24 NOVEMBER 2023

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RIGHT OF REPLY AUTHORS

Mika Zöllner

- 1 My full name is Mika Helena Zöllner. I am a Senior Policy Advisor in Policy at Greater Wellington Regional Council (the Council). I am the reporting officer for the Freshwater Planning Process provisions in the Urban Development hearing stream and I attended the hearings for this topic on the 2nd, 3rd, and 4th of October 2023.
- 2 My Section 42A Report, at paragraphs 18 to 20, sets out my qualifications and experience.
- 3 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

Owen Jeffreys

- 4 My full name is Owen Edward Jeffreys. I am an Environmental Planner at GHD Ltd. I am the reporting officer for the Part 1, Schedule 1 provisions in the Urban Development hearing stream and I attended the hearings for this topic on the 2nd, 3rd, and 4th¹ of October 2023.
- 5 My Section 42A Report, at paragraphs 25 to 30, sets out my qualifications and experience.
- 6 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF REPLY

- 7 We have prepared this Reply to
 - provide answers to questions raised by Panel members during the hearing of matters in Hearing Stream 4;
 - clarify other matters of discussion during the hearing; and

¹ I attended remotely on the 4th October.

- provide our view on further comments and issues raised by submitters in select cases.

8 This Reply follows Hearing Stream 4 held from 2 October to 4 October 2023. In Minute 14 issued on 12 October 2023 the Hearing Panels posed a range of specific questions which we have considered and responded to the following paragraphs.

9 The amendments to the Change 1 provisions recommended in the Section 42A report for this hearing stream are shown in red underlined or ~~strike through~~, amendments recommended in rebuttal evidence are shown in blue underline or ~~strike through~~, and further amendments recommended in this Reply are shown in green underline or ~~strike through~~.

10 This Reply is accompanied by our recommended re-drafting shown in Appendix 1. We have also provided a clean copy of the drafting of the Chapter 3.9 introductory text in Appendix 2, to assist with interpretation and consideration of the recommended amendments.

Territorial Authorities response to Kāinga Ora proposed changes to Policy 30 - Owen Jeffreys

11 In Minute 14 the Panels invited territorial authorities to provide comments on the changes proposed by Kāinga Ora to the centres hierarchy in Policy 30². In Minute 15, the Panels requested that reporting officers consider the territorial authorities responses through the right of reply.

12 The below table summarises the responses received from territorial authorities on the relief sought by Kāinga Ora to Policy 30.

² Paragraph 6

Territorial authority	Summarised Response
Upper Hutt City Council (UHCC)	No identified effects from Kāinga Ora submission on Upper Hutt, and therefore no comment provided.
Porirua City Council (PCC)	PCC disagree with the identification of Mana as a Town Centre. Mana is zoned as a Local Centre in the Porirua Proposed District Plan. PCC did not accept the relief sought by Kāinga Ora to rezone Mana as a Town Centre through their district plan review process. PCC consider identifying Mana as a town centre in the RPS would require them to undertake a plan change to zone Mana as a Town Centre, and would require the introduction of a new chapter and provisions for the zone.
Hutt City Council (HCC)	HCC do not support the amendments to Policy 30 sought by Kāinga Ora. HCC consider that the amendments will not help achieve consistency due to the majority Tier 1 Councils in the region having implemented the NPS-UD, and that the subsequent timing of the RPS Change 1 process. HCC consider that introducing the terms “larger urban areas” and “smaller urban areas” would be unnecessarily complicated and these terms could be subject to litigation. HCC also consider that the hierarchy in Policy 30 should not use zoning terminology, and do not support that Naenae and Waterloo are zoned as Town Centre.
Wellington City Council (WCC)	The Wellington Proposed District Plan does not include a Town Centre Zone. WCC recommended rejecting the relief sought by Kāinga Ora to rezone Miramar, Newtown, and Tawa as Town Centre Zone through the Proposed District Plan hearings process. WCC consider that accepting the relief sought by Kāinga Ora on Policy 30 would require a change to the Proposed District Plan to introduce a Town Centre Zone to the centres hierarchy and apply the Town Centre Zoning to Miramar, Tawa and Newton. This would impose significant costs on WCC which would exceed any potential value as a result of amendments to Policy 30.

13 I note that none of the territorial authorities who have provided comments in response to Minute 14 support the recommended amendments to Policy 30 by Kāinga Ora. No response was received from Kāpiti Coast District Council or any territorial authorities in the Wairarapa. I note that Wellington City Council did make a further submission that supported the relief sought by Kāinga Ora on Policy 30, but through their response to

Minute 14 they have changed their position and do not support the relief sought by Kāinga Ora.

- 14 I agree with the territorial authorities who have provide comment that the amendments sought by Kāinga Ora would require the relevant territorial authorities to rezone centres as “Town Centre Zones” where they are not currently zoned as such, due to the use of National Planning Standards zoning terminology within Policy 30. I also note that for some authorities this would require a substantial change to their District Plan to introduce a new chapter and associated provisions to reflect the introduction of an entire new zone, with associated costs to territorial authorities in undertaking these changes.
- 15 I maintain that using zoning terminology in Policy 30 is inappropriate as it zones these centres by proxy, as when giving effect to this policy relevant territorial authorities will need to zone the centre as per the centres hierarchy (e.g. metropolitan centre or town centre). I have previously discussed this in my s42a report³ and rebuttal evidence⁴. I also note that the zoning of these centres has already been considered through the relevant territorial authority plan changes to give effect to the NPS-UD and the Resource Management Amendment Act, and agree with the territorial authorities that relitigating this through amendments to Policy 30 seems inappropriate, especially due to the level of intensification already enabled through the relevant plan changes within these centres as required by Policy 3 of the NPS-UD. I therefore consider that retaining the terms of “regionally significant” and “locally significant” is the most appropriate approach for Policy 30.
- 16 I agree with HCC that the introduction of the terms “larger urban area” and “smaller urban area” do not necessarily provide any appropriate or meaningful distinction within the hierarchy of Policy 30 and could provide further complication in policy interpretation, and therefore maintain my position that these terms should not be included in Policy 30.
- 17 In summary, I agree with the matters raised by the relevant territorial authorities in response to the relief sought to Policy 30 by Kāinga Ora and maintain that the amendments sought to the hierarchy by Kāinga Ora are not appropriate or necessary.

³ Section 42A Hearing Report – Hearing Stream 4 – Urban Development – Paragraphs 743 - 751

⁴ Owen Jeffreys Statement of Rebuttal Evidence – Hearing Stream 4 – Urban Development – Paragraph 19

General

- a) **Can Council please provide an update on the status of the draft FDS e.g. was it notified and what is the process for public consultation and adopting the FDS? - Mika Zöllner and Owen Jeffreys**

18 The draft Future Development Strategy (FDS) was notified on 9 October. The consultation page for the FDS is here - <https://wrlc.org.nz/future-development-strategy>. The process and timeframe for consultation and adoption is as follows:

- Public notification: 9 October 2023
- Submissions period: 9 October – 9 November 2023, 98 submissions received
- Public hearings and deliberations: 11 December – 15 December 2023
- Adoption of final FDS document by Wellington Regional Leadership Committee – March 2024
- The FDS, once adopted, will replace the Wellington Regional Growth Framework⁵

- b) **We request that Council Officers please review submitters' relief regarding highly productive land, and in particular whether there is scope to incorporate this relief into Objective 22 or other provisions (also noting the amendments proposed by Officers to the IM provisions in HS2) - Mika Zöllner and Owen Jeffreys**

19 Several submitters sought reference to highly productive land or incorporation of the NPS-HPL into provisions in Hearing Stream 4, including on Objective 22, Objective 22B, Policy 55 and Policy 56. We have responded to this relief in our Section 42A report and rebuttals.

20 Our response to the Panels' question is in two parts:

Should a reference to highly productive land be included in Objective 22? - Mika Zöllner

21 I agree with submitters that seek incorporation of the NPS-HPL that its direction is crucial and undoubtedly relevant to subdivision, use and development. It should be given effect to in the RPS. However, I disagree that not doing so through Change 1 poses a significant risk. The NPS-HPL and its direction stands alone and both documents contain explicit and

⁵ Draft Future Development Strategy for consultation, page 55

directive interim direction which territorial authorities must give effect to. The scope of Change 1 does not include NPS-HPL implementation. The operative RPS, through Policy 59, also contains strong direction to retain LUC classes 1 and 2 land, which is referred to as ‘highly productive agricultural land’, noting this is different to the NPS-HPL definition of highly productive land which also includes LUC class 3. I agree with the views of Jerome Wyeth with respect to this matter⁶.

- 22 The operative RPS Soils and Minerals chapter and particularly Objective 30, which is not subject to Change 1, includes the following objective-level direction:

Soils maintain those desirable physical, chemical and biological characteristics that enable them to retain their ecosystem function and range of uses.

- 23 Because of the direction provided by Objective 30 and Policy 59, the provisions in Change 1 that relate to subdivision, use and development, currently refer to retaining productive capacity of land in a more general sense. I note that Mr Wyeth has recommended a specific reference to highly productive land in Objective A⁷ as part of integrated management.

- 24 In my opinion, the Hearing Stream 4 provisions do not need to be as explicit as this. I consider that the following clause in Objective 22, which I recommended was added in my Section 42A report (paragraphs 224-231), captures the broad intent of the NPS-HPL and was intended to respond to submitters’ relief on highly productive land:

(f) the biophysical characteristics, location, values, capability and limitations of land inform its use and development; and

- 25 However, if the Panels were minded to refer to productive capacity more explicitly than the current drafting of clause (f) to complement the operative direction in Objective 30, I consider this could be appropriate in Objective 22 due to the direct connection between the region’s urban and rural form and impacts on land’s productive capacity. This direct connection is recognised in the NPS-HPL, which seeks to manage the impacts of inappropriate subdivision, use and development on productive capacity.

⁶ Jerome Wyeth Right of Reply – Hearing Stream 2 – 28 July 2023 – Paragraph 25

⁷ Jerome Wyeth Right of Reply - Hearing Stream 2 - 28 July 2023 - paragraphs 23-26

26 In this case, I consider that a specific reference to productive capacity could be useful to recognise the relationship between regional form and rural productive capacity. However, I do not consider that a specific reference to highly productive land is appropriate or necessary at this stage due to the reasons outlined.

27 I note that Jerome Wyeth did not recommend that the term ‘highly productive land’ is defined in the recommended amendments to Objective A. I maintain my position on the definitions as outlined in paragraph 227 and 544 of my Section 42A report. The phrase ‘highly productive land’ applies to more land than the operative term ‘highly productive agricultural land’ in the RPS, which includes only LUC classes 1 and 2 as opposed to LUC classes 1, 2 and 3. Amending the operative definition of ‘highly productive agricultural land’, which is not subject to Change 1, has already been discussed in previous hearing streams⁸, and I agree with the views expressed that this would not be appropriate.

28 I therefore consider that, although a reference to productive capacity is warranted, it should not use the phrase ‘highly productive land’. I recommend that clause (f) of Objective 22 is amended as follows:

(f) the biophysical characteristics, location, values, capability and limitations of land inform its use and development, including retaining the productive capacity of rural land; and

29 The Panels have asked about scope. I consider that there is scope from submissions to include this amendment. HortNZ specifically sought reference to highly productive land in submissions on Objective 22 and Objective 22B. Because I am recommending that Objective 22B is deleted and combined with Objective 22, the relief sought by submitters on Objective 22B is relevant in my view. In terms of scope of Change 1, because there is no specific reference to highly productive land (as defined in the NPS-HPL), I consider the relief I am recommending is appropriately part of an objective on regional form, to address the operative regionally significant issue 2(c); ‘the loss of rural or open space land valued for its productive, ecological, aesthetic and recreational qualities’.

30 I note that during the hearing the Chair also made a comment about the recommendation by Jerome Wyeth to add reference to food security into Policy CC.15 (which relates to rural resilience) in Hearing Stream 3⁹, and asked that this is also considered for alignment. I

⁸ Jerome Wyeth Statement of Rebuttal evidence - Hearing Stream 2 - 7 July 2023, paragraphs 91-92

⁹ Jerome Wyeth Statement of Rebuttal Evidence – 22 August 2023, paragraph 41

agree that food security is an important issue and relevant to the productive capability of land. I do not consider that a specific reference to food security is necessary in Objective 22 or relevant provisions. In my view it is more appropriate to make a specific reference to productive capacity in the context of subdivision, use and development, and this is not inconsistent with the amendments recommended to Policy CC.15.

Should references to highly productive land be included in other provisions? - Mika Zöllner and Owen Jeffreys

31 We do not consider that other amendments to align with the NPS-HPL are necessary or appropriate as part of Change 1, and our view on submitters' relief has not changed for provisions other than Objective 22. We consider that the strong transitional requirements in the NPS-HPL stand alone and do not require interim policy direction in the RPS prior to a plan change to give full effect to the NPS-HPL. This view is also expressed by Jerome Wyeth in the Right of Reply for Hearing Stream 2¹⁰.

32 In our view, the most relevant provisions which could contain direction for highly productive land are Policy 55 and Policy 56. There are numerous exemptions in the NPS-HPL, both in terms of how highly productive land is defined, and how the policy direction applies to subdivision, use and development and re-zoning to specific land uses (both urban and rural). Reflecting this direction at a high level in Policies 55 and 56 would be potentially cumbersome and risk conflicting with national direction in our view. Furthermore, clause (a) of Policy 56 already addresses the effects of subdivision, use and development in the rural area on the productive capability of the rural area, which is inclusive of, but broader than, effects on highly productive land.

c) Can Officers please review the provisions in light of s 6(e), RMA i.e. do the provisions incorporate s 6(e) matters in a consistent way? - Mika Zöllner and Owen Jeffreys

33 Section 6(e) of the RMA is:

the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga

¹⁰ Jerome Wyeth Right of Reply – Hearing Stream 2 – 28 July 2023 – Paragraph 23-24

34 Only some provisions in Hearing Stream 4 relate to section 6(e) matters. Where section 6(e) matters are addressed, there is some inconsistency in the references, particularly when referring to ‘ancestral lands’ or ‘land’. We have reviewed the relevant provisions where RMA section (6)e matters have been incorporated (either in the notified Change 1 or via recommended amendments in the Section 42A report or rebuttal evidence for this topic).

