

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

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

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

STATEMENT OF REBUTTAL EVIDENCE OF MIKA ZÖLLNER

ON BEHALF OF WELLINGTON REGIONAL COUNCIL

HEARING STREAM 4

26 September 2023

TABLE OF CONTENTS

| | |
|---|----|
| INTRODUCTION..... | 3 |
| QUALIFICATIONS, EXPERIENCE, CODE OF CONDUCT..... | 3 |
| RESPONSES TO EXPERT EVIDENCE | 3 |
| GENERAL MATTERS..... | 3 |
| OBJECTIVE 22 | 7 |
| DEFINITIONS OF URBAN AREAS AND RURAL AREAS..... | 17 |
| POLICY UD.4 | 21 |
| POLICY UD.5 | 27 |
| POLICY 55 | 32 |
| POLICY UD.3 | 42 |
| POLICY 31 | 49 |
| POLICY UD.2 | 53 |
| DEFINITION OF WALKABLE CATCHMENT..... | 54 |
| DEFINITION OF MEDIUM DENSITY DEVELOPMENT | 57 |
| DEFINITION OF HIGH DENSITY DEVELOPMENT | 58 |
| DEFINITION OF REGIONAL FORM | 59 |
| DEFINITIONS OF RAPID TRANSIT..... | 60 |
| DEFINITION OF HIGHLY PRODUCTIVE AGRICULTURAL LAND | 60 |
| CHAPTER 3.9 INTRODUCTION | 61 |
| REGIONALLY SIGNIFICANT ISSUES..... | 62 |
| POLICY 67 | 64 |

INTRODUCTION

- 1 My full name is Mika Helena Zöllner. I am a Senior Policy Advisor in Policy at Greater Wellington Regional Council (the Council).
- 2 I have reviewed the planning evidence and legal submissions received relevant to the provisions in Hearing Stream 4 that are in the Freshwater Planning Instrument.

QUALIFICATIONS, EXPERIENCE, CODE OF CONDUCT

- 3 My qualifications and experience are set out in paragraphs 18-20 of my Section 42A report, dated 4 September 2023. I repeat the confirmation given in that report that I have read and agree to comply with the Code of Conduct for Expert Witnesses.

RESPONSES TO EXPERT EVIDENCE

- 4 This section responds to submitter evidence in relation to the provisions in this topic. Amendments requested by submitters are shown in **bold underline or strike through**. The amendments to the Change 1 provisions recommended in my Section 42A report are shown in red underlined or ~~marked out~~ and further amendments recommended in this rebuttal evidence are shown in blue underline or ~~strike through~~. The amendments recommended by this rebuttal for the provisions addressed, are in Appendix 2.
- 5 This rebuttal is focussed on those submitters that have provided statements, evidence or submissions seeking further relief to provisions.

GENERAL MATTERS

Constraining greenfield development

- 6 Mitch Lewandowski (on behalf of Peka Peka Farm and Summerset) raises concerns that the Hearing Stream 4 provisions impose inappropriate restrictions on new greenfield development. Mitch Lewandowski particularly raises the need to ensure land and development markets can operate competitively, as directed by the NPS-UD. WCC shares a concern that expectations on greenfield development are too high. Mitch Lewandowski raises the need for a balanced approach to ensure that provisions are not unnecessarily restricting urban development; I agree with this and in my opinion the provisions are

appropriately enabling urban development alongside other national direction and RMA matters which must also be given effect.

7 The Change 1 provisions provide a pathway for greenfield development where it can demonstrate that it is necessary to meet demand, and will deliver a high-quality, resilient, and accessible built environment which mitigates adverse effects on the natural environment. In my opinion it is appropriate to expect that greenfield development delivers high-quality outcomes for existing urban areas and meets a demonstrated need for additional urban land, given the environmental externalities inherently associated with zoning rural land to urban. This reflects the fact that the NPS-UD seeks to achieve (among other objectives) well-functioning urban environments, strategic and integrated decision-making, climate resilience and reductions in greenhouse gas emissions. I acknowledge that some greenfield development will continue to occur where it is needed, well-planned and can deliver these characteristics. I consider my amendments assist by providing clear direction to applicants on what is expected. In my opinion Change 1, and the amendments recommended in my Section 42A analysis, are consistent with direction from the NPS-HPL, NPS-FM and NPS-UD.

8 I acknowledge that supporting the competitive operation of land and development markets is one aspect sought by the NPS-UD, however (acknowledging that economics is not my field of expertise), this does not solely relate to enabling greenfield land. The Change 1 provisions as a whole support intensification and recognise the benefits of intensification and higher density development. The extent of intensification enabled by Intensification Planning Instruments across the region has significantly contributed to the urban realisable development capacity, including a competitiveness margin as sought by the NPS-UD, such that realisable capacity for housing is almost double demand for the next 30 years¹. This will evidently support competitive land and development markets as this capacity is realised going forward.

National Policy Statement on Highly Productive Land 2022

9 Emily Levenson on behalf of HortNZ requests that the NPS-HPL is given effect in provisions. I do not disagree that protecting highly productive land is an important

¹ Draft Housing and Business Development Capacity Assessment Summary Report August 2023, Wellington Regional Leadership Committee 19 September 2023 order paper, [Wellington-Regional-Leadership-Committee-19-September-2023-order-paper.pdf \(gwrc.govt.nz\)](https://www.gwrc.govt.nz/Wellington-Regional-Leadership-Committee-19-September-2023-order-paper.pdf)

consideration for Chapter 3.9, and have recommended some amendments to strengthen reference to primary productivity. However, my opinion that giving effect to the NPS-HPL is better done through a separate plan change process than through Change 1 given it was gazetted after the notification of Change 1, which I express in my Section 42A analysis, has not changed. I also note that new Policy UD.4, which I recommend is added to Chapter 4.1 in response to other submissions, provides a clear prioritisation of intensification over greenfield development and thereby indirectly addresses the concerns raised by the submitter.

Consideration policies applying to notices of requirements

- 10 Caroline Horrox on behalf of Wellington Water identifies that the consideration policies variably apply to notices of requirements. In response I have reviewed the consideration policies addressed by my Section 42A analysis to determine whether amendments are necessary. Policy UD.3 applies only to plan changes in line with clause 3.8 of the NPS-UD, so no amendment is necessary. Policy UD.2 appropriately applies to notices of requirements as it applies to subdivision, use and development. Policy 55 and Policy UD.5 apply to urban development specifically (which includes subdivision, use and development in the operative RPS definition of urban development) and do not currently refer to notices of requirements. While it is likely to be uncommon, there may be circumstances where a notice of requirement occurs as part of urban development, so I consider it is useful to amend the chapeaus of Policy 55 and UD.5 to apply to notices of requirements.

Reference to qualifying matters

- 11 Claire Hunter on behalf of WIAL states that qualifying matters apply to regional policy statements, and that it would be helpful for the RPS to identify a list of qualifying matters that apply in the Wellington Region. The submitter does not seek specific relief regarding this matter. I do not disagree that qualifying matters could be identified in the RPS and could be helpful, however I do not see what value this would contribute at this stage. Policy 3 of the NPS-UD has now been implemented by all tier 1 territorial authorities through their Intensification Planning Instruments, some of which are now operative.

Method 52 of the RPS

12 Catherine Clarke on behalf of Winstones is of the view that the topic of significant mineral resources generally, and the method of mapping these resources, is within scope of Change 1, but accepts there may be some impracticalities in undertaking this mapping exercise as part of the Change 1 statutory process. Winstones seeks that Method 52 is amended to give a clear timeframe that reflects the urgency for undertaking mapping as follows:

Method 52: Identify the region's significant mineral resources

Spatially identify the location of significant mineral resources in the region no later than 31 March 2024.

13 Method 52 is a provision that is not subject to Change 1, and I consider that making the amendment sought by the submitter potentially raises natural justice issues where submitters have not been able to provide comment on such a significant change. The timeframe proposed is also unrealistic in my view. I consider that the requirement to undertake mapping already exists through Method 52, and I therefore do not consider that this amendment should be made at this stage.

Categorisation of provisions into the FPI

14 Winstones, the Mansell family and WIAL have provided planning evidence and/or legal submissions opposing the categorisation of provisions into the FPI which is summarised in Tables 5 and 6 of my Section 42A Report for this topic. I have reviewed their evidence and have summarised my views on the categorisation in Table 1 below where they have changed as a result of the evidence. For all other provisions, my view has not changed in response to the planning evidence received. I remain of the opinion that many provisions covered by my Section 42A analysis directly relate to matters impacting on the quality and quantity of freshwater. This direct relationship between land use and freshwater is explicitly recognised by the NPS-FM as I discuss in my analysis, and these provisions contribute to achieving the NPS-FM policies and objectives. I consider that if 'part' of a provision meets one of the tests described in my report², the whole provision must be in the FPI. In the case of Policy 55, the connection to freshwater does not rely on the concept

² Paragraphs 69-70 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

of Te Mana o Te Wai as Catherine Clarke argues, but rather provides explicit direction to apply Policy 42 and other freshwater policies which seek to achieve Te Mana o Te Wai.

- 15 In the case of Policy UD.5, my view on the categorisation has changed as a result of amendments recommended in this rebuttal (see paragraph 91). I also note that my analysis in Table 6 of my Section 42A report did not provide a recommendation on whether the new regionally significant issue 4 on infrastructure should be in the FPI or not. This was an oversight and I have therefore included this assessment in Table 1 below.

Table 1: Assessment of categorisation of provisions following submitter evidence, where my view has changed.

| Provision | S42A Assessment | Assessment following submitter evidence | FPP or P1S1? |
|------------------------------------|------------------------|--|---------------------|
| New regionally significant issue 4 | None | The issue relates to there being sufficient infrastructure to support development. Although this includes water infrastructure which affect freshwater quality and quantity directly, the relationship to freshwater in the intent of the issue is not direct. | P1S1 |
| New Policy UD.5 | FPP | Recommend removing specific reference to freshwater in response to submitter evidence. | P1S1 |
| Policy UD.3 | FPP | Given the amendments recommended to Policy UD.3, it no longer meets the test for inclusion into the FPI; I agree with submitters that this relationship is no longer direct. | P1S1 |

OBJECTIVE 22

- 16 In my Section 42A report I recommended amendments to Objective 22 to reinstate reference to regional form, and also delete the new Objective 22B on rural development. Objective 22 is addressed in the evidence of PCC, HCC, UHCC, Peka Peka Farm, Summerset, Powerco, Wellington Water, WIAL, and Waka Kotahi.

