

WELLINGTON REGIONAL COUNCIL

PROPOSED CHANGE 1 TO THE WELLINGTON REGIONAL POLICY STATEMENT

MINUTE 12

HEARING STREAM 3 - COUNCIL'S REPLY AND DIRECTIONS FOR EXPERT CAUCUSING

1. We recognise the complexity of the provisions within Hearing Stream 3 and the significant volume of information that council officers, submitters, experts and counsel have needed to engage with to present submissions and evidence. Presentations were of a high quality and we thank everyone who participated.
2. This Minute provides new timetabling directions for the Council's reply for Hearing Stream 3 – Climate Change. It also directs caucusing of planning experts on the Transport, Natural Hazards and Nature-Based Solutions provisions in Hearing Stream 3.

Amendment to our directions in Minute 3 regarding the Council's reply

3. In Minute 3, we directed Council to file its right of reply (i.e the s 42A report writers' reply, evidence or submissions (if any)) within 5 working days after the end of the hearing of submissions for each hearing stream.
4. It has become apparent that this timeframe is too short given the range and complexity of issues. In accordance with our powers under section 39 of the RMA to establish a procedure that is fair and appropriate, we amend this direction in relation to the Council's reply. For Hearing Stream 3 and future hearings, the due date of the Council's reply will be set in a Minute issued after submitters have been heard.

Hearing Stream 3 - Council's reply: three subtopics

5. We direct that the Council provide its reply on the following subtopics by **5pm on 21 September 2023**:
 - a. General provisions
 - b. Agricultural emissions
 - c. Energy, Waste and Industry.
6. In addition to any matters the Regional Council wishes to address after hearing submitters, we direct Council to respond to the following specific questions.
 - a. Any recommended changes to the categorisation of provisions between the freshwater and non-freshwater processes.

Subtopic: General provisions

- b. In the Introduction (3.1A Climate Change), it is not clear what report is being referred to.
- c. In the paragraph beginning “In 2019, Greater Wellington Regional Council declared a climate emergency”, can the Council please provide more information on the ‘Regional Climate Emergency Response Programme’. What is the current status of this Programme and who are the other parties/agencies involved in it? Does Council know whether the intention is for regional emissions targets to be set through this Programme?
- d. Issue 3 – After hearing submitters, can Mr Wyeth please consider whether alternative wording to “traditional approaches” is appropriate given the possible association of ‘traditional’ with Te Āo Māori.
- e. Issue 5 – Can the relevant section 42A officers consider whether ‘Te Rito o Te Harakeke’ is appropriate in this issue statement given the evidence of submitters on the natural hazards provisions.
- f. Objective CC.2 – Given Mr Wyeth’s support for this objective, does he still consider it appropriate to delete Policy IM.2 (part of the Hearing Stream 2 provisions)? This may be a point Mr Wyeth wants to come back to in Hearing Stream 7 – Wrap up and Integration.
- g. Objective CC.3 – Can Mr Wyeth please review the wording and advise whether he recommends amendments to clarify whether the intention in this objective is to refer to ‘net’ or ‘gross’ greenhouse gas emissions.
- h. Objective CC.7 – Can Mr Wyeth provide more information on how this objective would be measured and how Council would know if it was being achieved.
- i. Objective CC.8 – Can Mr Wyeth consider alternative wording to bring in the concept of partnering with mana whenua/tangata whenua (see Method CC.1).
- j. Policy CC.8 – various submitters raised concerns about the implementation of this policy. Can the Council provide more information about how it sees this policy being implemented through district and regional plans. How do District Councils implement the policy in advance of Regional Council co-ordination and guidance (as mentioned in the explanatory text).
- k. Anticipated Environment Results (AER)– Does the first AER relate to Obj CC.1 and/or Obj CC.3? Can Council please advise whether there is scope within submitter relief to include an AER for Objectives CC.5, CC.7 and CC.8. If so, can the s42A authors please include suggested wording for these AER.

Subtopic: Agricultural Emissions

- l. Is the intention in Policy CC.5 to refer to net or gross emissions?

- m. Can Mr Wyeth explain how Te Mana o te Wai would be given effect to in Policy CC.15 and Method CC.8.