35 The table below assesses whether amendments might be required to ensure these matters have been incorporated in a consistent way. We recommend that this matter is considered further in Hearing Stream 7 on integration as this issue also potentially applies to other provisions in Change 1 (e.g. Policies 15, FW.3, 42).

Provision	Wording used (as at rebuttal evidence)	Amendments needed?
Chapter introduction – Mika Zöllner	the relationship of mana whenua / tangata whenua with their culture, land, water, sites wāhi tapu and other taonga.	Could be amended to include a reference to ancestral land. More substantial amendments to the chapter introduction are discussed in paragraph 51 of this Reply.
Issue 2 – Inappropriate development – Mika Zöllner	This has adversely affected mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.	Could be amended to include a reference to ancestral land.
Issue 5 – Sporadic, uncontrolled or uncoordinated development – Mika Zöllner	(i) adverse effects on mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga.	Could be amended to include a reference to ancestral land.
Objective 22 – Mika Zöllner	(b) Māori are able to express their culture and traditions, and mana whenua / tangata whenua and their relationship with their culture, land, water, sites, wāhi tapu and other taonga is provided for; and	Could be amended to include a reference to ancestral land.

Provision	Wording used (as at rebuttal evidence)	Amendments needed?
Policy 55 – Mika Zöllner	vi) Providing for mana whenua / tangata whenua values, including their relationship with their culture, ancestral lands, water, sites, wāhi tapu and other taonga	No, because ancestral land is already referred to in the policy and it is otherwise consistent.
Policy 56 – Owen Jeffreys	(d) provides for mana whenua / tangata whenua values, including the relationship with their traditions, ancestral lands, water, sites, wāhi tapu and other taonga; and	Could be amended to replace ‘traditions’ with ‘culture’.
Policy UD.1 – Owen Jeffreys	District plans shall include objectives, policies, rules and/or methods that provide for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land, by:...	Policy UD.1 does give effect to section 6(e). Unlike other policies incorporation of s 6(e), UD.1 specifically focuses on mana whenua / tangata whenua and their relationship with ancestral land, which is more limited than the matters considered in s 6(e). However, I consider this appropriate as Policy UD.2 more broadly incorporates 6(e).
Policy UD.2 – Mika Zöllner	(a) providing for mana whenua / tangata whenua to express their relationship with their culture, land, water, sites, wāhi tapu, and other taonga	Addressed in question bb) of Minute 14. Considered in paragraph 131 of this Reply.
Policy UD.5 – Mika Zöllner	(d) providing for and protecting mana whenua / tangata whenua values and sites of significance to mana whenua / tangata whenua; and	Amendments are recommended in response to matters raised during the hearing, discussed in paragraph 184 of this Reply.

d) Can Officers please review the provisions in light of the references to ‘climate resilience’ in the HS3 provisions. Please consider whether a reference to ‘climate responsive development’ is appropriate - Mika Zöllner and Owen Jeffreys

36 The term ‘climate responsive development’ is not part of the notified Change 1 provisions. The Section 42A report author for Climate Resilience and Nature-Based Solutions, Pam Guest, recommended amendments to the titles of policies CC.4, CC.4A, CC.14, and CC.14A in her rebuttal evidence, to replace ‘climate resilient development’ with ‘climate responsive development’.

37 In our view, Ms Guest recommended the addition of ‘climate responsive development’ to policy headings to broadly encompass climate change mitigation, climate change adaptation, and climate-resilience, which are all defined terms within Change 1 and used within the respective policies. She did not propose a definition.

38 We have reviewed provisions included within the Hearing Stream 4 topic and consider that a reference is not appropriate. In our opinion, using ‘climate-resilience’ within the urban development provisions is appropriate as it is a clearly defined term and relates specifically to highlighting the need for development to be resilient to the effects of climate change, which is direction provided by the NPS-UD.

e) Can Officers please undertake a consistency check across all provisions and the introductory and explanation text of the words “urban zones” and “urban areas” - Mika Zöllner

39 Urban zones and urban areas are both recommended to be defined terms that should be used for particular purposes¹¹:

- Urban zones should be used where specifically referring to the residential, commercial and industrial zones of an urban area. This relates to identifying areas for intensification, or defining the currently urban-zoned extent beyond which development is considered to be greenfield development.
- Urban areas should be used where referring to a town or city in a more general sense, which would include open and recreation spaces, transport links, some special purpose zones (such as the airport or waterfront zone) etc. Urban areas should be used when referring to ‘well-functioning urban areas’.

¹¹ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 – paragraphs 52-56

- 40 I have reviewed all provisions and the introductory and explanatory text. The provisions or text which require amendment for consistency are introductory text to Chapter 3.9 and Policy 55(a)(2)(i); all other provisions use the terms correctly. I note that several provisions use both urban areas and urban zones for different purposes, as well as the term ‘well-functioning urban areas’.
- 41 The Chapter 3.9 introductory text is recommended to be significantly amended in response to question j) from Minute 14 (see paragraph 51 of this Reply and Appendix 1). In making these recommendations, I have considered the consistent use of urban areas and urban zones.
- 42 Policy 55(a)(2)(i) currently seeks adjacency to existing urban areas. Given the amendments to the definition for ‘urban areas’ recommended through my rebuttal evidence, urban areas would now include Future Urban Zones. This means that development could be at the edge of a future urban zone, which is undeveloped, and still be considered well-connected to the existing urban area. In this instance, this was not the policy intent, and I recommend that this is amended to replace ‘urban areas’ with ‘urban zones’. This means that there is a specific requirement to be adjacent to existing urban zones (residential, commercial or industrial). I note that Counsel will be providing legal submissions on the difference between ‘adjacent’ and ‘adjoining’; in this case I consider adjacent is the appropriate term.
- 43 I also note that the chapeau of Policy 55(a)(2) refers to ‘well-connected to the existing urban area’. In this instance I consider it is appropriate to retain the reference to urban area, because this is general direction, the meaning of which is specifically articulated in the sub-clauses. This does not require amendment in my view.
- 44 During the hearing, Commissioner Nightingale mentioned the explanation of Policy 31 as not reflecting the amendments to urban zones and urban areas¹². I have reviewed this explanation. Although I could not find any errors in the wording, it is possible that the use of ‘areas’ may have caused confusion due to its similarity to ‘urban areas’. This does not need to be amended to ‘zones’, however, to address this potential confusion, I recommend that the explanatory text of Policy 31 is amended as shown below:

¹² Rows 1221-1227 of the hearing transcription for RPS Change 1 Hearing Stream 4.

Policy 31 requires identification of ~~locations areas~~ suitable for intensification, and enables intensification in these ~~locations areas~~, giving effect to Policy 3 of the National Policy Statement on *Urban development 2020*.

f) Some submitters queried whether hyper-links to cross-referenced provisions would help readability. Does Council have any intentions to include hyper-links in the e-version of the RPS? - Mika Zöllner and Owen Jeffreys

45 The RPS has not yet been amended to give effect to the National Planning Standards¹³. Once the RPS is in ePlan format, hyperlinks will be used as this is common practice. This will include links to definitions, objectives, policies, and methods which are referenced throughout the RPS.

g) Please consider whether the chapeau of all policies should follow the format of that in Policies 57 and 58. Given Mr Wyeth's evidence on the chapeau text in HS2, we would appreciate it if Council Officers could liaise with Mr Wyeth on this issue and consider whether a whole scale change across the PC1 provisions is appropriate and if so, whether this could be proposed in HS7 – Wrap Up and Integration - Mika Zöllner and Owen Jeffreys

46 We have discussed this matter with Mr Wyeth. We agree that the chapeau structure recommended for Policies 57 and 58 (to split out the direction given to resource consents, notices of requirements and district plans) would assist with the interpretation of some consideration policies in Hearing Stream 4. In our view, amending the chapeau in such a manner clearly indicates the weighting of the policy for each relevant process (resource consents, notices of requirement, and changes, variations, and reviews of District Plans). This provides the benefit of ensuring that stronger direction (such as require) could be retained within the chapeau without complicating interpretation.

47 However, there are some situations where this chapeau structure is either not relevant or useful. In the table below we have outlined our position for each consideration policy in Hearing Stream 4. We agree that specific amendments requested in relation to each

¹³ Including Standard 16(b) which directs that policy statements must be in an online interactive format (ePlan).

particular provision are best considered through Hearing Stream 7 and so have not recommended amendments to the chapeau text for any policies at this stage.

Provision	Amendments to chapeau recommended?
Policy 55 – Mika Zöllner	The amended chapeau would be a useful structure for Policy 55 to make it clear how the matters in Policy 55 apply in different situations.
Policy 56 – Owen Jeffreys	The amended chapeau would be appropriate to use through Policy 56.
Policy UD.3 – Mika Zöllner	The amended chapeau is not suitable for Policy UD.3, because the policy applies to plan changes only.
Policy UD.2 – Mika Zöllner	The amended chapeau is not necessary as I have recommended amendments for stronger wording in response to submissions, which I consider captures the different levels of direction.
Policy UD.5 – Mika Zöllner	The amended chapeau is not necessary as I consider the way the chapeau is currently phrased makes the outcome of contributing to well-functioning urban areas clear. I consider splitting out the direction would be cumbersome in this instance.

h) Please advise whether Officers think any ‘re-categorisation’ of provisions between P1S1 and the FPI is appropriate after hearing submitters – Mika Zöllner

48 This question relates only to those freshwater planning process provisions, so has been responded to by Mika Zöllner as Section 42A report author for those provisions.

49 My view on the categorisation of provisions, as described in paragraphs 76-84 of my Section 42A report and paragraphs 14-15 of my rebuttal evidence, has not changed following hearing submitters.

i) Please consider and respond to the concerns / comments about the ‘development hierarchy’ raised by Wellington Water Limited in its speaking notes (available on the hearings website) – Mika Zöllner

50 Specific responses to this question are provided with respect to Objective 22 (paragraphs 59-60 of this Reply) and Policy UD.4 (paragraph 169 of this Reply).

Chapter 3.9 Introduction – Mika Zöllner

Questions on the Chapter 3.9 introduction from Minute 14

j) Can Council Officers please review the Introductory text to Chapter 3.9 and:

- i. respond to submitters’ requests to shorten the text

- ii. include a reference to Policy UD.4 (in the list of matters a) to e) if Ms Zöllner supports retaining this list)
- iii. consider whether references should be to “urban zones” rather than ‘urban areas’ in items 1 and 2 in the list
- iv. consider whether the words “in places connected to existing urban areas” should be amended in item 4
- v. consider whether, above the subheading “1. Lack of housing supply and choice” it is appropriate to include “and territorial authorities” as sought by Kāinga Ora and others and whether the text should be reordered so it does not read that iwi authorities are “owned” by the Region eg whether wording along these lines would be more appropriate: ‘The regionally significant issues of significance to the Territorial Authorities and iwi authorities of the Wellington region”

51 I have recommended re-drafting of the chapter introduction to shorten and simplify it considerably. The revised drafting is shown in Appendix 1 in full and in Appendix 2 as a clean version (i.e. without amendments tracked). I consider that the section on ‘How the plan works’ should be retained as it assists plan users to understand the structure and purpose of provisions in the chapter, which I also expressed in my rebuttal¹⁴. I also note that the operative version of the introductory text, and the introductory text of other chapters, span multiple pages and are intended to provide context to the provisions.

52 In response to the Panels’ questions relating to the development hierarchy in the ‘How the plan works’ section (questions (j)(ii), (j)(iii), and (j)(iv)), I recommend that this hierarchy is removed so these questions are no longer relevant. I agree with concerns raised by both Caroline Horrox (Wellington Water) and Catherine Heppelthwaite (Waka Kotahi) that there is risk of inconsistency between the hierarchies in the chapter introduction and Policy UD.4. I had initially intended to have a ‘simpler’ summary of the hierarchy in the chapter introduction as a way to sign-post the relevant provisions. However, I agree that if it isn’t entirely consistent with the wording of Policy UD.4 it is

¹⁴ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 – paragraph 214

potentially confusing and therefore consider that the hierarchy should be removed from the introduction to avoid unnecessary potential for confusion.

53 In response to the Panels' query (j)(v) on the introductory sentence to the regionally significant issues¹⁵, I note that this statement is in the operative RPS and has an identical format across all RPS chapters to introduce the regionally significant issues. I agree that the statement could be re-phrased to remove implication of ownership of iwi authorities. This would improve consistency with RMA Section 62(1) which says (my emphasis):

A regional policy statement must state—

(a) the significant resource management issues for the region; and

(b) the resource management issues of significance to iwi authorities in the region; and...

54 The statement could therefore be amended as shown below:

'The regionally significant issues and the issues of significance to ~~the Wellington region's~~ iwi authorities in the Wellington Region for regional form, design and function are:...'

55 I have not recommended this amendment at this stage because I do not think there is scope for this amendment to occur now. This relief was not specifically sought in a submission, and this statement is identical in all chapters of the RPS so would be better addressed across the whole RPS in my view. I consider this is best addressed by the Council through clause 16.

56 I do not consider that 'territorial authorities' should be added to this statement, because they are not mentioned in RMA section 62(1)(a) and (1)(b) which cover the issues to be included in regional policy statements.

Response to other matters raised on the chapter introduction at the hearing

57 As part of my recommended amendments to the chapter introduction wording, I have also recommended the following amendment sought by Melanie McCormick (Ātiawa):

¹⁵ Page 80 of the notified RPS Change 1 document.