PCC

- 17 Rory Smeaton on behalf of PCC supports some amendments to Objective 22, notably the addition of health and wellbeing, but seeks that it is simplified, as it duplicates other RPS policies and does not add further direction over and above that in the NPS-UD. PCC raises concerns regarding the clarity and use of the terms, ‘environmentally responsive’, ‘affordable housing’, ‘climate-resilient’, ‘high-quality housing’, and seeks that the wording in its original submission is adopted in full.

HCC

- 18 Torrey McDonnell on behalf of HCC seeks that Objective 22 is shortened as it duplicates other parts of the RPS, thereby adding unnecessary complexity and consent processing times. HCC seeks that the S42A report amendments are removed as it prefers the notified version of Objective 22, particularly raising concerns with the uncertainty of the terms 'affordable housing' and 'environmentally responsive'.

UHCC

- 19 Gabriela Rojas on behalf of UHCC supports the recommended re-insertion of 'regional form' and considers the chapeau is improved from the notified Objective 22. However, UHCC considers its original submission seeking local flexibility for district plans has not been provided for through the amendments to Objective 22, and thereby seeks that all clauses are deleted with the amended chapeau as recommended in the S42A report retained. If the clauses are to be retained, Gabriela Rojas seeks that the objective is prioritised and some minor amendments to clauses (d) and (e).

Peka Peka Farm and Summerset

- 20 Mitch Lewandowski on behalf of Peka Peka Farm and Summerset supports the amended chapeau and some clauses of the amended Objective 22, but seeks removal of clause (c) on Te Mana o Te Wai to remove duplication with other RPS provisions. The submitters also seek that the references to 'affordable housing' and 'a diversity of housing typologies within neighbourhoods' are removed as they are captured by the concept of housing choice (and affordable housing is too vexed without a definition), and minor amendments to clause (d). On behalf of Summerset only, Mitch Lewandowski seeks addition of 'and recognises any particular locational requirements of the proposed use and development' to clause (d) on emissions reduction and climate resilience.

Powerco

- 21 Miles Rowe has provided a hearing statement on behalf Powerco, which expresses support for the recommended amendments to Objective 22. Powerco seeks insertion of a qualifier 'where practicable' to clause (h) on integrating and sequencing infrastructure,

due to the practical limitations of doing this if development is staged in a manner that is at odds with how Powerco provides infrastructure.

Wellington Water

- 22 Caroline Horrox submits planning evidence on behalf of Wellington Water supporting the inclusion of clause (c) seeking that Te Mana o Te Wai is given effect, stating that this addresses the gap in relation to Te Mana o Te Wai that was identified by Wellington Water's submission. The submitter also supports removal of clause (e) and the new clauses (g) and (h) on infrastructure. Wellington Water seeks that 'optimising' replaces 'efficient use' in clause (g) on existing infrastructure, and that specific reference to transport infrastructure is removed due to redundancy. Wellington Water also seeks that 'and development densities are sufficient to support its provision and ongoing maintenance' is removed from clause (h) due to a lack of clarity.
- 23 In a legal submission on behalf of Wellington Water, Morgan Slyfield makes the observation that Objective 22 is significantly longer and more complex than the notified version.

WIAL and Waka Kotahi

- 24 Claire Hunter on behalf of WIAL considers that Objective 10 in the operative RPS does not adequately support the following recommended direction in new Policy UD.5; 'Avoids adverse reverse sensitivity effects on the operation and safety of regionally significant infrastructure', which WIAL supports. WIAL therefore seeks a new clause in Objective 22 as follows:

it does not compromise the ability to operate nationally and regionally significant infrastructure safely and efficiently.

- 25 Claire Heppelthwaite on behalf of Waka Kotahi supports the recommended amendments to Objective 22, and seeks addition of 'safe' infrastructure usage into clause (g), and the following new clause:

potential for reverse sensitivity effects on the operation of regionally significant infrastructure are recognised.

Analysis

- 26 The evidence provided by submitters does not alter my view on the merits of amending Objective 22 in the manner proposed, or the merits of each clause in the amended version which I cover in my Section 42A analysis³. HCC's raises concerns about duplication which appear to relate equally to the notified version of Objective 22 as to my recommended amendments, but then states that the notified version is therefore more appropriate and provides no specific relief. I do not follow why HCC's concerns (which I address in turn below) justify returning back to the notified Objective 22. Several original submissions raised concerns with notified Objective 22 which, in my opinion, my recommended amendments appropriately address.
- 27 I note that no submitters have provided evidence or hearing statements in opposition of the recommended deletion of Objective 22B, and subsequent incorporation into Objective 22, with the exception of HortNZ who seek alignment with the NPS-HPL. The deletion of Objective 22B is explicitly supported by PCC, HCC, UHCC, Powerco, Peka Peka Farm, Summerset, and Waka Kotahi, and I still consider this is appropriate.
- 28 I have already addressed the reasons for not accepting PCC's drafting of Objective 22 in full in my Section 42A report, and Rory Smeaton's evidence has not changed my view on this. Likewise, I have justified the need for each clause in Objective 22 in my Section 42A report. In response to the concerns by HCC, PCC, Peka Peka Farm and Summerset regarding duplication with other RPS policies, I have already discussed this in my Section 42A analysis⁴. Chapter 3.9 is a particularly integrated chapter due to the interdependencies between land use and development and many RMA matters. While I acknowledge submitters' concerns about duplication and the fact that the RPS is an integrated document, in the case of land use and development it is important to ensure plan users are aware of the relationship to other parts of the RPS and therefore undertake the assessment for consistency with those objectives and policies. Some plan users may (and I have experienced this) focus only on Chapter 3.9 when assessing a particular proposal, and not apply relevant freshwater, hazard, indigenous ecosystems or RSI provisions that should also apply. A recent example is a July 2023 resource consent

³ Section 4.2.2 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

⁴ Paragraphs 190-192 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

application for subdivision and associated earthworks at Marchant Rd in Upper Hutt⁵, which provided a high-level assessment against only Objective 19, Policy 29, and Objective 22 of the RPS, despite several other RPS provisions being applicable.

29 Clause (c) on Te Mana o Te Wai is an important recognition of the direction relationship between land use and development and freshwater; which is explicitly highlighted by the NPS-FM⁶ and must be acknowledged in Chapter 3.9 in my view. I disagree with Torrey McDonnell's concern that this approach unnecessarily lengthens consent processing times. If an applicant or Council staff has already provided an assessment regarding Te Mana o Te Wai under the RPS freshwater chapter, then this assessment is complete and clause (c) of Objective 22 would not add any additional time. The reference serves to make it clear to applicants that Te Mana o Te Wai is relevant to the regional form provisions and that such an assessment is necessary for subdivision, use and development in accordance with the freshwater provisions. If the assessment has not yet been undertaken, it would refer plan users to the freshwater chapter as needed.

30 While I have considered the points raised by UHCC, I do not agree with the relief sought to delete all of the clauses in Objective 22 and retain the chapeau only. The concern regarding the flexibility allowed to district plans does not justify stripping the single objective on regional form to a high-level statement in my opinion. This is for two reasons; firstly the role of an RPS is to provide integrated direction for the region and thereby to district plans, and secondly the relief sought by UHCC does not achieve its intended outcome. Due to the structure of Chapter 3.9, Objective 22 must provide context for a wide range of policies in an integrated manner, including regarding infrastructure, land use types, centres, NPS-UD direction, and the relationship between development and the natural environment. All of the matters covered by Objective 22 relate closely to policy direction and contain no additional direction, so by giving effect to the supporting policies of Objective 22, district plans must already consider all of the direction in Objective 22. Deleting the clauses, as UHCC seeks, therefore would not change what district plans must

⁵ [Marchant Road Subdivision | Let's kōrero \(upperhuttcity.com\)](https://www.upperhuttcity.com/let-s-koero)

⁶ Clause 3.5(1)(c) of the NPS-FM states, 'manage freshwater, and land use and development, in catchments in an integrated and sustainable way to avoid, remedy, or mitigate adverse effects, including cumulative effects, on the health and well-being of water bodies, freshwater ecosystems, and receiving environment'.

Clause 3.5(1)(d) states, 'encourage the co-ordination and sequencing of regional or urban growth.'

Clause 3.5(2)(a) states, 'Every regional council must make or change its regional policy statement to the extent needed to provide for the integrated management of the effects of: the use and development of land on freshwater.'

do but would fail to adequately provide clear strategic context and direction for regional form in my view.

- 31 I disagree with Wellington Water that Objective 22 is significantly longer and more complex than the notified version. While I acknowledge that the objective is long, as stated, it needs to set up a wide range of supporting policies. Objective 22 as recommended by my Section 42A report is of equal length to the notified objective, replaces two objectives in the notified version and addresses orphan policies as is outlined in detail in my Section 42A analysis. The alternative to one long objective would be several more objectives, which I considered but I could not find a useful way to arrange the direction.

Use of terms

- 32 HCC, PCC, Peka Peka Farm and Summerset raise concerns about the introduction of some new terms in Objective 22 and associated policies, due to their meaning being unclear or outside of an RMA context. I have responded to each of these in turn, with the exception of climate-resilient which I consider is already discussed sufficiently in my Section 42A analysis. My response below is also in response to HCC and PCC's evidence regarding the use of these terms in Policies 32, 33, 55, and 67.

- Environmentally responsive

- 33 I have used the term environmentally responsive deliberately instead of the term 'sustainable', which I consider does not adequately capture the sensitivity for the context, constraints and features of a particular location which Change 1 seeks. While I consider the meaning is clear in the context of the provisions and RPS more broadly, I acknowledge the concerns raised by PCC that it could be mis-interpreted as purely responding to the environment, without necessarily responding positively. The use of environmentally responsive could therefore be supported by the following new definition which I recommend is added:

[Designed to respond positively to the natural and cultural values, and the landscape and climatic features, of a place.](#)

- Accessible

34 I do not agree with PCC that accessible is unclear. The term 'accessibility' is used in the NPS-UD and clearly refers to good access to and between services, amenities, employment, housing etc. I therefore consider it is appropriately used in Objective 22 and supporting policies.

- Affordable housing

35 I acknowledge submitters' concerns about the precise definition of affordable housing being vexed, difficult to measure and relative for different circumstances. At the objective level, I do not consider there to be a particular issue with setting an aspiration for sufficient affordable housing. However, I acknowledge that referring to housing affordability is a more measurable and widely understood term. I therefore recommend 'affordable housing' is replaced with 'housing affordability' in Objective 22. The term is not used elsewhere aside from in the regionally significant issues and Anticipated Environmental Results, where I do not consider the term would contribute to confusion. To account for the removal of affordable housing, I have recommended that the clause is re-structured to flow better and still be stated as an outcome, 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, and housing choice, to meet the needs of current and future generations, with and ...