Subtopic: Energy, Waste, Industry

- n. Can Council please confirm whether Policy 2(c) and (c) can be deleted in light of national direction (eg NPS or NES on Industrial Process Heat).
- o. Can Mr Wyeth please consider the chapeau of the policies in this subtopic as there is some inconsistency in drafting eg Policy 2 refers to ‘policies, rules and/or methods’, Policy 7 refers to ‘policies and/or methods’ and Policy 11 refers to ‘policies and/or rules and other methods’. None of these policies refer to objectives but we understand that District Plans could still include these. We note that other provisions in this suite, eg Policy 9 (in the transport subtopic) refers to objectives. We would be grateful if the various reporting officers could confer on this issue and provide further advice.
- p. Can Mr Wyeth please consider what drafting amendments may be appropriate in Policy 7 (or other policies in this subtopic) to recognise and provide for the generation and transmission of renewable energy.

Expert caucusing

- 7. In accordance with our powers under section 41C and clause 8AA of Schedule 1 (regarding the resolution of disputes), we direct expert caucusing on the following three subtopics:
 - a. Transport
 - b. Climate resilience and Nature based Solutions
 - c. Natural hazards.
- 8. We consider caucusing of these three subtopics will assist us in our deliberations and as we consider the drafting of provisions. We also consider there would be benefit in subtopics b. and c. (Climate resilience and Nature based Solutions, and Natural hazards) being the subject of a joint caucusing session given the importance of considering the provisions in an integrated manner. We note that Hearing Stream 7 – Wrap up and Integration presents an opportunity for all submitters to present to us on issues of alignment and integration of all PC1 provisions.
- 9. Expert caucusing is to be undertaken in accordance with the Environment Court Practice Note 2023 and in particular, section 9 – Code of Conduct for Expert witnesses. We expect all experts who participate in caucusing to have read and be familiar with the Practice Note.
- 10. The caucusing sessions will primarily be a facilitated drafting exercise with the expert planners (including s 42A authors) aimed at resolving areas of disagreement. All submitters who filed and/or presented expert planning evidence on the provisions coded to each subtopic are invited to attend the caucusing sessions.

11. We have identified the following parties and planning experts for each caucusing session:

Transport - Planning experts

- a. Waka Kotahi NZ Transport Agency: Catherine Heppelthwaite
- b. Peka Peka Farm Limited: Maciej Wiktor Lewandowski
- c. Kāinga Ora – Homes and Communities: Victoria Woodbridge
- d. Meridian Energy Limited: Christine Foster
- e. Wellington International Airport Limited: Claire Hunter
- f. Porirua City Council: Rory Smeaton
- g. The Fuel Companies: Miles Rowe
- h. Upper Hutt City Council: Suzanne Rushmere
- i. Winstone Aggregates: Philip Heffernan

Climate resilience and Nature base Solutions; Natural hazards – Planning experts

- a. Rangitāne o Wairarapa Inc: Maggie Burns
- b. Chorus NZ Limited, Spark NZ Trading Ltd and One NZ Group Limited: Tom Anderson
- c. Director-General of Conservation: Murray Brass
- d. Horticulture NZ: Jordyn Landers
- e. Waka Kotahi NZ Transport Agency: Catherine Heppelthwaite
- f. Peka Peka Farm Limited: Maciej Wiktor Lewandowski
- g. Kāinga Ora – Homes and Communities: Victoria Woodbridge
- h. Meridian Energy Limited: Christine Foster
- i. Wellington International Airport Limited: Claire Hunter
- j. Porirua City Council: Michael Rachlin and Torrey James McDonnell
- k. The Fuel Companies: Miles Rowe
- l. Upper Hutt City Council: Suzanne Rushmere
- m. Wellington Water: Caroline Horrox

12. If any submitters consider they have not been identified and have relevant submission points for which they have presented planning evidence, they are welcome to advise us of this through the Hearing Advisors. You will be included in the caucusing sessions where we consider that appropriate and fair. If planning experts wish to attend but are unavailable (for instance we are aware that Mr Rachlin may be overseas in the second half of September), they are welcome to contact the Hearing Advisors to discuss alternatives.

13. We appreciate the significance of some of the provisions in the caucusing topics to those submitters who presented at the Climate change hearing but did not table or present expert planning evidence. In particular, we note the presentations of the Mangaroa Peatland Focus Group and Dr David Tripp from Doctors for Active, Safe Transport. As noted above, the aim of the caucusing is for planning witnesses to come together to work on the drafting of provisions applying their planning expertise so as to assist us in our deliberations. For those submitters who did not present planning evidence, we note that your submission points and presentations were clear and will be taken into full account in our deliberations. If you have any concerns with the expert planners' caucusing approach we have proposed, please contact us through the Hearing Advisors.