~~The NPS-UD also requires p~~Planning decisions relating to urban environments to must take into account the principles of Te Tiriti o Waitangi as required by the NPS-UD.

Section 32AA evaluation

58 In accordance with section 32AA, I consider that my recommended amendments to the chapter introduction are most appropriate as they seek to improve readability to better support interpretation of the provisions in Hearing Stream 4.

Objective 22 – Mika Zöllner

Questions on Objective 22 from Minute 14

k) Can Ms Zöllner consider whether the hierarchy in Policy UD.4 would sit better in Objective 22?

59 I have considered this carefully in light of the presentations from Caroline Horrox (Wellington Water) and Catherine Heppelthwaite (Waka Kotahi) on the development hierarchy. I appreciate their concerns that the hierarchy may be somewhat buried in a policy compared to the relative importance of an objective, and that given its significance and strategic nature it may be more appropriate to elevate it to an objective.

60 After testing a few options for how this might work, I do not consider the hierarchy would sit better at the objective level. Instead, I consider amendments to Policy UD.4 are more appropriate to elevate the prominence and clarity of the hierarchy, which I discuss in paragraphs 166-0 of this Reply. My reasons for this are:

- The hierarchy in Policy UD.4 is a way to achieve the outcomes described in Objective 22, specifically a compact regional form and clause (g) which seeks that existing urban-zoned land is used efficiently. In my view, this sits appropriately at a policy level.
- There is no clear place in Objective 22 where the hierarchy could sit, and it would need to be re-phrased to suit the wording of an objective. This could risk making the specific direction intended to apply to district plans too broad to be meaningful.

- Inserting the hierarchy would make Objective 22 longer. Given it is already a long objective, I am hesitant to recommend lengthening it. I considered whether a new objective could be inserted containing the hierarchy only, however I consider this would complicate the policy framework unnecessarily. Objective 22 is intended to be over-arching and integrating, and having a new objective containing a strategic hierarchy for development risks confusing the relationship between the hierarchy and Objective 22, as well as supporting policies.
- I deliberately included the hierarchy in Chapter 4.1 which is directive to district plan provisions. I consider that this location in the RPS is most appropriate to best achieve a compact regional form. I recommend amendments to Policy UD.4 in response to the concerns raised about the hierarchy's prominence, which are discussed further in paragraphs 169-170 of this Reply.

l) Does the reference to 'local and regional centres' in Objective 22(e) need to be amended in light of any changes recommended to other provisions eg Policy 30.

61 I agree this reference is unnecessary and risks potential confusion. The phrase 'local and regional centres' is not used elsewhere in RPS Change 1, so I recommend that 'local and regional' is removed for simplicity. This amendment does not ultimately change the meaning of clause (e) in my opinion.

m) Can Ms Zöllner please consider adding a reference to 'efficiency' in Objective 22(k) eg "the safe and efficient operation.."

62 I agree that reference to efficiency would support consistency with RPS Policy 58 and Policy 7, so I recommend that this is inserted. This aligns with the relief sought by Claire Hunter (WIAL).

n) Can Ms Zöllner consider whether 'housing quality' should be incorporated into Objective 22(a).

63 I agree that the way that clause (a) is now worded (as recommended by my rebuttal) could support a reference to housing quality. As discussed at the hearing, although I consider adequate housing quality is implicit in the references to 'well-designed' and 'sufficient development capacity to meet the needs of current and future generations', in

my view it would be useful to be more explicit. I have discussed my view on the relationship between the RPS and housing quality in my Section 42A report¹⁶ and rebuttal evidence¹⁷. I consider that it is appropriate for an RPS to signal housing quality in reference to the things that the RMA can influence relating to the quality of housing and built form, many of which are already addressed through measures such as design guides (e.g. sunlight, green space access, vegetation/landscaping, transport design).

64 I therefore recommend that a reference to adequate housing quality¹⁸ is added alongside affordability and choice as follows:

~~(a)(b) there is Provide for~~ sufficient development capacity ~~to meet the needs of current and future generations, affordable including adequate housing affordability, quality and housing choice, to meet the needs of current and future generations, with~~ and access to ~~a diversity of housing typologies within neighbourhoods;~~ and

Section 32AA evaluation

65 In accordance with section 32AA, I consider that my recommended amendments to Objective 22 are most appropriate as they are minor amendments that support interpretation and consistency without altering the policy meaning considerably.

Policy 30 – Maintaining and enhancing the viability and vibrancy of regionally and locally significant centres – Owen Jeffreys

Questions on Policy 30 from Minute 14

- o) Please consider whether the words “land use activities” in the chapeau should be replaced with the broader phrase “appropriate subdivision, use and development” as supported by HCC’s planner Mr McDonnell.**
- p) Please consider an alternative term to “central business district” in Policy 30(1).**

66 In Paragraph 10 of my rebuttal evidence I recommended accepting the proposed wording amendments by Mr McDonnell (HCC) to Policy 30. This was reflected in Appendix B of my rebuttal, which showed the recommend amendments to provisions. My recommended

¹⁶ Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 - paragraph 250

¹⁷ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 - paragraph 36

¹⁸ Inclusion of housing quality into Objective 22 was sought in an original submission [S168.026].

amendments show that “land use activities” has been replaced with “appropriate subdivision, use and development” in the chapeau text (although I note an error that land use activities should be highlighted in blue and shown as strikethrough in Appendix B).

67 Furthermore clause (1) has been amended to identify “Central Wellington as the main centre of the Region” and remove “the regionally significant central business district of Wellington City”. This amendment was recommended by Mr McDonnell (HCC) in his statement of evidence.

68 I am aware that my amendments in Appendix B of my rebuttal were not reflected in the combined urban development provisions document provided prior to the hearing. This omission was by error. I therefore refer back to my recommend amendments in Appendix 2 of my rebuttal, which reflects the amendments as sought by Mr McDonnell (HCC). These amendments are shown in Appendix 1 to this right of reply as well.

Response to other matters raised on Policy 30 at the hearing

69 I do not agree with Mr Smeaton (PCC) that the identification of Johnsonville, Kilbirnie, and Petone as regionally significant centres in Policy 30 will lead to adverse effects on the function and role of other centres, which are already identified as regionally significant in Policy 30, including Porirua. In my opinion, the centres of Johnsonville, Kilbirnie, and Petone do have a strategic role in the region with public transport connections, employment opportunities, and a level of intensification enabled commensurate to their proposed zoning as Metropolitan Centres by the relevant District Plans. In general, I would anticipate these centres to grow as such regardless of their identification as regionally or locally significant in Policy 30 because of their proposed district plan zoning and associated rule frameworks, which are enabling of development and other appropriate centre activities.

70 I disagree with Mr Whittington (Kāinga Ora) that the hierarchy in Policy 30 does not appropriately achieve the purpose of the RPS under s59 of the RMA. The hierarchy, in my opinion, appropriately reflects the main centre of Wellington, the relevant regionally and locally significant centres, and the local and neighbourhood centres which provide for other residential catchments. The hierarchy recognises the function and role of the centres at a region wide level, including their contribution to “economic development, transport movement, civic or community interest”. Through requiring the vibrancy and vitality of

these centres be maintained or enhanced, I consider that giving effect to Policy 30 will achieve integrated management of centres at a region-wide level in line with the purpose of an RPS under s59 of the RMA.

71 Whilst I note that at the hearing Mr Whittington (Kāinga Ora) identified the definition standard of the National Planning Standards is applied to the RPS, I note that there are no definitions for centre zones; only descriptions of those zones. Zone descriptions are part of the District Plan Structure Standard, which under Part 17 of the National Planning Standards, GW does not need to implement in the RPS.

72 All definitions in the National Planning Standards are contained within Standard 14. Therefore, whilst I agree the RPS needs to be compliant with the National Planning Standards and the associated definitions, I do not agree that this requires the use of zoning terminology in the RPS described the National Planning Standards, as these are not definitions.

Policy 31 – Enabling intensification to contribute to well-functioning urban areas - Mika Zöllner

Questions on Policy 31 from Minute 14

o) Please consider whether Policy 31 should refer to Objective 22 in the chapeau rather than Policy UD.5

73 I do not consider it is necessary to refer to Objective 22 in the chapeau. Because Policy 31 contributes to achieving Objective 22, it is self-explanatory that the outcomes articulated in Objective 22 are being sought. The intent of the reference to Policy UD.5 is to specifically link across to Policy UD.5 for the articulation of well-functioning urban areas, similarly to the way that Policy 55 (a)(1) links to Policy UD.5. However, upon reflection I consider a reference to Policy UD.5 in the chapeau of Policy 31 is unnecessary because Policy UD.5 stands alone and will apply to intensification anyway. In response to this query, I therefore recommend the added reference to Policy UD.5 is removed from the chapeau, but not replaced with Objective 22.

p) Please consider whether the reference to “Rapid Transit” in the explanatory text to Policy 31 is clear.

74 Rapid transit service is defined in the NPS-UD as:

‘means any existing or planned frequent, quick, reliable and high-capacity public transport service that operates on a permanent route (road or rail) that is largely separated from other traffic.’

75 Rapid transit stop is defined in the NPS-UD as:

‘means a place where people can enter or exit a rapid transit service, whether existing or planned.’

76 PCC’s original submission on Policy 31 sought a definition of rapid transit to be inserted into the RPS, and for the following text to be included in Policy 31:

‘Provide for building heights of at least 6 storeys in areas that are within a walkable catchment of the edge of the Wellington city centre, or the edge of a Metropolitan centre identified in Policy 30, or an existing or planned rapid transit stop as identified in the Regional Land Transport Plan.’

77 I have explained the reasons I did not recommend a specific definition for rapid transit in my Section 42A report¹⁹, and why I considered it was more useful to make a specific connection to the RLTP in the explanation of Policy 31. It is also worth noting that rapid transit is only referred to in Policy 31 and the Chapter 3.9 introduction, so a definition may be superfluous anyway. In response, I therefore recommended that the following statement was added to the policy explanation of Policy 31:

‘Rapid transit is as identified in the current Regional Land Transport Plan.’

78 However, I agree that the reference to the Regional Land Transport Plan in the explanation is not very clear or visible. In my Section 42A report I argued that the RLTP was subject to change so may be too uncertain to include in a definition or the policy itself. However, upon reflection I consider it is appropriate because the RLTP will be updated periodically with the involvement of all territorial authorities via the Regional Transport Committee. To improve clarity, I therefore recommend that the reference to the RLTP is shifted to be in the policy proper, similar to what was sought by PCC’s original submission. The following analysis informs the specific wording that I recommend is added to Policy 31.

¹⁹ Section 42A Hearing Report – Hearing Stream 4 - paragraph 405

79 The RLTP identifies the existing rapid transit network in the Wellington Region, as well as planned activities such as the Let's Get Wellington Moving mass-rapid transit corridor. The RLTP itself recognises its direct connection to NPS-UD Policy 3. It states:

'The NPS-UD introduces a new requirement for Wellington's regional policy statement and the district plans of Wellington City, Hutt City, Upper Hutt City, Porirua City and Kāpiti Coast District to enable building heights of at least six storeys within at least a walkable catchment of current and planned rapid transit stops. This means that rapid transit has a connection to the land-use controls in these RMA documents. However, whether or not intensification is appropriate around rapid transit stops will be considered as part of each council's district plan processes. The RLTP and the Wellington Region's RMA documents work together to enable more people, businesses and community services to be located in areas well-served by existing and planned public transport.²⁰

80 The RLTP is therefore, in my view, appropriate to refer to in Policy 31 as the regional document identifying the existing and planned rapid transit network.

81 I therefore consider that the text I recommended adding to the policy explanation is shifted to be in the policy itself. Because NPS-UD Policy 3 states, 'rapid transit stops', which have a distinct definition and are not identified by the RLTP, I consider that the rapid transit stops and rapid transit networks should be clearly distinguished. This wasn't necessary in prior versions of Policy 31 because the reference was non-specific, however it would now need to be more nuanced. I therefore recommend that the wording of clause (a)(ii)(1) should be amended as follows:

existing and planned rapid transit stops, along networks identified as existing and planned rapid transit in the current Regional Land Transport Plan

82 In my opinion this wording is consistent with the RLTP and the NPS-UD. I do not consider that the recommended amendment alters the meaning of the policy given the text was already in the explanation, and that it rather supports clarity.

q) Please consider alignment between Policies 30 and 31 and advise whether further changes are required.

²⁰ Regional Land Transport Plan Appendix A – Strategic context, page 129, <https://www.gw.govt.nz/assets/Documents/2021/10/Wellington-Regional-Land-Transport-Plan-2021web.pdf>

83 In my view the policies are aligned to the extent that they should be, and I do not consider further amendments are necessary to align them. Owen Jeffreys has discussed Policy 30 further in paragraphs 13-17 and 66-72.

84 Policy 31 uses National Planning Standards terminology (e.g. metropolitan centre zone, town centre zone) to give effect to NPS-UD Policy 3, while Policy 30 does not use National Planning Standards terminology in identifying a regional centres hierarchy. This means that the two policies do not directly affect each other through using identical terminology, and this was the intent when Change 1 was notified. The amendments made to Policy 30 were not to give effect to the NPS-UD, and Policy 30 is an enabling policy to support the viability and vibrancy of centres in the Wellington Region. If the policies were to be aligned, the result would be an RPS that is much more directive regarding specific locations and levels of intensification than what was notified. As suggested by the responses from territorial authorities to Minute 14²¹, this may require plan changes to amend building heights and densities enabled in different centres.