- High quality housing

36 I consider it appropriate for an RPS to refer to housing quality, as asked for by Dom Harris and Rangitāne in original submissions. In my opinion the RMA can influence matters which affect the quality of both existing and new housing through the way in which urban development occurs. This could occur through a range of regulatory and non-regulatory mechanisms including urban design guidelines, development manuals etc. In fact, district plans already regulate for matters such as sunlight, setbacks and access to private green space which could be construed to relate to housing quality. 'High quality housing' is used only in clause (e) of the recommended Objective 22 where it sets the outcome that housing in the region is of a high quality. While I do not consider this term to be unclear, I agree with UHCC that it doesn't sit well in clause (e) and is sufficiently captured by the matters in clause (a). The new Policy UD.5 clause (a) refers to improving housing quality as part of well-functioning urban areas, which in my view appropriately accepts the original

submissions by Dom Harris and Rangitāne without a reference in Objective 22 being necessary. I therefore recommend ‘high quality housing’ is removed from clause (e).

Infrastructure

- 37 I agree with Wellington Water that the specific inclusion of ‘transport infrastructure’ in clauses (g) and (h) is redundant so I recommended it is removed. The definition of ‘infrastructure’ in the RPS includes ‘(g) structures for transport on land by cycleways, rail, roads, walkways, or any other means’ which in my view captures transport infrastructure adequately. While I agree with the intent of Wellington Water’s amendment to clause (g) that the use of existing infrastructure should be both efficient and effective, I do not consider ‘optimising’ is the most appropriate word for an objective. Instead, I recommend that the clause states ‘...effectively and efficiently’.
- 38 In response to Wellington Water’s concern regarding the phrase, ‘development densities are sufficient to support its provision and ongoing maintenance’, I consider this contains vital direction regarding land use and infrastructure and should be retained. As I discuss in my Section 42A analysis⁷ this relates to ensuring that population densities are sufficient to support ongoing operation and maintenance of infrastructure and transport services, in particular when new infrastructure is necessary. It links to Policy 55 clause (a)(3). However, I agree that two distinct concepts have been combined into one clause which may cause confusion for plan users, and therefore recommend this part of clause (h) is included in a new clause.
- 39 I do not agree with the relief sought by Powerco to add the qualifier ‘where practicable’ regarding the integration and sequencing of infrastructure in clause (h). An objective sets an aspirational outcome, which if caveated provides much weaker direction to the supporting policies. While I acknowledge that there can be challenges with delivering integrated and sequenced infrastructure in practice, this is better recognised at the policy level. I also note that the NPS-UD seeks an improvement in how infrastructure is delivered and integrated with urban development through Objective 6 and direction to Future Development Strategies, and weakening this clause would not be consistent with this direction.

⁷ Paragraph 223 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

40 In response to Waka Kotahi’s request for safety to be added to clause (g), I have picked this relief up in the new clause on reverse sensitivity discussed below, which I consider to be more appropriate.

Reverse sensitivity

41 I agree with Waka Kotahi and WIAL that it is justified to include the protection of regionally significant infrastructure (RSI) from reverse sensitivity in Objective 22, due to the particular impact that subdivision, use and development can have via reverse sensitivity effects. While I had initially relied on Objective 10 when I recommended addition of RSI protection to the new Policy UD.5, I acknowledge that it relates more broadly to recognising and protecting RSI. I therefore agree that a new clause should be added. I agree with the relief sought by Catherine Heppelthwaite to some extent, however I consider ‘recognised’ is too weak and is inconsistent with the direction in Policy UD.5. Claire Hunter’s wording is too strong and broad in my opinion; I consider that the wording should be consistent with Policy UD.5 and focus on reverse sensitivity, which is of particular relevance for land use and development. I also consider that reference to ‘efficiency’ is already captured by clause (i) on infrastructure and is not needed. I recommend a new clause is added as follows:

(k) the safe operation of regionally significant infrastructure is protected from potential reverse sensitivity effects.

Development capacity and climate change - clauses (a) and (d)

42 While I agree with Peka Peka Farm and Summerset that Policy 2 of the NPS-UD refers to there being, ‘at least’ sufficient development capacity, I do not consider it is necessary to include this in clause (a). Stating ‘there is at least sufficient development capacity...’ sounds clunky when stated as an outcome, and I note that this direction is at a policy level in the NPS-UD (providing at least development capacity). I have already discussed that I agree with submitters that ‘affordable housing’ should be replaced with ‘housing affordability’. I do not agree with Peka Peka Farm and Summerset that the reference to ‘with a diversity of housing typologies within neighbourhoods’ should be removed. As I discuss in my Section 42A analysis⁸, supporting housing choice does not necessarily mean

⁸ Paragraphs 237-238 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

supporting a diversity of housing typologies in proximity to each other. In my experience, developments can cite ‘housing choice’ when they are providing a single typology such as low-density rural lifestyle housing because any housing typology contributes to housing choice, without necessarily demonstrating the demand for that typology in that area, and considering options to improve the diversity of typologies by delivering under-represented typologies in particular. Simply stating housing choice also does not promote consideration of whether a single development could deliver multiple different housing typologies, which larger scale developments should do and historically haven’t done in my experience. I have sought to make the outcome sought by the clause clearer by adding ‘...and access to a diversity of housing typologies within neighbourhoods’.

- 43 I agree with Peka Peka Farm, Summerset and UHCC that the wording of clause (d) is probably too strong regarding reducing emissions, and that it should be amended as follows (which is consistent with objectives and policies in the Climate Change topic):

(d)(f) subdivision, use and development is located, designed, and constructed in a way that supports the transition to a low-emission climate-resilient and contributes to reducing greenhouse gas emissions region; and

- 44 I disagree the relief sought by Summerset to add reference to recognising, ‘any particular locational requirements of the proposed use and development’ in clause (d). This term is very vague and unclear regarding its intent, but appears to be seeking a qualifier for some particular developments such as retirement villages. I do not see how a retirement village requires a specific caveat regarding its ability to support emissions reduction and climate resilience. I acknowledge the context outlined by Summerset and the criteria they apply when identifying suitable sites, however I do not agree that the considerations they describe should therefore weaken direction to be climate-resilient and support emissions reduction. As discussed above in response to Powerco, even if I did support the intent, I do not consider that an objective should contain qualifiers of this nature anyway.

Recommendations

- 45 I recommend that Objective 22 as amended by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

46 In accordance with Section 32AA, I consider that my recommended amendments to Objective 22 are most appropriate as they mostly respond to matters of clarity raised by submitters, which will improve implementation of the objective and associated policies. The addition of a new clause on protecting RSI from reverse sensitivity is the most effective and efficient option as it makes it clear that it is a relevant consideration for regional form, and provides context for the policy direction on this matter. The addition of a new definition for environmentally responsive will support interpretation and therefore effective and efficient implementation of the policy intent.

DEFINITIONS OF URBAN AREAS AND RURAL AREAS

47 The urban areas definition is addressed in the evidence of PCC, HCC, WCC, and UHCC.

PCC

48 PCC considers that the definition of urban areas should be deleted as it does not actually define urban areas and is rather an inclusive list, and therefore has no practical use for plan users. PCC originally submitted that open space and recreation zones should be included in urban areas, due to good accessibility to such areas being essential as part of well-functioning urban areas. Because this relief was not accepted, PCC therefore considers the definition should be deleted.

WCC

49 WCC seeks that the definition of urban zones is amended to include future urban areas, arguing that otherwise it would not be consistent with the NPS-UD.

HCC

50 HCC supports the Section 42A report recommendation for the definition to be retained as notified.

UHCC

51 UHCC raises concerns that the definitions of urban areas and rural areas have a gap with regard to settlement zones, causing confusion regarding how Policy 55 applies. UHCC

raises a similar concern as PCC that the use of 'includes' in the definitions is not exclusive and could include other zones on a point of law.

Analysis

52 Broadly, I agree with WCC, PCC and UHCC that there are some issues with the definition of urban areas and the use of the term in Change 1 and the RPS. Core to the problem, as I understand it, is that the term 'urban areas' is used in the RPS and Change 1 to do three different things:

52.1 To define the current extent of urban zones within which intensification should be enabled and prioritised under Policy 31 and Policy UD.4.

52.2 To define the current extent of urban zones, beyond which urban development is considered to be greenfield development and therefore is subject to Policy 55.

52.3 To refer to the region's urban areas in a more general sense, which includes consideration of whether those urban areas are well-functioning, accessible, resilient, etc.

53 The reason that I recommended rejecting PCC's original submissions is that, for the purpose of achieving the purpose in 52.1 above, open space zones should not be identified as being suitable for intensification to be enabled in. Including open space and recreation zones in this area would be contrary to the intent of these zones and the RPS, as I discuss in my Section 42A analysis⁹.

54 The reason that I recommended rejecting WCC's original submission is that, for the purpose of achieving the purpose in 52.2 above, future urban zones should not be considered part of the existing urban area and therefore be excluded from being considered greenfield development. This is because they still represent 'future' urban zones, as I discuss in my Section 42A analysis¹⁰.

55 For these reasons, my Section 42A report recommended that the definition of urban areas remains focussed strictly on existing urban zones within which intensification should be

⁹ Paragraphs 683-690 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

¹⁰ Paragraphs 683-690 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

encouraged. I sought to retain the non-exclusive term 'includes' to account for any potential special purpose zones that a particular district plan might have, which need to be captured by the definition of urban areas. That being said, I sympathise with the arguments raised by PCC and WCC that open space zones and future urban zones do form part of what could be considered the 'urban area' in a more holistic sense, when considering the function and accessibility of a place to achieve the purpose in 52.3 above. Situations in the RPS where the term 'urban areas' actually needs to refer to existing urban zones for the purpose of 52.1 and 52.2 above is quite limited (Policies 31, 55, UD.3 and UD.4).

56 To address this dilemma as well as UHCC's concerns, I recommend that the intent referred to at 52.1 and 52.2 above are separated from the intent at 52.3 above, as follows:

56.1 Insert a new definition for 'urban zones' which specifically lists residential, commercial, mixed use and industrial zones. Change 1 as amended by my Section 42A report already refers to 'urban zones' or 'urban-zoned land' in Objective 22, Policy UD.4, Policy 55, Policy UD.3, and Policy UD.5, so this new definition will support clarity and implementation of these recommended amendments.