14. For the planning experts participating in caucusing, we note that new evidence should not be introduced at the sessions. Your views on vertical and horizontal integration of provisions will be helpful although we note that there will be further opportunity at the Wrap up and Integration hearing (Hearing Stream 7) to modify any provisions recommended through caucusing and in light of submissions and/or evidence presented in other topics.
15. Jason Jones, Principal Consultant at Resource Management Group Limited, is appointed as the independent facilitator for the expert conferencing and associated meetings. Mr Jones is authorised to:
 - a. act as independent facilitator
 - b. liaise with the Hearing Advisors and invite all submitters who filed and/or presented expert planning evidence and the respective s 42A authors, to attend the expert conferencing sessions on the subtopics listed in paragraph 7
 - c. in conjunction with the Hearing Advisors organise the sessions (including format, topics, agendas, attendance and Joint Witness Statements (JWS), times and venues (in person or on-line as appropriate)
 - d. liaise with the submitters, experts and s 42A authors
 - e. liaise with the Hearing Advisors on the JWS for each caucusing session which must, as a minimum, include a statement of the outcomes to be achieved and the matters and/or provisions agreed and not agreed by the experts attending; and
 - f. report to the Chair of the Hearing Panels on progress with the caucusing sessions.
16. Expert caucusing of the Transport subtopic is to occur sometime in the period between 18 – 25 September (prior to Hearing Stream 4 commencing). Caucusing for the remaining subtopics is to occur sometime before 18 October. As we have stated above, we expect that caucusing on the Nature based Solutions and Natural hazards provisions can occur in the same session.
17. While these directions cannot compel the parties to agree to take part in the conferencing sessions or compel expert witnesses to attend and participate, we strongly recommend that they do so. It is expected that the conferencing sessions will occur in accordance with the principles and directions in the Environment Court Code of Practice.
18. We recognise that some of the Transport provisions are also related to some provisions within the scope of Hearing Stream 4 – Urban Development (for instance Policy – Integrating land use and transportation). We considered bringing these HS4 transport provisions into the Transport caucusing but recognise this may create some procedural and natural justice issues (for instance submitter evidence for HS4 is due on 15 September and we would not want to inadvertently exclude submitters from participating in caucusing because they had not submitted evidence for HS3 but intend to submit on transport-related provisions in HS4). On balance, we consider Hearing Stream 7 – Wrap up and Integration presents the best opportunity for submitters to present evidence and submissions on how best to integrate and align the HS3 and HS4 Transport related provisions. Therefore, in the interests of natural

justice, caucusing will not occur on any provisions coded to HS4 although parties may wish to record in the JWS any comments related to alignment or integration with these provisions.

19. In terms of the HS3 caucusing, we direct that a JWS is produced within 5 working days of the conclusion of each expert caucusing subtopic. Mr Jones will oversee the preparation of the JWS which will be prepared in collaboration with parties attending the session as well as the Hearing Advisors and a scribe appointed by the Council. The JWS will be published on the Hearings website. Any party that submitted on the provisions that are the subject of caucusing will have 5 working days from the date of publication of the JWS to provide written comments. These are to be provided to the Hearings Advisors and will be published on the Hearings website.
20. The Council officers will then have a further 10 working days to provide their reply on the subtopics that were the subject of caucusing.

Consolidated provisions and categorisation

21. We direct Council in its reply on the caucusing subtopics to also please provide the Panels, and make available on the Hearings website, a set of consolidated provisions for the entire Climate Change topic following the format of:
 - a. s 42A recommended amendments to provisions shown in **red underlined and ~~marked-up~~** text;
 - b. rebuttal evidence recommended amendments to provisions shown in **blue underlined and ~~marked-up~~** text; and
 - c. reply evidence recommended amendments to provisions shown in **green underlined and ~~marked-up~~** text.
22. In addition to these provisions being grouped within their specific subtopics, we also ask Council to provide a set of all the consolidated provisions within the Climate Change topic and set out in the order in which they are proposed to appear in the RPS eg. all the 'CC policies' grouped together. This will help us to consider the provisions in an integrated way and also consider vertical and horizontal integration. We would appreciate receiving both a track changed and 'clean' copy of these consolidated provisions.
23. We note that neither our request for consolidated provisions or the questions we have set out above in paragraph 6 indicate in any way our view on the appropriateness or merits of the specific wording in provisions. We are making these directions to further our understanding of the provisions and assist us in our deliberations.

Dated: 8 September 2023



D Nightingale
Chair
Part 1, Schedule 1 Panel
Freshwater Hearings Panel