Response to other matters raised on Policy 31 at the hearing

85 To further respond to the discussion on centres at the hearing, my opinion on the relief sought by Matt Heale (Kāinga Ora) to Policy 31 is as follows:

- The relief sought that Matt Heale (Kāinga Ora) is seeking to Policies 30 and 31 covers three distinct but related matters, which are:
 1. Whether Policy 30 should use National Planning Standards terminology (e.g. metropolitan centre zone, town centre zone) or not.
 2. Which centres should be identified in Policy 30's hierarchy, and at what level.
 3. Whether Policy 31 should direct high density development in 'town centre zones in larger urban areas'.
- I note that Minute 14 did not request that territorial authorities respond to the specific amendments to Policy 31 sought by Matt Heale (Kāinga Ora), and focused

²¹ Discussed in paragraphs 12-17 of this Reply.

on Policy 30. This means that territorial authorities have not provided comments on matter (iii) above.

- I still do not agree with Matt Heale’s view that the RPS should specify high density development in some town centre zones, which would go further than the minimum NPS-UD direction in Policy 3. Matt Heale (Kāinga Ora) refers to the district plan Intensification Planning Instrument Section 42A recommendations to justify the relief sought. I maintain my view that this direction is better determined through district plan processes, where appropriate building heights and densities, that are commensurate with the level of commercial activity and community services, have been determined in detail for each centre. I consider this is the most appropriate way for NPS-UD Policy 3 to be given effect, and that this view is broadly in alignment with the responses received from territorial authorities on Policy 30.
- Policy 31 gives effect to NPS-UD Policy 3 directly through clause (a), and this is clearer in the new structure I have recommended in my Section 42A report²². The direction from Policy 3 to, ‘enable... within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services’ is given effect through clause (a)(iv) below, and this is sufficient in my view:

For any tier 1 territorial authority, identifying a range of building heights and urban form densities to:

...

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

- The amendments to Policy 31 sought by Matt Heale (Kāinga Ora) would likely need to be accompanied by their relief sought on Policy 30, because what ‘town centre zones in larger urban areas’ means in practice, would not make sense without amending the hierarchy in Policy 30. Because Mr Jeffrey is not

²² Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 - paragraphs 399-400

recommending that the relief to Policy 30 is accepted (see paragraphs 14-17 of this Reply), I also do not recommend that the relief to Policy 31 is accepted.

86 I agree with the relief sought by Matt Heale (Kāinga Ora)²³ to add 'at least' to clause (a)(ii). This supports better alignment with NPS-UD Policy 3, so I recommend this is added.

87 During the hearing, the Panels queried the use of 'adjacent to' in Policy 31. I understand that there will be legal submissions filed on this matter, to distinguish the use of 'adjacent' from 'adjoining'. I note that while clause (b)(i) refers to intensification 'within, and adjacent to' town centres, clause (a)(iv) only refers to 'within' town, local and neighbourhood centres. For consistency in the policy structure, and consistency with Policy 3 (d) of the NPS-UD, I recommend that clause (a)(iv) is amended to state, 'within and adjacent to'.

88 I also recommend a minor amendment to the policy to add an 'and' after clause (a)(ii) for consistency with the rest of the policy structure.

Section 32AA evaluation

89 In accordance with section 32AA, I consider that my recommended amendments to Policy 31 are most appropriate as they support clarity and therefore more effective and efficient implementation.

Policy 55 - Managing greenfield development to contribute to well-functioning urban areas and rural areas - Mika

Questions on Policy 55 from Minute 14

t) Does a requirement in Policies 55(b) and 56(h) [and] (i) for greenfield development and subdivision, use and development in rural areas to be 'consistent with' the FDS (as a consideration requirement in consent assessments, plan changes etc) give proper and lawful effect to the NPS-UD? Can Council please consider clause 3.17 of the NPSUD when responding to this issue.

90 Under clause 3.17 of the NPS-UD, every tier 1 and tier 2 local authority is required "to have regard to the relevant FDS when preparing or changing RMA planning documents". This direction therefore applies to district plan changes and reviews. The NPS-UD does not

²³ Page 6 of Matt Heale's speaking notes for Hearing Stream 4.

provide any direction in relation to the FDS when considering resource consent applications or notices of requirement.

91 Because Policy 55 applies to district plan changes and reviews as well as resources consents and notices of requirement, the direction in clause 3.17 should be consistent with the direction to RMA planning documents. I therefore recommend that the wording 'consistent with' is replaced with 'has regard to'.

92 I note that I had recommended the addition of, 'the [Wellington Region](#) Future Development Strategy...' in my Section 42A report²⁴. The FDS, as it was notified on 9 October 2023, includes Horowhenua district which is not in the Wellington Region. I therefore consider that for accuracy the reference to 'Wellington Region' should not be included in this clause.

Response to other matters raised on Policy 55 at the hearing

93 I consider that the above recommended amendment to the Future Development Strategy clause of Policy 55 addresses the concerns raised by several submitters regarding the responsive planning pathway. The recommended wording of clause (b) will not prevent unanticipated or out-of-sequence plan changes from being able to meet it.

94 In response to question hh) from Minute 14 on Policy UD.3, I have recommended amendments to the chapeau of Policy UD.3 to align with wording sought by Torrey McDonnell (HCC) (see paragraphs 143-148 of this Reply). These amendments include specific wording from clause 3.8 of the NPS-UD. For consistency and simplicity for plan users, I recommend that consequentially the wording in Policy 55 (d) is simplified to avoid potential inconsistency with the chapeau of Policy UD.3.

95 I therefore recommend that clause (d) of Policy 55 is amended as follows:

(d) for a plan changes, it would add significantly to development capacity in accordance with Policy UD.3, even if it is out of sequence with planned land release or unanticipated by the district plan.

²⁴ Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 - paragraphs 549-550

- 96 Gabriela Rojas (UHCC) raised a concern regarding settlement zones and how they fit into Policy 55. Settlement zones are defined in the National Planning Standards as ‘Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments’.
- 97 I have heard and considered the points raised by Gabriela Rojas (UHCC) regarding settlement zones and their interaction with Policy 55. I acknowledge that the question of whether settlement zones are urban or rural is a complex matter with a variety of approaches taken by district plans across the region. However, I maintain the view stated in my rebuttal²⁵ that settlement zones should not be considered urban zones. Defining settlement zones as urban would suggest that intensification within them is encouraged, which is generally not the case for these areas (e.g. Riversdale).
- 98 I also do not consider that settlement zones should be exempt from Policy 55 if urban development is occurring in them. As Policy 55 is currently drafted, if urban development (as defined in the operative RPS) is occurring on land already zoned as settlement, this is considered to be greenfield development and is therefore subject to both Policies 55 and 56. In my opinion this is fine and does not require amendment. Given that I consider settlement zones to be a predominantly rural land use, undertaking urban development in them should be considered as ‘urbanising’, and therefore be subject to Policy 55.
- 99 In the below table I have summarised the district plans in the region that contain settlement zones, and their approach to the level of density permitted in this zone. It is evident that the zone is generally intended for small settlements in a rural or otherwise isolated context. With the exception of Castlepoint, for which the Proposed Wairarapa Combined District Plan permits a more ‘urban’ density of 400m², the anticipated allotment size tends to be more in the order of that in rural lifestyle zones than residential zones. I note that UHCC included settlement zones as part of their rural review, and settlement zones are included in the ‘Subdivision in Rural Zones’ chapter.
- 100 I do acknowledge that in some existing settlements, such as Castlepoint, there might be existing lots of 400m² size which would be considered to be ‘urbanised’ relative to the

²⁵ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 - paragraph 57

surrounding rural context. Nevertheless, for the purpose of the RPS Change 1 policies, I consider that settlement zones should be considered outside of the urban extent.

	Upper Hutt City Proposed District Plan Change 50 – Rural Review	Wairarapa Proposed Combined District Plan	Porirua City Proposed District Plan
Application of settlement zone	Areas around Maymorn Station	Ngawi, Cape Palliser, Castlepoint, Lake Ferry	Pāuatahanui Village
Minimum allotment size or net size area for settlement zone	2000m ²	400m ² in Masterton district 1000m ² in South Wairarapa district	3000m ²
Average allotment size for settlement zone	None	None	Minimum average of 1ha
Minimum allotment size for rural lifestyle zone	3000m ²	0.5ha	2ha
Minimum allotment size for general residential zone	400m ²	350m ²	400m ²

101 Melanie McCormick (Ātiawa) opposed the amendments to Policy 55(c) on structure planning which I recommended in my rebuttal evidence. My Section 42A report²⁶ had initially recommended that the following statement was added to clause (c) in response to submissions from UHCC and KCDC:

(c) a structure plan has been prepared and approved by the relevant city or district council, or prepared by the relevant city or district council in partnership with mana whenua / tangata whenua and in consultation with the regional council

102 A number of submitters expressed concern about the first part of this addition in particular (and approved by the relevant city or district council) as being too onerous and impractical. They also generally expressed concern that the expectation for all consents and plan changes to prepare a structure plan was not feasible. In my rebuttal²⁷ I maintained that clause (c) should apply in all instances, including for responsive planning,

²⁶ Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 - paragraphs 552-552

²⁷ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 - paragraphs 123-125

however I agreed that the clause (as amended by my Section 42A report) was too detailed and that this may be better left to city and district councils to determine the process for preparing structure plans. In response I therefore recommended that the recommended additions were replaced with, 'to a level of detail commensurate to the scale of the urban development.'

103 As far as I'm aware there were no specific concerns raised with the recommended addition for city and district councils to partner with mana whenua / tangata whenua when preparing a structure plan. Rory Smeaton (PCC) sought that wording was removed without providing a specific reason, beyond generally citing complexity and need for refinement.

104 I therefore agree with Ātiawa that the direction for partnership with mana whenua / tangata whenua when a local authority is preparing a structure plan, should be reinstated into clause (c). In my view this is consistent with the partnership approach taken by Change 1, and better contributes to achieving Objective 22(b). I recommend that clause (c) is amended as follows:

(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 approved by the relevant city or district council, or prepared by the relevant city or district council in partnership with mana whenua / tangata whenua and in consultation with the regional council; and/or

Section 32AA evaluation

105 In accordance with section 32AA, I consider that my recommended amendments to Policy 55 are most appropriate as they support clarity and address outstanding matters of contention raised by submitters. The recommended amendments regarding the Future Development Strategy support consistency with the NPS-UD and the notified Future Development Strategy.

Policy 56 – Managing development in rural areas - Owen Jeffreys

Questions on Policy 56 from Minute 14

t) Does a requirement in Policies 55(b) and 56(h) [and] (i) for greenfield development and subdivision, use and development in rural areas to be ‘consistent with’ the FDS (as a consideration requirement in consent assessments, plan changes etc) give proper and lawful effect to the NPS-UD? Can Council please consider clause 3.17 of the NPSUD when responding to this issue.

106 Ms Zöllner has addressed this question in relation to Policy 55 in paragraphs 90. I agree with the response provided by Ms Zöllner, which is also relevant for Policy 56, and recommend removing ‘consistent with’ to achieve consistency with the NPS-UD, including Clause 3.17.

u) Should Policy 56 also refer to NoRs? Is there scope to make this amendment through the relief on the IM provisions in HS2.

107 I note that the Operative Policy 56 does not apply to Notices of Requirement (NoRs). There is the potential that relevant requiring authorities could apply for a NoR within rural areas but in general I do not consider that Policy 56 does need to refer to NoRs. There has been no evidence to date of resource management issues arising from NoR applications in the rural area and development within the rural area associated with a NoR may still require a regional resource consent. I also note that amending the policy to include NoRs at this stage would not provide the opportunity for requiring authorities to provide comment, unless this was directed by the Panel to be considered through Hearing Stream 7 as an integration matter.

108 In relation to the scope of making this change, I have reviewed the relief sought on provisions in Hearing Stream 2 and have not identified any scope to make changes to Policy 56. I note that in the evidence of Ms Horrox on behalf of Wellington Water for Hearing Stream 4, she has identified that some policies require consideration of NoRs, and some do not²⁸. However, Ms Horrox has not requested any specific relief to include NoRs in Policy 56. On this basis, I have not identified that there is any scope in submissions to include NoRs in Policy 56.

v) Please consider whether Policy 56 (j) could be worded differently as it seems slightly disjointed from the chapeau.

²⁸ Statement of evidence of Caroline Horrox on behalf of Wellington Water, 15 September 2023, Paragraph 29

109 Clause (j) has been worded to flow from clause (i), which ends in an “or”, and as a result the wording does not directly flow from the chapeau text.

110 However, I agree that the wording could be improved. My recommended amendments to improve the wording are shown below, and merge clause (j) with clause (i), with two subclauses to clause (i).

~~(i)-(d)~~ for other development ~~rural residential~~, ~~the proposal~~:

- i. ~~has regard to is consistent with any the~~ Future Development Strategy, or, if the Future Development Strategy has not been notified, the city or district Council’s regional or local strategic growth and/or development framework or strategy that addresses future rural development in that district or region should the Future Development Strategy be yet to be released; or
- ii. ~~where inconsistent with the Future Development Strategy in the absence of a framework or strategy, the proposal would~~ increase pressure for public services and ~~infrastructure~~ beyond existing ~~infrastructure~~ capacity; ~~and~~

Response to other matters raised on Policy 56 at the hearing

111 The Panels identified an inconsistency in wording between policies 55 and 56, specifically in relation to the respective clauses on consistency with the FDS (55(b) and 56(i)). In response, I have recommended amendments (refer paragraph 28) to align the wording of clause (i) in Policy 56 with the wording in Policy 55.

112 Ms Rojas (UHCC) considered that it was unlikely that any future FDS under the current legislation would seek to manage rural-residential development. I agree with Ms Rojas on this point, however I maintain that under the current version of the NPS-UD, specifically clause 3.12(2), the FDS can apply to a wider area beyond relevant tier 1 and 2 urban environments, including the rural environment. Additionally, under clause 3.13(2)(a), the FDS must identify the broad locations where development capacity must be provided in both existing and future urban areas. I therefore consider that any future FDS could provide direction to rural areas, which could include where future urban development should occur. In this instance the FDS would then provide high level direction on where it would be inappropriate to provide for rural residential development to occur due to its identification as a future urban area within an FDS.