56.2 Retain the definition of urban areas but broaden it to include open space and recreation zones, future urban zones and relevant special purpose zones. Replace the reference to 'include' with 'consist of' to address submitters' concerns regarding certainty, and re-structure to improve clarity. 'Urban areas' can then be used as part of 'well-functioning *urban areas*' and whenever urban areas are being referred to generally for the purpose described in 52.3 above.

56.3 Replace 'urban areas' with 'urban zones' where the term must achieve the purpose in either 52.1 or 52.2 above (chapeau of Policy 55, chapeau of Policy 31, Policy UD.4, clause (e) of Policy UD.3).

57 In response to UHCC, I acknowledge that the role of settlement zones is awkward as they can contain 'urban' or 'mixed use' activities, however in my view they are clearly intended to be rural in National Planning Standards¹¹. For the purpose of the RPS, settlement zones are therefore not considered to form part of the urban area or to be urban zones. My

¹¹ The National Planning standards defines the settlement zone as (my emphasis), 'Areas used predominantly for a cluster of residential, commercial, light industrial and/or community activities that are located in rural areas or coastal environments.'

Section 42A report¹² recommended that a note was added to the definition of rural areas to include settlement zones, however I agree with UHCC that still is not clear or exclusive enough. To address UHCC's concern I recommend that the definition of rural areas is amended to specifically include settlement zones, and that more certain language is used.

Recommendations

58 I recommend a new definition for 'urban zones' is inserted as follows:

Means the following zones as identified in the Wellington city, Porirua city, City of Lower Hutt, Upper Hutt city, Kāpiti coast and Wairarapa combined *district plans*:

- Large Lot Residential
- Low Density Residential
- General Residential
- Medium Density Residential
- High Density Residential
- Commercial and mixed use zones
- Industrial zones

59 I recommend the definition of urban areas is amended as follows:

The region's urban areas ~~include residential zones, commercial, mixed use zones, and industrial~~ consist of the following zones as identified in the Wellington city, Porirua city, City of Lower Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined *district plans*:

Note: For the avoidance of doubt, this includes the following zones under the National Planning Standards:

- Urban zones
- Future urban zone
- Open space and recreation zones
- Relevant special purpose zones in the urban area

60 I recommend the definition for 'rural areas' is amended as follows:

~~The region's r~~Rural areas ~~(as at March 2009)~~ include all areas not identified in the region's *urban areas* ~~(as at March 2009)~~ rural zones and settlement zones identified in the Wellington city, Porirua city, Hutt city, Upper Hutt city, Kāpiti coast and Wairarapa combined district plans.

Note: For the avoidance of doubt, this includes the following zones under the National Planning Standards:

- General rural zone
- Rural production zone
- Rural lifestyle zone
- Settlement zone
- Other relevant zones within the rural environment

¹² Paragraphs 683-690 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

61 I recommend the following consequential amendments:

- Amend the Policy 31 chapeau:

District plans shall include policies, rules and/or methods that ~~identify and enable intensification within existing urban zones~~ ~~urban areas~~ where...

- Amend the Policy 55 chapeau:

When considering an application for a resource consent, or a change, variation or review of a district plan for *urban development* beyond the region's existing urban zones ~~urban areas~~ (as at ~~March 2009~~ August 2022)...

- Amend Policy UD.4 clauses (b)(i), (b)(ii), and (c):

... within existing urban zones ~~urban areas~~...

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

... within existing urban zones ~~the urban area~~; and

- Amend Policy UD.3 clause (e):

... within existing urban zones ~~the urban area~~, and

Section 32AA evaluation

62 In accordance with Section 32AA, I consider that my recommended amendments to the definitions of urban areas and rural areas are most appropriate as they mostly respond to matters of clarity and certainty raised by submitters, which will improve effective and efficient implementation of policies using these terms. Using the term 'urban zones' instead of 'urban areas' in some places makes the intent clearer and allows for a more holistic definition of urban areas, which will better articulate well-functioning urban areas and thereby implement the NPS-UD.

63 I have considered how the terms 'rural areas' and 'urban areas' are used in the operative RPS, and do not consider the amendments will lead to any unintended consequences.

POLICY UD.4

64 Policy UD.4 is a new policy that I recommended being added to Chapter 4.1 in my Section 42A report. Policy UD.4 is addressed in the evidence of UHCC, Peka Peka Farm, Summerset, and indirectly Wellington Water and Waka Kotahi.

Peka Peka Farm and Summerset

65 Mitch Lewandowski opposes Policy UD.4 and seeks its deletion, citing that providing a hierarchy for development is inconsistent the NPS-UD's 'all of the above' direction for enabling urban development, does not provide for responsive planning, and will direct implementation of the NPS-UD in an unbalanced way.

UHCC

66 Gabriela Rojas on behalf of UHCC supports the intent of Policy UD.4 and seeks amendments to the wording for greater clarity. UHCC questions the use of 'preventing dispersed growth patterns' in the policy as urban expansion as covered by (a)(iii) and (a)(iv) would contribute to dispersed growth, and seeks that this is clarified. UHCC also queries the test of 'prioritisation' of different development types and how district plans would demonstrate this in practice, particularly prioritising between intensification in all urban zones vs. intensification in and near centres and public transport. UHCC also questions the role of settlement zones in the policy (and RPS Change 1 more broadly) in that it may not meet the test of urban development, but may include mixed use activities and therefore would not be rural residential development.

Waka Kotahi

67 Catherine Heppelthwaite on behalf of Waka Kotahi seeks a new Policy 30A in Chapter 4.1 to include the hierarchy outlined in the 'How the plan works' part of the amended Chapter 3.9 introduction, into a new regulatory policy, as follows:

Policy 30A

Development is prioritised to seek a strategic approach to meeting housing and business demand:

1. Firstly urban development within existing urban areas through intensification in and adjacent to centres with a range of commercial activities, and along existing or planned public transport corridors (Policy 31),

2. Then other intensification within existing urban areas (Policy 31),

3. Then urban development in areas identified for future urban development through appropriate growth strategies or district plans (Policy 55),

4. Then other urban development where it adds significantly to development capacity (Policy UD.3), in places connected to existing urban areas,

5. Then residential development in the region's rural areas (Policy 56).

Wellington Water

68 Caroline Horrox on behalf of Wellington Water seeks that the strategic hierarchy described in the chapter introduction is more explicit. The submitter states that Wellington Water would support such a hierarchy as a policy, as it would enable the more efficient use of infrastructure.

Analysis and recommendations

69 It appears that Waka Kotahi did not see the insertion of new Policy UD.4 which provides exactly the direction sought by Policy 30A that it proposes. My recommendation to add Policy UD.4 was partially in response to Waka Kotahi's original submission seeking the prioritisation of intensification and planned development. I therefore consider that Policy UD.4 as recommended in my Section 42A report fulfils the intent of Policy 30A as requested by Waka Kotahi, and this implies its support for the strategic hierarchy in Policy UD.4. Likewise, it appears Wellington Water also did not see the proposed new Policy UD.4 which addresses their concerns, and therefore also support the hierarchy.

70 I do not agree with the concerns raised by Mitch Lewandowski on behalf of Peka Peka Farm and Summerset regarding the intent of Policy UD.4. I consider that it fills a policy gap in the RPS, which I discuss in my Section 42A analysis, and note that both Waka Kotahi and Wellington Water recognise this policy gap and support the use of a hierarchy. I also note that Kāinga Ora, in the evidence of Brendon Liggett, notes support for PC1 providing for, 'compact growth in the region, but most importantly, promoting compact and concentrated urban form and densification in the Region (especially for residential and commercial land uses).'The points raised by the submitter have not changed my views on the merits of Policy UD.4 for the following reasons:

- 70.1 The RPS must do more than give effect to the NPS-UD, and is not bound by its direction alone. My Section 42A analysis¹³ outlines a wide range of reasons to prioritise intensification over greenfield development, and planned development over unplanned development. Stronger direction on the relationship between different kinds of development, and explicit preference for intensification, was sought by numerous submitters, and this is aligned with urban planning best practice as well as direction in the NPS-HPL, NPS-FM, ERP and NAP. It is undoubtedly the direction of travel for enabling best practice urban development while using and providing infrastructure most efficiently, particularly from a climate change, freshwater and primary productivity perspective.
- 70.2 While I acknowledge that the NPS-UD seeks to enable development both up and out where they contribute to well-functioning urban environments, on balance the NPS places greater emphasis on intensification in its objectives and policies than on enabling greenfield development.
- 70.3 NPS-UD Objective 6 seeks that decisions on urban development are integrated, strategic and responsive. In order to support integrated and strategic decision making, it is appropriate and helpful for the RPS to contain a hierarchy for meeting housing and business demand. Policy UD.4 does not by any means prevent responsive planning to unanticipated or out-of-sequence developments, in fact it specifically mentions such circumstances and refers to Policy UD.3. In my view it would be inappropriate to suggest that unanticipated development should be preferred to sequenced and anticipated development in most circumstances, and this is not the intent of NPS-UD Objective 6 nor other objectives in the NPS-UD in my opinion.
- 70.4 It is also my understanding that the driver for responsive planning came about to address concerns about enabled and feasible development capacity. The 2023 Housing and Business Development Capacity Assessment concludes that the Wellington Region has a realisable housing capacity that well exceeds (by almost double) the demand by population growth, which recognises the impact

¹³ Paragraph 221 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

of the intensification enabled by the MDRS and NPS-UD¹⁴. The assessment finds there is more than enough housing capacity within existing urban-zoned areas and that additional greenfield land is not necessary. In my view it is appropriate to seek that this significant realisable capacity is prioritised over the consumption of additional rural land.

70.5 The hierarchy in Policy UD.4 could be implemented by district plans in a number of ways when providing for urban development, including zone provisions, design guides, strategic direction, and the extent of future urban, rural lifestyle and other urban zones. In my view, the recommended wording is high-level and strategic enough to provide flexibility in how this is undertaken and is not ‘ill-considered’ as the submitter states. Many district plans may already contain similar or consistent direction, for example the WCC Proposed District Plan UFD-O1 states, *‘Wellington’s compact urban form is maintained with the majority of urban development located within the City Centre, in and around Centres, and along major public transport corridors.’*

71 I note the support from UHCC for the policy intent and agree with most of its relief sought as the amendments improve readability of the policy. I consider that combining clause (a)(i) and (a)(ii) is clearer and recognises it may be difficult to actually prioritise between intensification in and near centres and public transport over intensification more broadly, due to the MDRS. I do not consider the replacement of ‘public transport’ with ‘multi-modal’ as sought by UHCC to be useful for the purpose of this high-level policy; I consider it is appropriate to emphasis public transport connections as being key in determining the most appropriate locations for urban development. Multi-modal is too open for this purpose in my view. I also consider that ‘more intensive development’ should instead be ‘higher densities’ for greater consistency with other RPS policies.