113 I also disagree with the interpretation of Ms Rojas that the direction in Policy 56 would require the development of a rural residential growth strategy, as the policy does not direct this. If there is no relevant direction in the FDS, then the policy only directs that the effects of development on public services and infrastructure capacity is considered.

114 Mr Lewandowski (Summerset Group Holdings and Peka Peka Farms Ltd) maintains that clause (a) should be deleted due to the interim framework of the NPS-HPL. I maintain that this clause is appropriate for retention as it is broader in its consideration of the productive capability of the rural area than the NPS-HPL, as stated in my rebuttal evidence²⁹.

115 Ms McGruddy (Wairarapa Federated Farmers) questioned the scope and location of Policy 56 within the RPS. Ms McGruddy stated that in the Operative RPS, Policy 56 is limited to only considering rural-residential development. I disagree as the explanation text for the operative Policy 56 states “This policy relates to urban development and rural residential development”. I do not consider it would be appropriate for the policy to ignore urban development in rural areas, given the potential effects of such development on rural values which the policy addresses. Policy 56 should therefore continue to manage both urban and rural-residential development and the associated effects of both on the rural environment.

116 I also consider that the policy is appropriately located within the ‘regional form’ chapter of the RPS given its purpose of managing both urban and rural-residential development in rural areas, which contribute to achieving Objective 22. In my opinion, it is illogical for the regional form chapter to only focus on urban development given the contribution that rural development makes to regional form.

117 Whilst Ms McGruddy does not consider that amendments to Policy 56 are necessary through this plan change, I do not agree and consider that the amendments to Policy 56 improve the phrasing and interpretation of the policy. The proposed amendments also strengthen the policy consideration of matters such as Te Mana o Te Wai, climate resilience, and mana whenua / tangata whenua values, which are relevant for the rural area and respond to regionally significant matters and Objective 22.

²⁹ Owen Jeffreys Statement of Rebuttal Evidence – Hearing Stream 4 – Urban Development – Paragraph 42

Policy 57 – Integrating land use and transportation - Owen Jeffreys

Questions on Policy 57 from Minute 14

w) Please liaise with s 42A author Ms Allwood (HS3 – Transport) to understand the amendments (if any) she is proposing to Policy CC.9 in her reply evidence. Please consider whether Policy 57 would need to be amended to achieve consistency with Policy CC.9. It may be that this issue of integration between these and related provisions, needs to occur during HS7.

118 I have liaised with Ms Allwood who has confirmed that no commentary or amendments to Policy CC.9 have been made in her right of reply, however recommended amendments to Policy CC.9 were proposed through the Joint Witness Statement³⁰. The agreed amendments to Policy CC.9 in the Joint Witness Statement were:

- a. the term ‘contributes to reducing’ used in Policy CC.9 should be replaced with the term ‘supports reductions in’, noting this achieves consistency with the agreed amendments to Policy CC.1;
- b. the term ‘from transport’ should be added after the words ‘greenhouse gas emissions’ in the policy; and
- c. comparable amendments should be made to the Policy explanation such that it reads:

This policy requires... options to ~~reduce~~ support reductions in greenhouse gas emissions from transport ...

119 I consider that the wording in clause (f) of Policy 57 is already consistent in intent with the wording in Policy CC.9 (e.g. support the move towards low and zero-carbon modes).

120 I acknowledge that Policy CC.9 speaks to maximising mode shift from private vehicles to public transport whilst Policy 57(f) speaks to minimising private vehicle use and trip length whilst supporting mode shift to public transport. However, I consider that the wording of Policy 57 is appropriate to be retained. In my opinion minimising private vehicle use and trip length is appropriate direction when considering the integration of land use and

³⁰ Joint Witness Statement of Planning Experts – Climate Change- Transport, 27 September 2023, Paragraph 48

transport, including from a spatial perspective where development should be located where the connectivity with public services or activities and key centre of employment and retail activity is supported, as per clause (e). This contributes to achieving well-functioning urban environments.

121 I do not consider that the policy should be exclusively focused on maximising public transport use as per the wording of Policy CC.9, which is more appropriate given the purpose of Policy CC.9 in reducing greenhouse gas emissions from transport, which maximising public transport use can achieve as well a supporting mode shift to walking and cycling which is also addressed through Policy CC.9.

x) Please consider whether the words “in a way which” in the chapeau could be replaced with “to” or whether any policy intent is lost through this re-wording.

122 I do not consider that there will be any policy intent lost through replacing “in a way which” with “to” in the chapeau text, and that using “to” is potentially clearer on the purpose of integrating land use and transport. On this basis I have recommended amendments to Policy 57 to this effect.

y) Please consider the numbering in Policy 57. The present numbering (d) to (i) address different considerations from those in (a) to (c) so it may be that alternate numbering is appropriate.

123 I have recommended amendments to change the lettering of (a) to (c) to numbers (1 to 3), to differentiate from the matters considered through the policy following the chapeau text.

Response to other matters on Policy 57 raised at the hearing

124 I note that Mr Lewandowski (Summerset and Peka Peka Farms Ltd) queried whether the drafting of the amended chapeau could be improved for Policies 57 and 58, where I recommended amendments in response to the relief sought by Ms Heppelthwaite (Waka Kotahi). I consider that it would be difficult to amend the chapeau text without subsequently losing the clarity that the amended chapeau seeks to provide, due to the different weighting which applies for the various applications which would be assessed against this Policy (resource consents, notices of requirement, change, variations, or reviews of District Plans). I therefore do not consider that the chapeau should be amended

further. I recognise that there may be opportunities to improve chapeaus consistently through Hearing Stream 7 – Integration.

Policy 58 – Co-ordinating land use with development and operation of infrastructure - Owen Jeffreys

Questions on Policy 58 from Minute 14

z) Please provide your views on whether “infrastructure” in (f) includes public transport and ‘mode shift’ infrastructure e.g. cycle path infrastructure.

125 Infrastructure is a defined term under the Operative RPS. The definition of Infrastructure has not been amended or deleted through Change 1 (although the definition of Regionally Significant Infrastructure has been amended). The definition of Infrastructure under the RPS is as per the definition of infrastructure in the RMA³¹.

126 Clause (g) of the definition includes:

‘structures for transport on land by cycleways, rail, roads, walkways, or any other means’

127 Whilst this definition appears to include the infrastructure required to provide for public transport, it is not explicit that it is inclusive of public transport itself. Neither is the

³¹ Infrastructure includes:

- (a) pipelines that distribute or transmit natural or manufactured gas, petroleum, or geothermal energy;
- (b) a network for the purpose of telecommunication as defined in section 5 of the Telecommunications Act 2001;
- (c) a network for the purpose of radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989;
- (d) facilities for the generation of electricity, lines used or intended to be used to convey electricity, and support structures for lines used or intended to be used to convey electricity, excluding facilities, lines, and support structures if a person:
 - (i) uses them in connection with the generation of electricity for the person’s use; and
 - (ii) does not use them to generate any electricity for supply to any other person:
- (e) a water supply distribution system, including a system for irrigation;
- (f) a drainage or sewerage system;
- (g) structures for transport on land by cycleways, rail, roads, walkways, or any other means;
- (h) facilities for the loading or unloading of cargo or passengers transported on land by any means;
- (i) an airport as defined in section 2 of the Airport Authorities Act 1966;
- (j) a navigation installation as defined in section 2 of the Civil Aviation Act 1990;
- (k) facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in section 2(1) of the Port Companies Act 1988;
- (l) anything described as a network utility operation in regulations made for the purposes of the definition of “network utility operator” in section 166 of the Resource Management Act.

definition explicit in that public transport is not included in the definition. As infrastructure is italicised within Policy 58, the definition for the term is applied.

128 The explanation text for the policy does however provide clarity by specifically stating that “low or zero carbon, multi modal and public transport infrastructure” is included in the scope of the policy. This would include cycle path infrastructure, captured under the definition of infrastructure. I consider that this clarification in the explanation text is sufficient to confirm that the policies approach to considering infrastructure does include public transport.

aa) Please consider the numbering in Policy 58. The present numbering (d) to (i) address different considerations from those in (a) to (c) so it may be that alternate numbering is appropriate.

129 I have recommended amendments to change the lettering of (a) to (c) to numbers (1 to 3), to differentiate from the matters considered through the policy following the chapeau text.

Policy UD.1 – Providing for the occupation, use, development and ongoing relationship of mana whenua / tangata whenua with their ancestral land - Owen Jeffreys

Questions on Policy UD.1 from Minute 14

bb) Please consider whether it is appropriate to use the term “ancestral land” from s 6(e), RMA in Policy UD.1 and/or UD.2

130 Policy UD.1 does use the term “ancestral land” as per s 6(e). The use of the term in this policy is considered appropriate as the policy specifically seeks to provide for the ongoing relationship of mana whenua / tangata whenua with their ancestral land and in my interpretation, this policy directly provides for matter 6(e). I consider that if the policy did not use the term “ancestral land”, then it would not appropriately recognise the importance and status of ancestral land to mana whenua / tangata whenua, and the policy would not efficiently give effect to s 6(e).

Policy UD.2 – Enable Māori to express their culture and traditions – Mika Zöllner

Questions on Policy UD.2 from Minute 14

bb) Please consider whether it is appropriate to use the term “ancestral land” from s 6(e), RMA in Policy UD.1 and/or UD.2

131 I agree that this policy should be consistent with section 6(e) of the RMA, which was the intent of this policy. I therefore recommend that the policy is amended to refer to ancestral lands.

cc) Policy UD.2 uses the phrase “seek to enable Māori to express their culture..”. An iwi submitter supported strengthening this wording during the hearing. Please consider.

132 I agree with the view expressed in the hearing that ‘seek to enable’ potentially weakens the policy direction compared to simply enabling, because it does not necessarily mean that the outcome sought by the policy will occur. I consider that it would be clearer and more aligned with the wording of Objective 22(b) for the policy to state, ‘enable Māori to express their culture and traditions’. This represents stronger policy direction with a clear outcome sought, and in a practical sense I do not consider it changes the process an applicant would go through.

133 I also note that for resource consents, Policy UD.2 must be had regard to, while district plan changes must give effect to the policy. In my opinion it is clearer for plan users to state the intent of Policy UD.2 with certainty. I therefore recommend that the policy chapeau is amended as follows:

When considering an application for a resource consent, notice of requirement, or a ~~plan~~ change of a district ~~plan for subdivision, use or development, particular regard shall be given the ability~~ seek to enable Māori to express their culture and traditions in land use and development by, as a minimum...

134 I also consequentially recommend the following amendment to the explanation of Policy UD.2:

Policy UD.2 enables ~~supports~~ Māori to express...

dd) Please consider rephrasing the explanatory text of Policy UD.2 so it is consistent with the policy heading i.e. ‘express their culture and traditions’.

135 I agree the explanation should be amended for consistency with the policy heading and chapeau, and recommend these amendments as sought by Melanie McCormick (Ātiawa).

Response to other matters raised on Policy UD.2 at the hearing

136 In response to the request by Melanie McCormick (Ātiawa) that the capitalisation of some kupu Māori is re-considered, I recommend that consideration of the approach to capitalising kupu Māori is addressed in Hearing Stream 7 on integration, because it applies to all hearing streams.

137 I also note that the second sentence in the explanation of Policy UD.2 now duplicates clause (b) of Policy UD.2, and I recommend it is deleted.

Section 32AA evaluation

138 In accordance with section 32AA, I consider that my recommended amendments to Policy UD.2 are most appropriate as they support clarity of the policy intent, and thereby effective and efficient implementation to achieve this intent.

Policy UD.3 – Responsive planning to plan changes that provide for significant development capacity – Mika Zöllner

Questions on Policy UD.3 from Minute 14

ee) We have read the legal submissions of Council regarding Policy UD.4 and the planning evidence for Summerset Group Holdings Limited. Does Counsel consider that changes are required to Policy UD.3 in light of the concerns raised by submitters (in particular Mr Lewandowski on behalf of Summerset and Peka Peka Farm Limited) that the responsive planning provisions in HS4 do not give proper effect to the NPSUD?

139 This question is addressed to Counsel so will be responded to in legal submissions.

140 I note that I have recommended amendments to clause (b) of Policy 55 regarding the Future Development Strategy, which was a focus of concerns regarding responsive planning during the hearing.

ff) Can Ms Zöllner please consider whether Policy UD.3(c) could be simplified by using wording along these lines: “a plan change will make a significant contribution under (a) if it....”. There seems to also be a problem with the ‘flow’ from the chapeau to Policy UD.3(c).

141 I agree that this clause could flow better and recommend it is re-worded as suggested. To improve the way that this clause flows from the chapeau and clause (a), I recommend it is shifted up to follow directly from clause (a), as shown in Appendix 1.

gg) Is Policy UD.3(c)(iii) intended to capture community facilities? If so, are the words “housing or business types” too narrow? And do the words “in that particular location” in that subclause accurately capture the policy intent or are they too narrow?

142 Yes, I agree that this text should be amended to say, ‘land use types’ as it is not necessary to constrain this direction. Although Housing and Business Development Capacity Assessments generally focus on demand for housing and business use, there may be some otherwise demonstrated demand for community facilities that is being responded to. This scope is recognised in the wording of clause (a)(iii), which includes, ‘community, cultural, health, or educational facilities’. I therefore consider it is unnecessary to specify housing and business only in clause (c)(iii) (now shown as (b)(iii) in Appendix 1), and I recommend that ‘housing or business types’ is replaced with ‘the land use types’. This amendment supports consistency throughout Policy UD.3 by aligning with (a)(iii).

hh) Please consider the revised wording to Policy UD.3 providing by Hutt City Council.

143 I have considered the amended wording provided by Torrey McDonnell (HCC). I note that I had already recommended some amendments to align with the relief sought in my rebuttal.