72 In response to UHCC’s concerns regarding settlement zones, in my view development in settlement zones could be both urban development (reliant on reticulated services) or of a more rural nature. I recommend the concern about a policy gap is addressed by adding, ‘and mixed use’ to the clause on rural residential development, so that it captures both residential and mixed use development in rural areas, the definition for which includes

¹⁴ Draft Housing and Business Development Capacity Assessment Summary Report August 2023, Wellington Regional Leadership Committee 19 September 2023 order paper, [Wellington-Regional-Leadership-Committee-19-September-2023-order-paper.pdf \(gwrc.govt.nz\)](https://www.gwrc.govt.nz/Wellington-Regional-Leadership-Committee-19-September-2023-order-paper.pdf)

settlement zones. I do not consider UHCC's amendment sought to add 'mixed use' to the explanation with respect to settlement zones is necessary; the drafting implies that it does not apply to other kinds of development in settlement zones.

73 I do not agree with UHCC that the chapeau of Policy UD.4 should be amended to, 'objectives, policies, rules ~~and/or~~ methods'. Some rules will be necessary to achieve Policy UD.4 and stating only 'or' weakens the direction too much in my view. However, to acknowledge that a range of tools could be used to contribute to implementing the hierarchy, including design guides, I recommend the chapeau is amended to:

District and regional plans shall include objectives, policies, rules and/or other methods...

74 In response to the concerns raised by UHCC regarding the clarity of 'preventing dispersed growth patterns' and the difficulty to demonstrate prioritisation in a district plan, I consider the clarity of Policy UD.4 would be improved with the following amendment:

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

(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...

Recommendations

75 I recommend that Policy UD.4 as added by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

76 In accordance with section 32AA, I consider that my recommended amendments to Policy UD.4 are most appropriate as they are minor amendments that address readability, clarity of wording and a gap in relation to settlement zones. The amendments do not alter the policy intent and will support more efficient and effective implementation of the policy.

POLICY UD.5

77 Policy UD.5 is a new policy that I recommended being added to Chapter 4.2 in my Section 42A report. Policy UD.5 is addressed in the evidence of PCC, HCC, Peka Peka Farm, Summerset, Transpower, UHCC, Wellington Water, and WIAL. Appendix 1 compares the relief sought by submitters where they have provided extensive specific amendments.

PCC and HCC

78 PCC and HCC seek the deletion of Policy UD.5, stating that it duplicates existing direction provided in the RPS, and fails to provide new direction not otherwise provided in the RPS. Additionally, PCC observes that wording used in clause (d) and (e) goes further than is realistically achievable, with clause (d) requiring that all potential adverse effects of urban development on the natural environment be avoided or mitigated, and clause (e) requiring that the quality and quantity of freshwater be protected and enhanced.

Peka Peka Farm and Summerset

79 Mitch Lewandowski is of the view that Policy UD.5 duplicates existing direction provided in the RPS and seeks the deletion of clause (c) and clause (e). The submitters also seek wording amendments to clauses (a) and (b) as shown in Appendix 1.

Transpower

80 Transpower is generally supportive of Policy UD.5, and seeks an amendment to clause (f) to broaden the scope of the clause to recognise that protection should not be afforded to only reverse sensitivity effects for the operation and safety of regionally significant infrastructure, but should be broader, as follows:

(f) protecting the operation and safety of regionally significant infrastructure, including from potential reverse sensitivity effects.

UHCC

81 UHCC submits planning evidence that is generally supportive of Policy UD.5, while seeking some minor amendments to clause (a) and clause (b) as shown in Appendix 1.

Wellington Water

- 82 In legal submissions on behalf of Wellington Water, Morgan Slyfield makes the observation that clause (e) requiring the quality and quantity of freshwater to be protected and enhanced, is problematic and not feasible to achieve, particularly for greenfield development.
- 83 Caroline Horrox submits planning evidence on behalf of Wellington Water supporting the inclusion of clause (d) on protecting existing infrastructure, and clause (f) on protecting RSI from reverse sensitivity effects, and states that this addresses Wellington Water's concerns raised in their submission. Wellington Water seeks the addition of the following new clause instead of similar direction in Policy 55:

maximising access to, and efficient use and maintenance of, existing infrastructure in priority to upgrading infrastructure, and upgrading infrastructure in priority to creating new infrastructure.

WIAL

- 84 WIAL supports new Policy UD.5 and in particular the addition of clause (f) on protecting RSI from reverse sensitivity effects, noting that WIAL still considers this direction should be reflected in Objective 22.

Analysis

- 85 The evidence raised has not changed my view on the merits of adding a new Policy UD.5 to clearly articulate what contributing to well-functioning urban areas means, and I note that several submitters have expressed support for this approach. In response to PCC and HCC who consider Policy UD.5 should be deleted, my response to their concerns is:
- *That it duplicates Policy 1 of the NPS-UD* – Policy UD.5 contains direction that is not in Policy 1 of the NPS-UD in clauses (a), (c), (d), (e) and (f).
 - *That it duplicates other parts of the RPS and provides no new direction* – I have already discussed duplication above in relation to Objective 22. Clauses (c), (f), (d), and (a) are not in other parts of the RPS in relation to urban development, both intensification and greenfield development. In my view summarising the key attributes of contributing to a well-functioning urban area is useful and assists with clarity on how the NPS-UD is applied in the RPS. The direction in clause (a) relates specifically to using existing urban-zoned land efficiently; I do not agree with PCC

that generally considering the efficient use and development of natural and physical resources (in RMA section 7) provides the level of direction necessary to achieve a compact regional form.

- *That it lacks clarity* – PCC has not identified which parts of the policy are unclear, however I consider the wording is clear and direct and have recommended some amendments in response to other submitters to aid clarity.
- *That the bar is high in clauses (d) and (e)* – I address this matter below.

Clause (a)

86 I agree with the intent to add ‘... uses existing and proposed urban-zoned land efficiently’ to clause (a) as sought by UHCC, because the intent of this clause is that it applies to both existing and future urban land. However, upon reflection I do not consider it is necessary to refer to urban land specifically and that instead, ‘urban-zoned’ should be removed to simplify the wording. The direction to use land efficiently is appropriate in my view as Policy UD.5 is in the context of urban development, and this means urban development occurring in a settlement zone would not be excluded from this clause.

87 I do not agree with the amendments sought by Peka Peka Farm and Summerset. My view on the direction for a diversity of typologies is discussed above in paragraph 42. Housing affordability is a well understood term with metrics to quantify it, as PCC’s evidence recognises. I justify why I consider it requires explicit mention, despite being captured in the definition of ‘well-functioning urban environments’, in my Section 42A analysis¹⁵. In response to Peka Peka Farm and Summerset’s concern with the vagueness of the term, ‘in close proximity’, I recommend that this is deleted as I do not consider it is necessary to provide the same direction to support a diversity of housing typologies. In response to UHCC’s relief to replace ‘including’ with ‘by’, I do not consider that providing a diversity of typologies is the only way to provide for housing affordability, quality and choice, and the relief sought risks implying this. However, I agree that the wording of clause (a) is complex and have sought to make the wording clearer by splitting it into two clauses as follows:

¹⁵ Section 4.3.2 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

(a) providing for the characteristics of well-functioning urban environments, in a way that uses urban-zoned land efficiently; and;

(b) where providing housing, seeks to improve housing affordability, quality and choice, and provide including providing for a diversity of housing typologies in close proximity; and

Clause (b)

88 I agree with the relief sought by UHCC to add ‘multi-modal’ as it supports consistency with Objective 22. I do not agree with the relief sought by Peka Peka Farm and Summerset to remove ‘preferably within walkable catchments and using low and zero carbon emission transport modes’. While I acknowledge that achieving this may not always be possible, the wording indicates a preference only and is therefore not overly restrictive. Removing it would not in my view clearly support the direction for a compact urban form and reduction in transport emissions, which is sought by Change 1 more broadly.

Clause (c)

89 I do not agree with Peka Peka Farm and Summerset that clause (c) should be deleted; my justification for this new clause as filling a policy gap is outlined in my Section 42A analysis¹⁶.

Clause (d)

90 In response to PCC’s concern with the wording of clause (d), the term ‘mitigate’ refers to making something less serious or severe. I do not consider this to be inconsistent with RMA direction, and it is justified in my Section 42A analysis¹⁷.

Clause (e)

91 In response to Wellington Water, Peka Peka Farm, Summerset and PCC, I accept that the wording of clause (e) is strong. While I do not consider that duplication is an issue, in this instance I consider that the freshwater policies provide the necessary nuance in

¹⁶ Paragraphs 304-306 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

¹⁷ Paragraphs 307-309 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

implementing NPS-FM direction which cannot be effectively summarised at a high level in this policy. Direction to avoid or mitigate the adverse effects of urban development on freshwater is already captured by clause (d), so I do not consider that clause (e) is necessary to support implementation of the freshwater policies in Change 1. I therefore recommend that this clause is deleted.

Clause (f)

92 I do not agree with Transpower seeking that clause (f) is widened to be broader than just reverse sensitivity. In the context of urban development, I consider that the focus on protecting RSI should be on mitigating reverse sensitivity effects. Broadening this out is too vague in my opinion, and could include matters un-related to urban development. The more holistic protection of RSI is more appropriately managed through the provisions in the energy, infrastructure and waste chapter.

Infrastructure

93 I do consider the relief sought by Wellington to add a new clause specifying a prioritisation of using existing infrastructure first, then upgrading, and then creating new infrastructure, is necessary. I do not necessarily disagree with the intent, however I consider that Policy 55 and Policy 58 already more appropriately provide this direction. The direction sought applies, in my view, most directly to greenfield development and to the efficient use of existing infrastructure. I therefore do not agree with Wellington Water that maximising the use of existing infrastructure should be removed from Policy 55. The hierarchy in the new Policy UD.4 seeking that intensification is prioritised, signals a preference for the use or upgrading of existing infrastructure over new infrastructure required for greenfield development. Policy UD.4 also contains a clause as follows:

requiring all *infrastructure* necessary to support development to be provided in an integrated and efficient way

94 While I do not consider it to be necessary, if the Panels consider that the relief sought by Wellington Water should be incorporated into Change 1, then I consider Policy UD.4 is the most appropriate location as it provides direction to district plans regarding prioritisation. It could be amended 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; and](#)

Recommendations

95 I recommend that Policy UD.5 as added by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

96 In accordance with Section 32AA, I consider that my recommended amendments to Policy UD.5 are most appropriate as they support clarity and address concerns raised by submitters regarding implementation.