144 Upon reflection since the hearing, I consider the amended chapeau recommended by Torrey McDonnell (HCC) is clearly worded and generally aligned with NPS-UD clause 3.8(3). To support clarity, I therefore recommend further amendments to align the chapeau of Policy UD.3 to the wording sought by Torrey McDonnell (HCC), with a few exceptions.

145 In my view it is important to clarify that the responsive planning pathway only applies to urban development (given the fact that the NPS-UD does not address rural development) and to local authorities with jurisdiction over part or all of an urban environment, or whose decisions affect an urban environment. Clause 1.3 of the NPS-UD states:

(1) This National Policy Statement applies to:

- a) *all local authorities that have all or part of an urban environment within their district or region (ie, tier 1, 2 and 3 local authorities); and*
- b) *planning decisions by any local authority that affect an urban environment...*

146 I also do not consider that the criteria should be ‘applied’ as sought by Torrey McDonnell (HCC). As I discuss in my rebuttal³², I consider that it is clearer and more certain to say that the criteria must be met, and that this is consistent with the NPS-UD. Clause 3.8(2) and (3) of the NPS-UD state (my emphasis in underline):

(2) Every local authority must have particular regard to the development capacity provided by the plan change if that development capacity:

- a) *would contribute to a well-functioning urban environment; and*
- b) *is well-connected along transport corridors; and*
- c) *meets the criteria set under subclause (3).*

(3) Every regional council must include criteria in its regional policy statement for determining what plan changes will be treated, for the purpose of implementing Policy 8, as adding significantly to development capacity.

147 I therefore recommend that the chapeau of Policy UD.3 is amended as follows:

For local authorities with jurisdiction over part, or all, of an urban environment, W~~hen determining considering whether a plan change of a district plan for a urban development in accordance with clause (d) of Policy 55, particular regard shall be given to whether will be treated as addings significantly to development capacity that is not otherwise enabled in a plan or is not in sequence with planned land release,~~ the following criteria is must be met:...

148 Most of the other wording amendments sought by HCC are already included my recommended amendments, the exceptions being where I do not support the amendments as follows:

- I do not support the amendments to clause (a) which I have not already recommended are accepted, for the reasons outlined in paragraphs 481 and 483 of my Section 42A report.

³² Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 - paragraph 142

- I do not support the amendments to clause (d) as I consider this weakens the specific direction that the capacity already committed to planned urban development should not be materially affected. The relief sought makes this direction too high-level and more in line with an objective in my view.
- I do not support the removal of clauses (e) and (f) for the reasons expressed in paragraphs 151-154 of my rebuttal evidence.

149 I therefore do not consider that further amendments to Policy UD.3 are necessary to align with the drafting sought by Torrey McDonnell (HCC).

Response to other matters raised on Policy UD.3 at the hearing

150 With regard to whether the responsive planning pathway is appropriately provided for, which was a topic of significant discussion at the hearing, I will just make a few final comments to assist the Panels:

- The direction from the NPS-UD is that (my emphasis), ‘Every local authority must have particular regard to the development capacity provided by the plan change...’. This is the extent of what the responsive planning pathway is; the development capacity provided by a plan change is to be given particular regard.
- This does not mean that any plan change providing significant development capacity must always be able to be accepted. In my opinion in reading NPS-UD clause 3.8, responsive planning is intended to apply to plan changes that meet a high standard; it isn’t intended to automatically apply to any private plan change because it is out-of-sequence or unanticipated.
- In my view the way that Policy 55 is structured adequately provides for ‘having particular regard’ to development capacity under NPS-UD clause 3.8. Whether a plan change adds significantly to development capacity is a matter of consideration (through clause (d)) alongside other tests applying to greenfield development. These other tests include whether it would contribute to well-functioning urban environments, and whether it is well-connected along transport corridors, alongside other tests applied by the RPS to implement its objectives.

Policy UD.4 also specifically identifies unanticipated or out-of-sequence urban development (both greenfield and brownfield).

- I therefore consider that the RPS gives effect to clause 3.8 of the NPS-UD, and is able to set a high bar for out-of-sequence and unanticipated plan changes in order to achieve a compact, well-designed, climate-resilient, accessible, and environmentally responsive regional form.
- I also consider that the amendments made to Policy 55(b) on the Future Development Strategy should address several concerns raised regarding the responsive planning pathway.

151 At the hearing Commissioner Wratt asked whether there could be a less clunky heading for Policy UD.3; in particular whether, ‘responsive planning to plan changes’ (my emphasis) could be amended³³. I have given this some thought and consider that one option would be to remove the reference to ‘responsive planning’. Although this term comes from the NPS-UD and would be useful to reference, I do not consider it to be necessary. The actual act of undertaking responsive planning occurs through Policy 55(d) where the development capacity provided by such a plan change is considered, alongside whether it contributes to a well-functioning urban environment and is well-connected along transport corridors. The way that Policy UD.3 has been amended means it is now solely focused on the criteria for what will be treated as adding significantly to development capacity. I therefore consider a more accurate, and less clunky, heading for Policy UD.3 would be:

Policy UD.3: ~~Responsive planning to Plan~~ changes developments that provide for significant development capacity – consideration

152 During the hearing Commissioner Nightingale asked whether the reference to demand ‘in that particular location’ in Policy UD.3(c)(iii) (now (b)(iii) in Appendix 1) was too specific, and whether it should be broadened for greater workability³⁴. I had initially intended this phrase to apply at a scale commensurate to the availability of information on demand for particular land uses. The detail at which this information is available will vary across the region. Housing and Business Demand Capacity Assessments tend to operate at the

³³ Rows 1407-1422 of the hearing transcription for RPS Change 1 Hearing Stream 4.

³⁴ Rows 1447-1496 of the hearing transcription for RPS Change 1 Hearing Stream 4.

territorial authority level, with demand projections undertaken at the SA2 scale, however this varies. For example, in the 2023 HBA housing demand forecasts³⁵, Wellington city is split into seven housing catchments, Masterton is split into two housing catchments (urban and rural), and Porirua has housing demand forecasts by typology across 24 different areas.

153 I therefore think the wording should imply that the most detailed scale of information available should be used, yet it should still provide for flexibility if detailed demand information isn't available. In response to discussion at the hearing, I therefore recommend the following amendment:

'...for the short-medium term in that ~~particular location is likely to be taken up; and~~'

154 During the hearing Commissioner Nightingale questioned whether the reference to 'realisable development capacity' in clause (e) is a clear and certain enough term³⁶. To improve consistency with the NPS-UD and consequentially the certainty of this reference, I recommend that this is replaced with 'feasible, reasonably expected to be realised'. This concept and how it is assessed is articulated in clause 3.26 of the NPS-UD. As a consequential amendment, I consider that clause (d) should also be amended for consistency with this wording, as follows:

(d) the required ~~development infrastructure~~ can be provided effectively and efficiently for the proposal, and without material impact on the ~~capacity provided by existing or committed development infrastructure -planned development infrastructure provision to, or reduction in development infrastructure capacity available for,~~ other feasible, reasonably expected ~~likely~~ to be realised developments, in the short-medium term, and

(e) the plan change ~~proposal~~ justifies the need for additional ~~urban-zoned land in that particular location as the most appropriate option to meet housing and business demand, demonstrating including consideration of existing~~ feasible, reasonably expected to be realised ~~realisable development capacity enabled within existing urban zones the urban area, and~~

³⁵2023 Housing and Business Development Capacity Assessment, <https://wrlc.org.nz/wp-content/uploads/2023/10/Wairarapa-Wellington-Horowhenua-Housing-and-Business-Assessment-2023-Full-Report-excluding-Appendices.pdf>

³⁶

Section 32AA evaluation

155 In accordance with section 32AA, I consider that my recommended amendments to Policy UD.3 are most appropriate as they support clarity and consistency with the NPS-UD, and address outstanding matters of contention raised by submitters. They do not considerably alter the meaning of the policy.

Policy UD.4 – Mika Zöllner

Questions on Policy UD.4 from Minute 14

ii. In accordance with WWL’s request, please provide a wire diagram showing how the provisions in HS4 relate to each other.

156 Wellington Water’s request during the hearing related specifically to the provisions relevant to Policy UD.4. Their request states, ‘WWL considers it would be useful for the Council planners to prepare in advance of such conferencing a wiring diagram to show the intended relationships between the relevant provisions.’³⁷ I have therefore assumed that the Panels are seeking a wire diagram in relation to just those provisions included in Policy UD.4 as opposed to all provisions in Hearing Stream 4, which would be too extensive to provide useful insight.

157 Figure 1 illustrates how Policies UD.4, 31, UD.3, 55 and 56 relate to each other and how they affect plan-making or consenting decisions. The Chapter 4.1 policies are shown in blue and the Chapter 4.2 consideration policies are shown in green.

³⁷ Wellington Water Ltd Speaking Notes for Hearing Stream 4, page 1

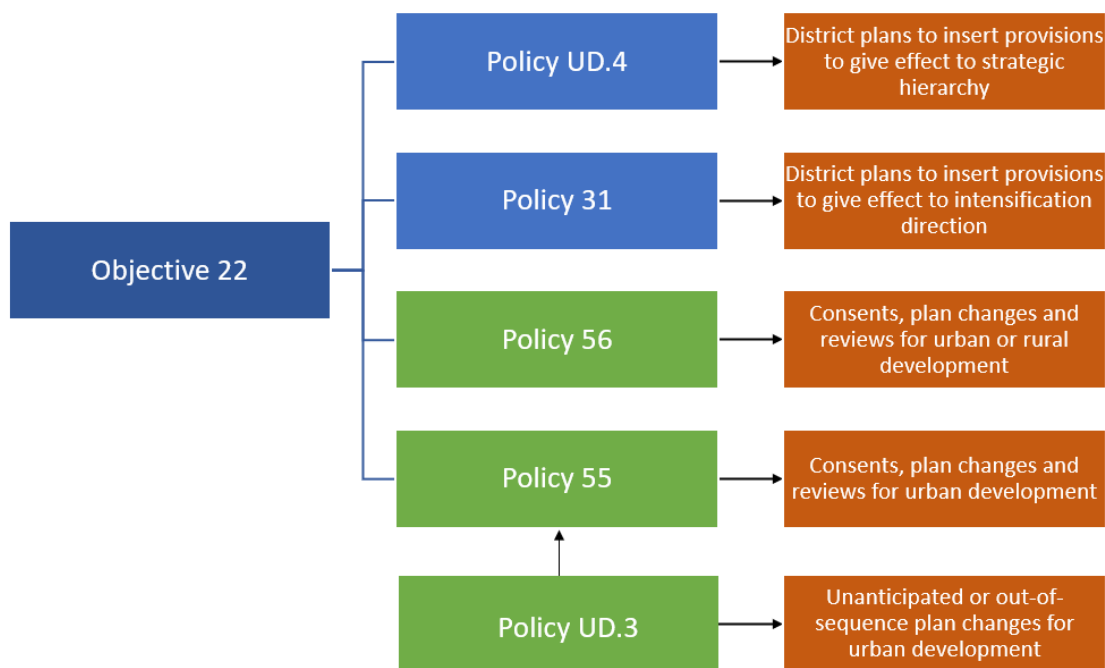


Figure 1: Relationships between policies relevant to the development hierarchy.

158 Figure 2 illustrates how the direction in the development hierarchy of Policy UD.4 connects to the relevant provisions. The Chapter 4.1 policies are shown in blue and the Chapter 4.2 consideration policies are shown in green.

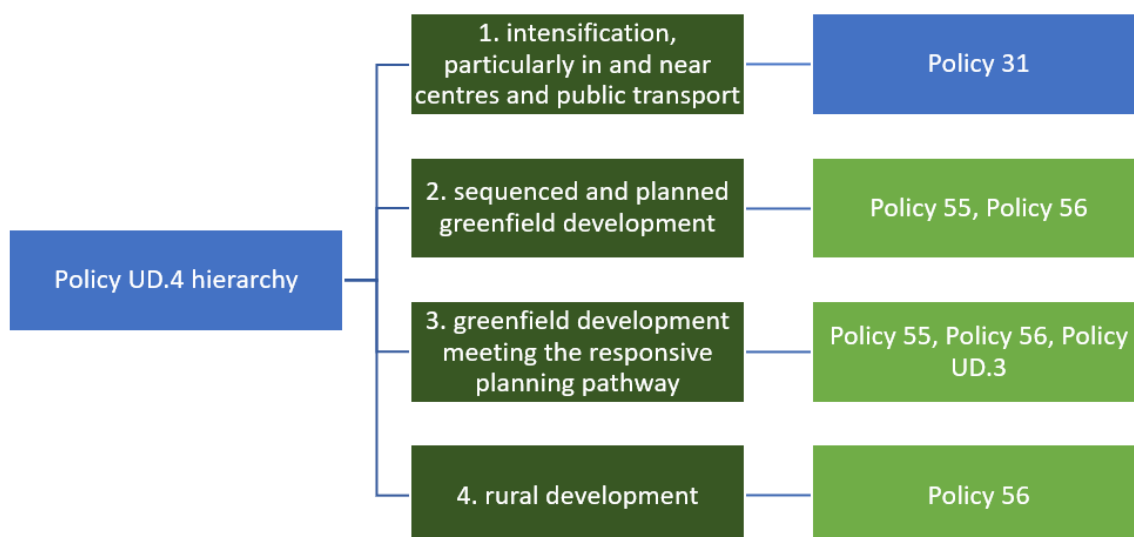


Figure 2: Relationships between hierarchy and relevant provisions.

159 I note that Policy 31 is not mentioned in Policy UD.4 as currently drafted, however it is mentioned in the chapter introduction hierarchy. I had initially recommended that Policy

31 is covered by the chapter introduction hierarchy solely to signpost the relevant intensification provisions covered by the policy package. I do not consider it is necessary to include it in Policy UD.4's hierarchy, because Policy 31 is a plan-making (Chapter 4.1) provision which district plans must also give effect to anyway. Connecting Policy 31 to direction in Policy UD.4 which is worded differently could cause unnecessary confusion.

jj. We query whether the term 'realisable development capacity' (e.g. in Policy UD.4) is clear enough. Please reconsider this term or consider whether a definition would be useful.