POLICY 55

97 Policy 55 is a consideration policy that provides direction to greenfield development. Policy 55 is addressed in the evidence of HCC, PCC, Peka Peka Farm, Summerset, UHCC, Waka Kotahi, WCC, Wellington Water, WIAL, and Winstones. Appendix 1 compares the relief sought by submitters where they have provided extensive amendments.

HCC

98 Torrey McDonnell considers that Policy 55 lacks sufficient clarity to be implemented and seeks that Policy 55 is stripped back to remove duplication with other policies in the RPS, however does not provide specific amendments.

PCC

99 Rory Smeaton considers that Policy 55 contains unnecessary duplication and requires more clarity and appropriate direction. The submitter seeks several amendments to Policy 55 as shown in Appendix 1.

Peka Peka Farm and Summerset

100 Mitch Lewandowski on behalf of Peka Peka Farm and Summerset is of the view that Policy 55 contains unnecessary duplication and that some additions proposed to in the Section 42A report are superfluous. The submitter also voices concerns that private plan changes cannot be consistent with a Future Development Strategy or won't always have

undertaken a structure plan, and seeks several amendments regarding the treatment of unanticipated plan changes. The relief sought by Peka Peka Farm and Summerset is almost identical; the exception being that Summerset seeks a new clause:

3. responds to any specific locational requirements of the proposed urban development; and

UHCC

101 Gabriela Rojas submits planning evidence that is generally supportive of Policy 55, but considers that it inconsistently applies the urban areas definition and creates a policy gap in relation to Settlement Zones. The submitter seeks minor amendments; one in the chapeau that 'as at August 2022' is replaced by 'date of decision', and that 'urban-zoned land' is replaced with 'land to be zoned urban' in clause (a)(3).

WCC

102 Joe Jeffries is of the view that Policy 55 will result in an administrative burden, that referencing other RPS policies within Policy 55 is unnecessary and risks implying that omitted policies do not apply, and that clause (b) on the Future Development Strategy is inconsistent with the NPS-UD and inappropriate given the level of detail within a Future Development Strategy. The submitter seeks that the policy does not apply to resource consents, and that clause (a)(4) and clause (b) on the Future Development Strategy are deleted.

Wellington Water

103 Wellington Water submits through both legal and planning evidence that Policy 55 is significantly longer and more complex than the notified version and would benefit from refinement. Caroline Horrox raises concerns regarding three waters infrastructure servicing for developments outside of established urban areas, clarify inconsistencies regarding the inclusion of NORs in policies, and the necessity of 'development' in the term 'development infrastructure'. Caroline Horrox seeks that clause (a)(3)(i) is deleted and relocated to Policy UD.5 with a new clause.

WIAL

104 Claire Hunter on behalf of WIAL seeks the following amendment to clause (a) when referring to Policy 8, to reflect similar new direction regarding mineral resources:

viii) Protecting Regionally Significant Infrastructure from incompatible or inappropriate adjacent land uses, consistent with Policy 8.

Winstones and Waka Kotahi

105 Catherine Clarke on behalf Winstone Aggregates submits planning evidence supporting the amendments proposed to Policy 55 in the Section 42A report to recognise and protect mineral resources from further urban growth. Catherine Heppelthwaite on behalf of Waka Kotahi supports the recommended amendments to Policy 55 and the reference to RSI in particular.

Mansell family

106 Christopher Hansen, on behalf of the Mansell family, submits planning evidence raising concerns with the amendments recommended to Policy 55 and seeks that they are rejected, but provides no specific alternative relief. The submitter's concerns relate to the intent of Policy 55 appearing to have changed to constrain greenfield development, the amendments to requirements around structure plans, and the use of 'as at August 2022' with regard to urban areas to be out-of-date and not include additional land identified since this date.

Analysis

Policy title, purpose and chapeau

107 I disagree with WCC that Policy 55 should not apply to resource consents. The role of consideration policies in the RPS and their application to resource consents has already been discussed in previous hearings and in the Section 42A report for this topic; in my view it is appropriate and WCC's evidence has not altered my view.

108 I agree with some of the relief sought by PCC to clarify and refine the wording of Policy 55. I do not consider the requested amendments to the chapeau are necessary; as discussed the terms are clear and provide a useful link back to Objective 22, and I have recommended a definition for environmentally responsive. PCC seeks that the policy's heading is replaced by 'Regional form'. While I do not consider that this provides any

useful direction on the policy's purpose or application, I do agree that the heading could be improved to make the intent clearer. The heading of Policy 56 is, 'Managing development in *rural areas*', and the heading of Policy 31 on intensification is 'Enabling intensification to contribute to well-functioning *urban areas*'. Because Policy 55 is about managing greenfield development to achieve good outcomes in urban areas as well as protect rural areas, I consider that a more useful and consistent heading would be, 'Managing greenfield development to contribute to well-functioning *urban areas and rural areas*'.

109 I have reviewed the evidence of the Mansell family and it has not changed my views regarding Policy 55. I have justified all amendments recommended in my S42A report, including how I consider them to be necessary and appropriate to respond to submissions. The submitter's concern with the removal of 'have particular regard to' does not appear to have the context that the chapeau of consideration policies has been the subject of previous hearings, which I discuss in my Section 42A analysis¹⁸. A consent applicant must already have particular regard to Policy 55 and a district plan must give effect to it, so it is unnecessary for this phrase to be included in the chapeau. Rather, it is more effective and efficient to provide a clear summary of the purpose of the policy, which my recommended amendments do. I disagree with the Mansell family that the purpose of the policy has changed; the submitter's basis for this claim appears to be based on amendments to the title of the policy only, which original submissions identified as being inconsistent with the thrust of the policy to seek that greenfield development contributes to well-functioning urban areas and Objective 22. I have already discussed the need to set clear expectations for greenfield development, and this intent is clearly evidenced in notified Change 1. I also note I have recommended that the policy title is amended as above.

110 While the Mansell family's evidence has broadly not altered my view on the need for amendments to the Policy 55's chapeau and title, the one exception is the concern regarding the use of 'urban areas (as at August 2022)' in the chapeau, which UHCC's evidence also covers. Both submitters highlight that this date is now a year ago, and therefore will not capture land that has been zoned urban since Change 1 was notified. UHCC seeks that the date is replaced with 'date of decision', while the Mansell family suggests it could be replaced with '20 August 2023'. I agree with submitters that the use

¹⁸ Paragraphs 520-521 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

of a date can quickly become redundant and lead to unintended consequences, whereby land already zoned urban must be considered under Policy 55 as greenfield development if it was zoned urban after 20 August 2022. I consider the relief suggested by submitters does not adequately address their concern, and instead recommend the reference to a date is deleted altogether. For the same reasons, I also consider that the equivalent date in relation to rural areas should be deleted from Policy 56 as a consequential amendment.

111 I address the concerns raised by UHCC with regard to the urban areas and rural areas definitions in this evidence in paragraphs 52-57, where I recommend that the reference to 'urban areas' is replaced with a reference to the more specific and certain 'urban zones' in Policies 55, 31, UD.3 and UD.4. UHCC will need to determine whether the situation they describe around Maymorn Station meets the definition of urban development or not (I note the definition is not subject to RPS Change 1). If urban development is occurring in the settlement zone, then Policy 55 applies and I do not see why it should be exempt from this direction. If the area has been deliberately zoned as discussed by the submitter, then the matters in Policy 55 such as structure planning should have been considered anyway. If urban development is not occurring, then only Policy 56 would apply. I don't consider that amendments to Policy 55 are necessary to accommodate this very specific situation.

Clause (a)(2)

112 Peka Peka Farm and Summerset seek that 'adjacent' is replaced by 'well-connected' in clause (a)(2)(i), with the concern that it may be interpreted to mean that urban development not immediately connected to an existing urban area would not meet this test. In my view this is what is intended by this clause (as discussed in my Section 42A analysis¹⁹). There may very rarely be situations where urban development is occurring somewhere that is not located directly next to existing urban zones, but I consider an amendment is not necessary to the policy to accommodate such uncommon situations. The intent of clause (a)(2) is to provide more specific direction on what 'well-connected' means, so the amendment sought by Peka Peka Farm and Summerset would create a circular policy.

113 Peka Peka Farm and Summerset seek that the reference to multi-modal transport is removed on the basis of consistency with clause 3.8 of the NPS-UD. The content of Policy 55 is not bound by the NPS-UD responsive planning requirements and should also be

¹⁹ Paragraphs 528-529 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

consistent with other provisions in Change 1, which refer to multi-modal transport networks. I note that PCC's wording amendments improve clarity for this clause.

Clause (a)(3)

114 I agree with the minor relief sought by UHCC regarding the zoning of urban land, and by PCC regarding greenhouse gas emissions reduction; these amendments add clarity. PCC seeks that 'concentrates building heights and densities' is replaced with 'provides for building heights and densities', which I do not support. Providing for building heights and densities does not have equivalent meaning to the idea of spatially clustering density around centres, existing infrastructure and options for low/zero-carbon transport modes, and to support efficient land use.

115 Peka Peka Farm and Summerset seeks that clause (a)(3) is deleted on the basis that this is already dealt with by Policies 3 and 5 of the NPS-UD, which I disagree with. Policies 3 and 5 apply to the enabling of building heights and density through district plans and regional policy statements, rather than their delivery. Clause (a)(3) relates specifically to the way that urban development is arranged around centres, infrastructure and transport modes, and seeks to cluster density in a development to maximise access to these matters in an efficient way²⁰. This is a different matter to Policies 3 and 5 of the NPS-UD.

116 I also do not support the proposed addition of 'responds to any specific locational requirements of the proposed urban development' to replace clause (a)(3) as sought by Summerset. Firstly, I consider the direction to be too vague to be meaningful; 'locational requirements' is not a clear enough term and weakens the policy direction in a broad way. Secondly, I do not consider there to be any particular aspects in Policy 55 that could not be met by a private plan change as described by Summerset, and therefore do not consider a specific clause is necessary nor consistent with the NPS-UD. Clause 3.8 for unanticipated and out-of-sequence plan changes seeks that they are 'well-connected' to the existing urban area without qualifiers for any particular land uses.

Clause (a)(4)

117 PCC, WCC, Peka Peka Farm and Summerset seek that clause (a)(4) is deleted on the basis of unnecessary duplication. I have already discussed this matter in my Section 42A

²⁰ Paragraphs 531-535 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

analysis²¹ and their evidence does not change my view on this matter. I empathise with WCC's concern that listing out relevant matters risks reducing emphasis on other matters not included. However, in my view this risk is outweighed by the benefits of highlighting relevant matters for greenfield development, as it ensures the necessary assessments are undertaken in relation to the other RPS provisions identified. It does not add to consent processing time as the assessment would need to be undertaken anyway.

118 I agree with the relief sought by WIAL to clause (a)(4)(viii); this is consistent with Policy 8.

Clause (b) – Future Development Strategy

119 WCC seeks that clause (b) seeking consistency with the FDS is deleted, because it is inconsistent with the direction in NPS-UD clause 3.17 for RMA planning documents to 'have regard to' an FDS, and because the content of an FDS is too high-level and uncertain. Under RMA Section 104(1)(b), a consent application must have regard to the matters in Policy 55, while under RMA Section 75(3)(c) a district plan must give effect to it. The chapeau of the policy makes it clear that the matters in Policy 55 are to be considered when determining the extent to which a consent application, or a district plan change or review, contributes to achieving Objective 22. For a resource consent application, consistency with the FDS would be a matter for consideration when having regard to the RPS. For a district plan change or review, consistency with the FDS would be a matter for consideration to be given effect.

120 The purpose of an FDS is to promote strategic planning and demonstrate how local authorities intend to achieve well-functioning urban environments, to contribute to achieving NPS-UD Objective 6. In my view it is appropriate to provide a test for consistency with an FDS as a matter for consideration for greenfield development, because this is a key way that the FDS and its direction can be implemented. I consider this is an important part of promoting well-planned urban development (as sought by the NPS-UD), and that the FDS is most appropriately referenced as the most recent collaborative spatial planning exercise in the region. I consider that the RPS has the ability to do this as a way to support the strategic delivery of urban development. An FDS must be had regard to by the RPS, and in anticipation of an FDS being developed this has

²¹ Paragraphs 536-545 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

appropriately been included in Change 1 in my view. I note that a draft FDS is currently being consulted on.

121 In response to WCC's concern that the FDS is too high level and uncertain, if the FDS is not spatially explicit then consistency with the strategic direction in an FDS can still be assessed. As I have already discussed, consistency with the FDS as sought by clause (b) is a matter to be considered to inform planning decisions in relation to greenfield development; it is not a binary or absolute test, so I do not consider level of detail or uncertainty to be of concern. In response to Peka Peka Farm and Summerset's concern that an unanticipated private plan change cannot, by definition, be consistent with the FDS, this does not mean it should not be a consideration for greenfield developments. Removing this clause, in my view, could promote unplanned and unanticipated developments which is not the intent of the NPS-UD or RPS. I also consider a private plan change can demonstrate consistency with the strategic direction of an FDS and so should not be exempt from clause (b).

122 I have already addressed the reference to the LGA in clause (b), as sought by PCC, in my Section 42A analysis where I deem it unnecessary²². I also don't agree with the minor amendment sought by Peka Peka Farm and Summerset to replace 'will' with 'should'; in my view using 'should' adds an unnecessary level of uncertainty. I note that this part of the clause simply states the purpose of an FDS, rather than directing whether an urban development will entirely or partially fulfil the FDS. I note that NPS-UD clause 3.13(2) states that (my emphasis), 'Every FDS must spatially identify: (a) the broad locations in which development capacity will be provided over the long term, in both existing and future urban areas...' I therefore don't consider that the use of 'will' in this context is too strong, as it does not relate to the strength of policy direction in the clause.

Clause (c) - Structure plans

123 Peka Peka Farm and Summerset raise two concerns with clause (c); that resource consents are unlikely to develop structure plans, and that private plan changes are unlikely to develop structure plans that are approved by the relevant council. The Mansell family raises similar concerns with the recommended addition to clause (b). PCC seeks that the recommended addition to clause (c), which was added in response to original submissions

²² Paragraph 549 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

by KCDC and UHCC²³, is deleted. Upon reflection I consider the addition to this clause is unnecessarily detailed. The specific requirements around structure plans are better worked out with respect to specific urban development proposals, and do not need to be stipulated for the purpose of Policy 55 in my opinion. I therefore agree with PCC's relief, which may also address concerns raised by the Mansell family, Summerset and Peka Peka Farm.

124 Preparing structure plans is generally considered best planning practice for achieving well-planned greenfield development, and is a key way in which well-functioning urban environments and the multiple outcomes sought by the RPS can be achieved. For example, a structure plan is a good way to show how densities, transport accessibility, infrastructure, centres, services and amenities are being provided for through the development, as well as how potential impacts are being mitigated (e.g. identifying wetlands, receiving environments, sites of significance to mana whenua / tangata whenua).

125 I do not agree with Mitch Lewandowski that the issue is between resource consents and plan changes; rather I consider it is a question of scale as raised by the Mansell family. If a resource application for greenfield development is occurring following a private plan change; then the structure plan for the plan change could simply be referred to without any additional work. However, in situations where a large-scale resource consent application is undertaken, in my view it is appropriate to expect a structure plan to be prepared. While I acknowledge that there may be cases where a structure plan is not deemed necessary as Peka Peka Farm, Summerset and the Mansell family point out, this is not necessarily best planning practice. I therefore disagree that private plan changes and resource consents should be exempt from clause (b), however have added in a consideration of scale to determine the level of detail necessary as follows:

a structure plan has been prepared to a level of detail commensurate to the scale of the urban development 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

Clause (d) – responsive planning

²³ Paragraphs 551-552 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

- 126 For the reasons discussed above, I do not agree with the amendments sought by Peka Peka Farm and Summerset to make clauses (c) and (d) not applicable to unanticipated or out-of-sequence developments, and I consider they are relevant to all plan changes. I therefore do not consider the additions they seek to clause (d) are necessary.
- 127 PCC seeks amendments to simplify the wording of clause (d) without changing the policy intent. I agree with some of this relief, however I still consider it necessary to specify that it only relates to plan changes and that the test for adding significantly to development capacity is contained in Policy UD.3. These additions were recommended in my Section 42A report to assist with clarity for plan users in response to original submissions.
- 128 The concerns raised by the Mansell family have misunderstood clause (d); it only relates to responsive planning requirements and therefore only applies to unanticipated and out-of-sequence developments to give effect to clause 3.8 of the NPS-UD. It does not require all urban development to be in the form of a plan change as the submitter suggests, and will not be relevant to most urban development considered under Policy 55.

Recommendations

- 129 I recommend that Policy 55 as amended by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

- 130 In accordance with section 32AA, I consider that my recommended amendments to Policy 55 are most appropriate as they are mostly minor and related to clarity, certainty and possible issues with implementation. They mostly do not alter the policy intent, except for the following changes which will assist with effective and efficient implementation of the policy intent and thereby achieving Objective 22:
- 130.1 The amended heading makes the purpose and application of Policy 55 clearer.
- 130.2 The removal of the date from the chapeau addresses potential unintended consequences and redundancy.
- 130.3 The amendments to clause (c) simplify the policy direction and provide for consideration of scale in determining the level of detail to be provided.

- 130.4 The addition of notice of requirements supports consistency with other similar policies, and recognises that they can form part of urban development and may be relevant in some situations.

POLICY UD.3

- 131 Policy UD.3 is a consideration policy that gives effect to the responsive planning requirements of the NPS-UD (Policy 8 and clause 3.8). Policy UD.3 is addressed in the evidence or statements of HCC, WCC, PCC, Peka Peka Farm, Summerset, UHCC, Waka Kotahi, HortNZ, and Wellington Water. Appendix 1 compares the relief sought by submitters where they have provided extensive specific amendments.

PCC and HCC

- 132 PCC seeks that Policy UD.3 is amended to be clearer, more concise, and better implement the NPS-UD. The submitter also disagrees with the recommended new clauses (e) and (f) and seeks their deletion for not being consistent with the relevant parts of the NPS-UD. PCC considers that clause (e) pre-supposes the final outcome of a plan change, rather than part of a consideration of whether it adds significantly to development capacity. Significant amendment to clause (d) on infrastructure is also sought.
- 133 HCC supports some amendments made to Policy UD.3, and seeks the same relief to Policy UD.3 as PCC, for similar reasons.

Peka Peka Farm and Summerset

- 134 Peka Peka Farm and Summerset seek several amendments to Policy UD.3, and raises concerns that it goes beyond the requirements of NPS-UD clause 3.8. The submitters particularly oppose the reference to medium and high density housing, and highlight other matters they consider to be unworkable. The submitters also disagree with the recommended new clauses (e) and (f) and seek their deletion for going further than what is required for responsive planning.

UHCC

- 135 UHCC notes that the policy chapeau has been amended to improve clarity, certainty and clarify the relationship between Policy UD.3 and Policy 55 and the connection of Policy UD.3 back to clause 3.8 and Policy 8 of the NPS-UD, and that the amendments have

improved the purpose and clarity of Policy UD.3. UHCC raises a concern with clause (a)(i) that lower densities may be appropriate in some circumstances and requiring medium or high density development may not adequately support housing variety and choice. UHCC also seeks amendments to strengthen direction in clauses (b)(i) and (e).

WCC

136 WCC seeks that the reference to medium and high density development in clause (a)(i) is deleted, citing that localised constraints may in some cases require lower densities, but that such unanticipated or out-of-sequence developments can still contribute to a well-functioning urban environment.

Waka Kotahi and HortNZ

137 HortNZ and Waka Kotahi both seek amendments to clause (f) to refer to reverse sensitivity. HortNZ seeks that 'land use conflicts' is replaced with 'reverse sensitivity' as it is a more commonly used planning phrase, incorporates land use conflicts, and provides for a stronger clause. Waka Kotahi seeks that 'including reverse sensitivity' is added.

Wellington Water

138 Wellington Water seeks removal of 'development' from the term 'development infrastructure' in clause (d) because it is not necessary and the explanation of development infrastructure in the policy explanation describes all infrastructure. The submitter also seeks that this sentence is removed from the explanation.

Analysis

139 HCC and PCC seek that 'proposal' is replaced with 'plan change' throughout the policy; I agree with these amendments as they aid clarity and specificity.