160 I have recommended that Policy UD.4 is structured to have a clearer development hierarchy in response to the matters raised by Wellington Water at the hearing (see paragraphs 169-170 of this Reply below). If these amendments are made, I consider that the reference to realisable development capacity would no longer be necessary because the order of priority has been articulated in a clearer way.

161 If the recommended amendments to the hierarchy structure are not made, I consider that this part of clause (c) should be retained. For clarity the term 'realisable development capacity' could be replaced with 'feasible, reasonably expected to be realised development capacity'. This is the phrasing used in the NPS-UD and there is guidance on what this means provided by clause 3.26. I am also recommending similar amendments to Policy UD.3 in paragraph 154 of this Reply.

Response to other matters raised on Policy UD.4 at the hearing

162 Following the discussion at the hearing about Policy UD.4, I wish to reiterate that Policy UD.4 is not just about implementing the NPS-UD. It relates to addressing regionally significant issues and regional council functions under RMA section 30, as well as other national policy statements. The concerns raised by submitters that the hierarchy goes beyond the NPS-UD are on the basis that the NPS-UD is the only direction to implement. As I stated at the hearing, the hierarchy is in my view not inconsistent with the NPS-UD.

163 During the hearing Commissioner Nightingale raised a query about whether the wording in the responsive planning part of the development hierarchy is consistent with NPS-UD clause 3.8, which states that the responsive planning pathway applies if the plan change if the development capacity, 'is well-connected along transport corridors'³⁸. This question is

³⁸ Rows 591-598 of the hearing transcription for RPS Change 1 Hearing Stream 4.

raised in relation to the chapter introduction in point (k)(iv) in Minute 14, however given my recommendation to delete this hierarchy from the chapter introduction, I have addressed it in relation to Policy UD.4 where it is most relevant.

164 Clause (b)(iii) in Policy UD.4 currently states:

unanticipated or out-of-sequence greenfield *urban development* that is well-connected to the existing *urban area* and along existing or planned transport corridors...

165 I initially recommended the wording of ‘well-connected to the existing urban area’ to align with the direction provided to all greenfield development in Policy 55(a)(2). However, I agree that it is inconsistent with NPS-UD clause 3.8. The purpose of the reference to unanticipated and out-of-sequence greenfield development in Policy UD.4 is to specifically highlight the responsive planning pathway within a hierarchy for development, so it should be aligned with the NPS-UD for this purpose. I therefore consider that the wording should be amended as follows:

unanticipated or out-of-sequence greenfield *urban development* that is well-connected to the existing *urban area* and along existing or planned transport corridors, consistent with Policies 55 and 56, and adds significantly to development capacity consistent with Policy UD.3, then

166 At the hearing Wellington Water supported the development hierarchy in Policy UD.4, but raised the following concerns³⁹:

- a) There is a de facto development hierarchy in the introduction, under “How this chapter works”, but the language is not explicit that this is a hierarchy, which seems an important point for how the chapter works.
- b) The hierarchy in the introduction refers to some relevant policies, but not all — for instance Policy UD.4 is not referenced, even though Policy UD.4 is the provision that creates the hierarchy.
- c) The hierarchy in the introduction seems to address the same subject as UD.4, but they use different language, which creates uncertainty and may lead to debate about interpreting the provisions (see attached extracts).

³⁹ Wellington Water Ltd Hearing Stream 4 speaking notes, page 1

- d) The hierarchy in UD.4 is of secondary importance to the broader aims of the policy expressed in the chapeau, which down-plays the importance of the hierarchy.
- e) Provisions within the hierarchy (e.g. Policies 31, 55, 56) do not refer to the hierarchy or how it is to be factored into decision-making.
- f) It is unclear how to resolve tensions between levels within the hierarchy (e.g. to what degree must higher order elements take precedence over lower-order elements?)
- g) The provisions blend management through plan-making decisions with management through consenting decisions — and it is not clear that the consenting decisions are an appropriate way to uphold a hierarchy given the limited scope for consideration of ‘alternatives’ when consenting.

167 Caroline Horrox (Wellington Water) also seeks that the possible relief I included in my rebuttal evidence⁴⁰ is added to Policy UD.4(d)⁴¹. At the time I did not recommend this addition because I did not think it was necessary given the direction from the development hierarchy. However, upon reflection I consider it would provide useful certainty on how Policy UD.4 contributes to achieving Objective 22 clause (g) to use existing infrastructure capacity effectively and efficiently, and is not inconsistent with the rest of the RPS. I therefore recommend the relief sought by Wellington Water is added to Policy UD.4 as follows:

requiring all *infrastructure* necessary to support development to be provided in an integrated and efficient way which prioritises the use or upgrading of existing *infrastructure* over the creation of new *infrastructure*

168 In response to Wellington Water’s concerns regarding the hierarchy in the introductory text for Chapter 3.9 (points a, b, and c above), I have recommended that this reference is removed due to the unnecessary risk of inconsistency (see paragraph 52 of this Reply).

169 I agree with point (d) from Wellington Water that the hierarchy could be more prominent in the structure of Policy UD.4 given its importance in contributing to a compact regional form. Catherine Heppelthwaite (Waka Kotahi) also raised a similar point at the hearing,

⁴⁰ Mika Zöllner Statement of Rebuttal Evidence – Hearing Stream 4 – 26 September 2023 - paragraph 94

⁴¹ Wellington Water Ltd Hearing Stream 4 speaking notes, page 3, <https://www.gw.govt.nz/assets/Documents/2023/10/HS4-S113-Wellington-Water-Ltd-Speaking-Notes-Handout-031023.pdf>

and instead suggested that it is added to Objective 22. I have addressed this relief in response to the Panel's query on this matter in paragraphs 59-60 of this Reply. I do not consider that Objective 22 is the most appropriate place for this hierarchy, however in my opinion amendments to Policy UD.4 are necessary to elevate and clarify the development hierarchy. To address Wellington Water and Waka Kotahi's concerns I therefore recommend that Policy UD.4 is re-structured to bring the hierarchy into the chapeau of Policy UD.4.

170 In response to point (f) from Wellington Water I agree that it could be clearer that the list functions as a hierarchy by outlining an order of priority, i.e. options for enabling development capacity via intensification should be explored first and emphasised, then planned greenfield development, then unplanned, then rural development. Therefore, I recommend that the structure is amended to clearly be a hierarchy, with use of 'first', then 'second', 'third' etc.

171 I do not consider any amendments to be necessary in response to points (e) and (g) from Wellington Water.

172 Regarding point (e), the provisions that are mentioned in Policy UD.4 should not independently refer back to the hierarchy. This would, in my view, be merging consenting decisions with plan-making decisions, which is the concern raised in point (g). Because Policies 55 and 56 apply to resource consents, I do not consider that the hierarchy in Policy UD.4 can effectively be referred to in these consideration policies. In my opinion Policy UD.4 should not be factored into consent-based decision making in Policy 55 and Policy 56. This would be expecting consent applicants to give effect to a hierarchy which must instead be given effect to by district plans. I discuss why I do not consider that resource consents can demonstrate prioritisation of different kinds of development further in paragraph 571 of my Section 42A report. However, I note that Policy UD.3, which applies to plan changes only, contains a test for consideration of options for intensification without explicitly mentioning Policy UD.4. I consider this is appropriate.

173 Regarding point (g), I disagree that the provisions as drafted merge plan-making and consenting decisions. I agree with the statement that consideration policies cannot uphold a hierarchy, which I have outlined in paragraph 172 above. However, in my view it is appropriate to mention Policies 55, 56 and UD.3 in Policy UD.4. These policies all apply to district plan changes and reviews, and are therefore a relevant consideration when

implementing the hierarchy in Policy UD.4. As I discuss in my Section 42A report, I also consider it is useful as a way to explain which situations the policies apply to.

174 There were a few questions asked at the hearing regarding the clarity of clause (c), in particular the test to have considered existing realisable development capacity in existing urban zones when justifying the need for additional urban land. In response to this discussion, and in light of recommending that the hierarchy is made more prominent and clearer, I recommend that the wording of this clause is shortened and simplified to assist plan users with interpretation. Rather than emphasising the need to meet housing and business demand, I consider that referring to enabling sufficient development capacity is more consistent with both Objective 22 clause (a) as well as Objective 22A (already in the operative RPS). Due to the strategic nature of Policy UD.4 I consider it is appropriate to directly link to the wording in these objectives seeking to achieve sufficient development capacity.

175 Following the hearing I therefore recommend that Policy UD.4 is amended as follows:

District and regional plans shall include objectives, policies, rules and/or other methods requiring that subdivision, use and development occurs in a way that supports compact growth by prioritising:

contributes to a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form with well-functioning urban areas and rural areas. This includes:

(a) (b) preventing dispersed growth patterns by prioritising supporting compact growth by:

(a) (i) firstly, prioritising urban development (including unanticipated or out-of-sequence brownfield development) should occur within existing urban zones urban areas, with a preference for higher densities in and adjacent to centres with a range of commercial activities and along existing or planned public transport corridors, then

(ii) urban development that does not meet (i) within urban areas (including unanticipated or out-of-sequence brownfield development), then

(b) (iii) (ii) second, sequenced and planned greenfield urban development beyond existing urban zones urban areas, consistent with Policies 55 and 56, then

~~(c) (iv) (iii)~~ third, unanticipated or out-of-sequence greenfield urban development that is well-connected to the existing urban area and along existing or planned transport corridors, consistent with Policies 55 and 56, and adds significantly to development capacity consistent with Policy UD.3, then

~~(d) (v) (iv)~~ fourth, residential or mixed use development in rural areas, consistent with Policy 56; and

District and regional plans shall apply this hierarchy to enable development capacity while:

~~(i) (a)~~ enabling Māori to express their culture and traditions, and

~~(ii) (e) (d)~~ requiring all infrastructure necessary to support development to be provided in an integrated and efficient way which prioritises the use or upgrading of existing infrastructure over the creation of new infrastructure; and

~~(iii) (f) (e)~~ providing for a range of housing typologies and land uses, including mixed use development; and; and

~~(iv) (d) (c)~~ for clauses (b) (a) (iii) and (c) (a) (iiiiv), demonstrating that additional urban-zoned land is necessary and the most appropriate option to enable sufficient development capacity. meet housing and business demand, including consideration of existing realisable development capacity enabled within existing urban zones the urban area; and

Section 32AA evaluation

176 In accordance with section 32AA, I consider that the amendments I am recommending to Policy UD.4 are the most appropriate because they improve the clarity of the development hierarchy and will ultimately improve its effectiveness in contributing to Objective 22. In my opinion they do not considerably alter the meaning of Policy UD.4, and rather seek to improve the policy structure to reflect the prominence and strength of the development hierarchy, to address concerns raised by submitters.

Policy UD.5

Questions on Policy UD.5 from Minute 14

kk) Having heard submitters, can Ms Zöllner please provide her comments on the appropriateness of this amendment to Policy UD.5(f): “protecting the operation and safety of regionally significant infrastructure including from potential reverse sensitivity effects”. Please check consistency of references to reverse sensitivity vs direct effects on infrastructure across the provisions.

177 I have considered this relief, however I do not consider any amendments are necessary. In my opinion the general protection of regionally significant infrastructure from direct effects is adequately covered by Policy 8 of the operative RPS, which is not subject to RPS Change 1. Policy 8 states:

Policy 8: Protecting regionally significant infrastructure – regional and district plans

District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.

178 Because Policy 8 does not explicitly mention reverse sensitivity effects, I concluded that it was appropriate for the regional form, design and function provisions to address reverse sensitivity. Reverse sensitivity is a live issue that is directly related to where subdivision, use and development occurs, and how it occurs. As I discuss in paragraph 311 of my Section 42A report, I therefore agree with submitters that it is justified to consider the protection of regionally significant infrastructure from reverse sensitivity effects as part of urban development contributing to well-functioning urban areas.

179 However, I consider that direct effects on regionally significant infrastructure specifically are appropriately covered by Policy 8 which has strong direction in this regard. Amendments to broaden the scope of clause (f) in Policy UD.5 are therefore not necessary. I also note that clause (e) of Policy UD.5 broadly includes effects on any existing infrastructure.

180 I have reviewed the relevant provisions for consistency, which in my opinion are Objective 22, Policy 32, Policy 55, Policy 56, Policy 57, and Policy UD.5. I consider the references to reverse sensitivity effects and direct effects on infrastructure are consistent and appropriate within the context of each policy and its purpose.

Response to other matters raised on Policy UD.5 at the hearing

181 Melanie McCormick (Ātiawa) raised concerns that Policy UD.5 overly prioritises housing and infrastructure without recognising its integration with the wider environment, and that it should fully recognise Te Mana o Te Wai.

182 I acknowledge that Policy UD.5 is focused on the delivery of housing and other land uses and how they are supported by infrastructure. In my opinion this is the primary role of the regional form, design and function provisions within the RPS. RPS Change 1 seeks to place the delivery of development and infrastructure into the context of the wider environment and climate, to achieve holistic and integrated subdivision, use and development. The integrated management provisions, in particular Policy IM.1 and Objective A, recognise this interrelationship and must be implemented alongside the regional form, design and function provisions.

183 I therefore agree that Policy UD.5 should be holistic and recognise the interconnectedness between built and natural environments, but it does not do this alone. In my view the intent of Policy UD.5 is to focus on specific actions that contribute to achieve well-functioning urban areas when undertaking urban development, to sit alongside direction in the integrated management provisions. Clause (e) directly acknowledges the inextricable link between urban development and the natural environment. Giving effect to Te Mana o Te Wai, including the hierarchy of obligations, is provided for in Objective 22, Policy 55 and Policy 56, and clause (e) as drafted includes the protection of freshwater. I therefore do not consider amendments are necessary.

184 Melanie McCormick (Ātiawa) also sought recognition of the role of mana whenua and impacts on the relationship of mana whenua with the natural world, land and waterways in Policy UD.5. While clause (d) seeks to specifically protect values and sites of significance to mana whenua, I agree that relationships are not explicitly provided for by Policy UD.5. In light of the Panels' request to review consistency when incorporating RMA section 6(e) matters (see paragraphs 34-35 of this Reply), I consider that in this instance a reference to all section 6(e) matters would support a more holistic policy. However, I still consider that a specific reference to values and sites of significance should be retained in the policy given the relief sought in original submissions, which were discussed in paragraphs 304-306 of my Section 42A report.

185 In response to the statements from Ātiawa I therefore recommend the following amendments:

~~(c)-(d)~~ providing for and protecting mana whenua / tangata whenua values, and sites of significance to mana whenua / tangata whenua, and their relationship to their culture, ancestral lands, water, sites, wāhi tapu and other taonga; and

Section 32AA evaluation

186 In accordance with section 32AA, I consider that the amendments I am recommending to Policy UD.5 are the most appropriate because they support consistency and address concerns raised by submitters.

Definitions – Mika Zöllner

Questions on definitions from Minute 14

II) Please consider whether an amendment to the definition of “regional form” would be appropriate to refer to linkages through, as well as between, the region’s urban areas and rural areas.

187 Yes, I agree this would improve the definition, and have recommend the addition of ‘through and’ in the revised definition.

Other matters raised on definitions at the hearing

188 In response to the relief sought by Matt Heale (Kāinga Ora) to the definition of walkable catchment, my view on the wording has not changed. For the definition to be clear for the plan users, I consider that simpler language which can be easily understood in contexts outside of enabling intensification, is more appropriate. I therefore do not recommend any further amendments.

189 Melanie McCormick (Ātiawa) sought that the definition of environmentally responsive is replaced with:

‘Recognises the integrated nature of both the physical and built environment, and provides for the cultural values, natural landscape and health and well-being of the wider environment.’

190 I agree that the definition could better recognise the interconnectedness between built environments and natural environments. Policy IM.1(d), as recommended by Jerome Wyeth in the Right of Reply for Hearing Stream 2⁴², uses the term, 'recognising the interrelationship between natural and physical resources'. For consistency, I consider the same wording should be used in this definition. I also agree that 'provides for' is clearer and more common RMA language than 'responds positively' and I recommend this term is used instead. I also agree with the reference to the wider environment, because I consider this is consistent with the integrated management provisions in RPS Change 1 which seek to recognise ki uta ki tai and wider impacts of activities.

191 I consider it is important to retain the reference to being 'designed to' be environmentally responsive. In my view this references the focus of the RPS Change 1 provisions on well-designed, well-planned solutions which support holistic, integrated and environmentally responsible urban design. However, I acknowledge that 'designed to' is too narrow and focusses on one aspect of the process of subdivision, use or development only. There should be reference to the location of built environments, as well as their ongoing construction, operation and continual change. This ongoing dynamism is key to a built environment being environmentally responsive in my opinion. I therefore recommend that the reference to 'designed' is broadened to, 'located, designed and implemented'. In my view this is consistent with the way that the term environmentally responsive is used in provisions; which is as an outcome for regional form.

192 I therefore recommend the following amendments to the definition of environmentally responsive:

Environmentally responsive:

Located, dDesigned and implemented in a way that recognises the inter-relationship between natural and physical resources, and provides for to respond positively to the natural and cultural values, natural landscape and climatic features, and health and wellbeing of a place and its wider environment.

Section 32AA evaluation

⁴² Jerome Wyeth Right of Reply - Hearing Stream 2 - 28 July 2023 - page 20.

193 In accordance with section 32AA, I consider that the amendments I am recommending to the definitions are the most appropriate because they support clarity all complete representation of defined terms.

Policy 33 – Regional Land Transport Plan – Mika Zöllner

194 Catherine Heppelthwaite (Waka Kotahi) provided supplementary evidence⁴³ in response to a request made by the Panels during the hearing⁴⁴. In Minute 16⁴⁵ the Panels requested that this Reply responds to the supplementary evidence.

195 Waka Kotahi’s original submission [S129.015] supported Policy 33 in part and did not seek specific amendments. Their relief sought was:

‘Waka Kotahi seeks to be involved in the future drafting of this policy to ensure the policy appropriately aligns with direction from Central Government.’

196 Catherine Heppelthwaite’s supplementary evidence addresses the Panels’ query regarding defined terms, in particular the use of ‘well-functioning urban environments’ alongside ‘a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form’. The evidence highlights that there is duplication between the concept of well-functioning urban environments and other matters in Policy 33. I do not agree with the amendments proposed to Policy 33 and outline my reasons in the following analysis.

197 The RLTP is a regional document and reductions in transport is relevant to the whole region rather than just to urban environments, which I discuss in my Section 42A report⁴⁶. I therefore recommended that the reference to, ‘a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form’ was added to Policy 33 to clearly reference back to Objective 22 and the whole region, instead of referring to well-functioning urban environments only. This is similar to the operative structure of Policy 33, which states (my emphasis):

⁴³ Catherine Heppelthwaite Statement of Supplementary Evidence – Hearing Stream 4 – 20 October.

⁴⁴ Rows 3435-3460 of the hearing transcription for RPS Change 1 Hearing Stream 4.

⁴⁵ Minute 16 for Proposed Change 1 to the RPS - 13 November 2023 - page 3

⁴⁶ Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 - paragraph 282

The Wellington Regional Land Transport Strategy shall contain objectives and policies that support the maintenance and enhancement of a compact, well designed and sustainable regional form.

198 Instead of replacing ‘well-functioning urban environments’, for Policy 33 I recommended this term was retained in Policy 33 because the RLTP must also take into account the NPS-UD and thereby the concept of well-functioning urban environments, which I discuss in my Section 42A report⁴⁷.

199 However, I do acknowledge that there is potentially duplication between the matters in Policy 33, which is summarised in Figure 3. Figure 3 shows that the reference to ‘well-functioning urban environments’ and ‘a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form’ both ultimately provide the direction for emissions reduction and climate resilience, and therefore duplicate each other. In my opinion the reference to regional form is more holistic and inclusive of rural areas. I do not consider direction to the RLTP should be constrained to urban environments only.

200 I also do not consider that the phrase ‘a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form’ should be broken up or amended as sought by Catherine Heppelthwaite (Waka Kotahi), because it would no longer resemble the chapeau of Objective 22. I consider this would be too confusing for plan users. I therefore consider that the reference to ‘well-functioning urban environments’ is removed instead, to address the duplication.

⁴⁷ Section 42A Hearing Report – Hearing Stream 4 – 4 September 2023 – paragraph 283

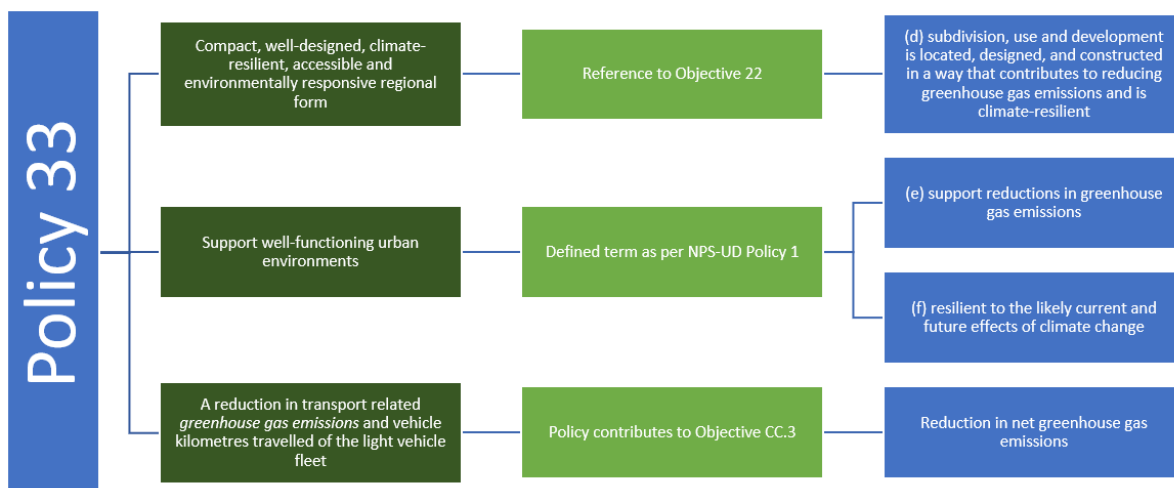


Figure 3: Diagram showing the direction in Policy 33 (dark green), what it refers to or contributes to (lighter green) and what the reference means (blue).

201 The reference to ‘a reduction in transport-related greenhouse gas emissions and vehicle kilometres travelled of the light vehicle fleet’ is a key aspect of the policy as it was notified by Change 1; and reflects the policy intent for the RLTP to specifically support transport emissions reduction to contribute to Objective 22 and Objective CC.3. Policy 33 is indicated as part of the policy package achieving Objective CC.3 in Table 1A. It is more specific to matters related to the RLTP and therefore is not purely duplicating in my opinion. It is also consistent with Objective 22 and therefore does not conflict with the rest of Policy 33.

202 I also do not agree with the amendments to the policy heading sought by Catherine Heppelthwaite (Waka Kotahi). I have already outlined why the RLTP, as a regional document, should not in my view be focussed on reducing transport emissions in urban environments only. As I have discussed, the focus of Policy 33 is on reducing transport emissions so this should be the focus of the policy heading in my view.

203 Policy 9 and Policy EIW.1 also direct the RLTP and have been considered in Hearing Stream 3 of Change 1. Their headings are (as at right of reply):

Policy 9: Promoting greenhouse gas emission reduction and uptake of low emission fuels – Regional Land Transport Plan

Policy EIW.1: Promoting affordable high quality active mode and public transport services – Regional Land Transport Plan

204 I therefore consider that the heading of Policy 33 should focus on supporting a reduction in transport emissions, and that the reference to ‘a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form’, is not necessary. In my opinion a heading stating ‘Supporting a reduction in transport related greenhouse gas emissions’ is distinct from the headings of Policies 9 and EIW.1.

205 I therefore recommend the following amendments to address duplication:

**Policy 33: Supporting ~~a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form and well-functioning urban environments and~~ a reduction in transport related greenhouse gas emissions ~~a compact, well-designed and sustainable regional form~~—
Regional Land Transport Plan Strategy**

The Wellington Regional Land Transport Plan Strategy shall contain objectives and policies that support ~~well-functioning urban environments and contribute to~~ a reduction in transport related greenhouse gas emissions and vehicle kilometres travelled of the light vehicle fleet, ~~and to contribute to~~ a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form.

206 Catherine Heppelthwaite’s supplementary evidence also addresses the relationship between the RPS and the Land Transport Management Act. It consequentially seeks amendments to Policy 33 to weaken the direction to the RLTP; replacing ‘shall’ with ‘encourage’. This matter is a different topic to what was requested by the Panels during the hearing. In my opinion there may be issues around scope and natural justice in relation to this matter, because:

- The request by the Panels did not cover the strength of policy direction provided to the RLTP.
- The original Waka Kotahi submission did not seek specific relief to Policy 33 - sought consistency with central government direction.
- To my knowledge, the strength of direction to the RLTP has not been raised in submissions or hearings in relation to other provisions directing the RLTP.
- Other submitters have not had a chance to comment on this matter.

207 However, if the Panels are minded otherwise, I have responded to the matter raised.

208 I acknowledge the point raised that a Regional Transport Committee must 'take into account' an RPS when preparing an RLTP. I understand this to mean that the RPS is a matter of consideration to inform the development of the RLTP. The current RLTP acknowledges this fact and states that the RPS has informed the RLTP⁴⁸.

209 The strength of language used by Policy 33 does not, in my view, have significant influence if the policies only need to be taken into account anyway. I also note that the operative RPS uses 'shall' when directing the RLTP, and this has not, to my knowledge, caused issues when preparing the RLTP. The direction in Policy 33 is also in my view consistent with what the RLTP would be seeking to achieve anyway, and so it does not conflict with other direction the Regional Transport Committee might need to achieve.

210 However, I do agree that the use of 'shall' is directive and implies a regulatory response. 'Shall' is used in policies throughout Chapter 4.1 when directing district plans, which must give effect to the RPS. I therefore agree that this may be misleading. While I have not recommended any amendments due to the issue of scope highlighted above, if the Panels were minded to consider this matter, I would recommend that 'shall' is replaced with 'should'. In my view 'should' is a more appropriate level of direction to the RLTP. Consequential amendments would be necessary to Policy 9 and Policy EIW.1 in Hearing Stream 3, which also refer to 'shall'.

Section 32AA evaluation

211 In accordance with section 32AA, I consider that the amendments I am recommending to Policy 33 are the most appropriate because they are minor amendments to address duplication and support clarity.

Other matters raised by submitters during the hearing – Mika Zöllner

212 Melanie McCormick on behalf of Ātiawa recommended a minor amendment to Method UD.1(b) to state, 'Kaupapa Māori' instead of 'Kaupapa which is Māori'. I support this minor amendment and recommend that 'which is' is removed from Method UD.1(b).

⁴⁸ Appendices of the Regional Land Transport Plan 2021, page 148

DATE:

24 NOVEMBER 2023

MIKA HELENA ZÖLLNER

SENIOR POLICY ADVISOR

**GREATER WELLINGTON REGIONAL
COUNCIL**

DATE:

24 NOVEMBER 2023

OWEN EDWARD JEFFREYS

ENVIRONMENTAL PLANNER

GHD Ltd.