140 In seeking amendments to the policy chapeau to state 'particular regard should be given' Mitch Lewandowski's evidence²⁴ for Peka Peka Farm and Summerset appears to have confused direction provided to two separate matters regarding responsive planning:

- NPS-UD clause 3.8(1) states, 'have particular regard to the development capacity provided by the plan change'.

²⁴ See paragraph 5.48 of the expert evidence for Summerset Group Holdings.

- NPS-UD clause 3.8(3) states, ‘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’.

141 The direction to have particular regard does not apply to the criteria required by clause 3.8(3), but rather to the development capacity provided by a particular plan change. Policy 55, by including the development capacity as a matter of consideration for a greenfield development in clause (d), meets the requirement of clause 3.8(1). Policy UD.3 therefore only needs to provide for clause 3.8(3), which does not include having particular regard. I therefore consider it is appropriate to make the language in the policy chapeau direct in response to original submissions, because the purpose of the policy is to define what adding significantly to development capacity means. I note that PCC and HCC do not seek the use of ‘having particular regard’.

142 I mostly disagree with PCC and HCC’s amendments to the chapeau of Policy UD.3. I discuss my views on how to align best with clause 3.8 of the NPS-UD in my Section 42A analysis²⁵, which incorporated some relief sought by PCC. Firstly, due to the link to Policy UD.3 in Policy 55, it does not need to be repeated that this applies to out of sequence and unanticipated plan changes. I also don’t consider that ‘applied’ provides adequate strength; criteria could be applied irrespective of whether a proposal fulfils them. In my view using ‘met’ provides much clearer direction and better fulfils clause 3.8(3) of the NPS-UD. However, I do consider the following amendment as sought by PCC and HCC supports alignment with the wording of NPS-UD clause 3.8(3):

For local authorities with jurisdiction over part, or all, of an urban environment, ~~When considering whether~~ a 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, the following criteria ~~is~~ must be met:

Clause (a)

143 My Section 42A analysis²⁶ discusses why I do not agree with the minor wording amendments sought by PCC and HCC to the wording of clause (a), and my view has not changed as a result of their evidence. I do not support the amendment sought by Peka

²⁵ Paragraphs 453-454, 459-461, 470-473 and 553-556 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

²⁶ Paragraph 481 and 483 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

Peka Farm and Summerset to clause (a), for a development to contribute to meeting, 'overall housing demand'. This considerably weakens the policy and lowers the bar for which developments meet the test. If a consistent point of reference is not used, which in this case is the latest Housing and Business Development Capacity Assessment, an applicant could always argue they are contributing to overall housing demand just by delivering more houses. It would remove the need for the urban development to be connected to demonstrated demand for housing using the most recent information, which is an outcome sought through the NPS-UD and Future Development Strategies. I consider this amendment would not be consistent with NPS-UD Objective 7 for robust and frequently updated information to inform planning decisions.

Clause (b)

144 I recognise the concerns raised by UHCC, WCC, Peka Peka Farm and Summerset regarding the direction in clause (b)(i) to provide for medium or high-density development if providing for housing. I do not agree with WCC, Peka Peka Farm and Summerset that the clause should be removed altogether; instead I consider that the amendment sought by UHCC provides sufficient context and qualifier for the clause.

145 As Peka Peka Farm and Summerset point out in their evidence²⁷, responsive planning is about scale and providing pathways for large-scale developments. Most low-density greenfield developments as they have tended to occur in the past, should not necessarily represent an exemplar for future greenfield development, particularly those considered to add significantly to development capacity. My understanding of the NPS-UD and MDRS is that such low-density developments would not generally be intended to be captured by the responsive planning pathway under the NPS-UD, which allows for a high bar to be set. Given the MDRS, if a private plan change is applying a relevant residential zone in a tier 1 urban environment, medium-density housing is already enabled, and adjacent urban areas would also have medium-density housing enabled (subject to qualifying matters). Signalling an expectation for the delivery of medium density housing at least somewhere on the site, is therefore not out-of-step with the potential urban form of the new urban land and the surrounding urban area. I also note that if a site has local constraints, such as natural hazard risk or otherwise, which necessitate a lower density from the territorial authority's perspective, it is not necessarily appropriate to apply a responsive planning

²⁷ See paragraph 5.49 of the expert evidence for Summerset Group Holdings.

pathway to. In this case broader questions should be asked about the suitability of that site for urban development of significant scale.

146 I therefore do not agree with the request to remove clause (b)(i) altogether and consider it fulfils the question of 'scale' which Mitch Lewandowski's evidence on behalf of Peka Peka Farm and Summerset identifies as being key to responsive planning. That is to say, a private plan change should be providing a meaningful level of development to be considered for responsive planning, and the NPS-UD and MDRS broadly signal a shift to recognise the role of higher densities providing for development most efficiently.

147 That all being said, I acknowledge the concerns raised by UHCC that the direction for high and medium-density development should form part of a mix of housing typologies. This approach supports housing choice and variety, and contributes to achieving a diversity of housing typologies across a particular neighbourhood. I also consider the wording sought by UHCC reinforces the idea of spatially 'clustering' density in the most suitable, serviceable and accessible places across a site; which is consistent with Policy 55(a)(3). I recommend a brief reference to 'clustering' to respond to site characteristics, is added to the policy explanation. I therefore recommend clause (b) of Policy UD.3 is amended as follows (noting that my Section 42A report recommends removing 'residential' from the definition of medium density development):

~~will apply a relevant residential zone or other urban zone that~~ as part of a mix of housing typologies, provides for high density development or medium density residential development

Clause (c)

148 I agree with PCC and HCC's relief to clause (c)(ii) to remove reference to '(i.e. rapid)', this is unnecessary and does not aid interpretation of the policy direction. I don't support the suggested amendment to replace 'will' with 'is likely to'; this unnecessarily adds weaker and more uncertain language. I consider that 'will' implies that this is based on the level of certainty that can be provided at the time of a plan change application with the information available. I don't consider it is necessary to qualify this with more uncertain language. PCC, HCC, Peka Peka Farm and Summerset seek that 'earlier than any urban development anticipated by the district plan' is removed from clause (c)(ii); I agree with this relief. I agree that this direction is too uncertain and difficult to measure and does not assist with implementation of the policy, so I recommend it is deleted.

149 I agree with the relief sought to clause (c)(iii) by UHCC, as I consider it adds certainty and specificity. I don't consider the addition of 'long-term' is necessary as Peka Peka Farm and Summerset seek; short-medium means within the next 10 years which encapsulates the timeframes the submitters describe. Adding in long term (which means between 10 and 30 years) creates, in my opinion, too much uncertainty as the Housing and Business Development Capacity Assessment and demand profile could change considerably over 30 years. The direction for responsive planning in the NPS-UD does not relate to a particular timeframe, however, Objective 7 seeks that planning decisions are informed by frequently updated information about urban environments. The relief sought by Peka Peka Farm and Summerset opens up the clause too much, whereby outdated information could be used to inform planning decisions. Finally, I also don't consider that the replacement of 'that particular location' with 'urban area' is necessary; in practice this means similar things, but 'that particular location' is more specific and direct in my opinion.

Clause (d)

150 I agree with the relief sought by Wellington Water to remove reference to 'development' infrastructure and the associated text in the policy explanation; I agree it is superfluous. I don't see particular benefits associated with the drafting sought by PCC and HCC to clause (d), so do not consider amendments are necessary.

Clauses (e) and (f)

151 PCC, HCC, Peka Peka Farm and Summerset raise concerns regarding clauses (e) and (f) going further than the 'scope' of NPS-UD clause 3.8 in that they do not strictly relate to adding significantly to development capacity. I have considered their evidence and agree that the two clauses do go beyond a pure test of what can be considered to add significantly to development capacity. However, I am aware of other regional policy statements that have taken a similar approach in setting clause 3.8 criteria and have gone further in the level of direction²⁸ and I do not consider this direction to be out of step with

²⁸ For example, Proposed Change 1 to the Waikato Regional Policy Statement contains responsive planning criteria in APP13, which includes the following clauses:

E. In cases where development is being brought forward, whether it can be demonstrated that there is commitment to and capacity available for delivering the development within the advanced timeframe.

F. In cases where the development is proposing to replace a planned land use with an unanticipated land use, whether it can be demonstrated that the proposal will not result in a shortfall in residential, commercial or industrial land, with robust data and evidence underpinning this analysis.

G. That the development protects and provides for human health.

H. That the development would contribute to the affordable housing stock within the sub-region, with robust data and evidence underpinning this analysis.

RMA section 30 functions and the purpose of a regional policy statement. Given the particular risks associated with unanticipated and out-of-sequence developments, concerns about which were raised in numerous original submissions²⁹, I consider that it is justified to provide this additional direction as a part of the test for whether responsive planning should apply to such plan changes. If clauses (e) and (f) are not included in Policy UD.3, I am not sure where else in the RPS such direction can be given. To contribute to achieving Objective 22 and addressing the regionally significant issues I consider this direction is necessary, and that Policy UD.3 is the most appropriate location to provide it.

152 With respect to clause (e), I consider this clause sets expectations for the process that must be undertaken for a plan change process via a Section 32 assessment of options. The clause seeks to ensure that the need for additional urban land is appropriately considered, as a way to address the regionally significant issues for the region (particularly issue 2 on sporadic, uncoordinated development).

153 To address the concerns by PCC and HCC that the wording ‘most appropriate option’ pre-supposes the decision on the plan change, I recommend removing this wording. However, I note that the decision on whether the plan change is accepted or not will either agree or disagree with the Section 32 assessment’s conclusion, so I do not consider the decision on the plan change is pre-supposed by clause (e) in this sense. I agree with the relief sought by UHCC to make it clear that the need is related to that particular location; this mirrors the language in clause (c) of Policy UD.3. I have also added ‘realisable development capacity’ in response to the concern raised by Peka Peka Farm and Summerset that plan enabled capacity is the wrong metric to use.

154 With respect to clause (f), I consider that this direction is a necessary aspect of demonstrating mitigation of potential impacts that large-scale, unanticipated plan changes can have on other existing and planned development in the urban area. Again,

I. That the development does not compromise the efficiency, affordability or benefits of existing and/or proposed infrastructure in the sub-region.

J. That the development can be serviced without undermining committed infrastructure investments made by local authorities or central government (including NZ Transport Agency). Development must be shown to be adequately serviced without undermining committed infrastructure investments made by local authorities or central government to support other growth areas.

K. The compatibility of any proposed land use with adjacent land uses including planned land uses.

M. That the development would contribute to mode-shift that supports the medium and long-term transport vision for the sub-region being the creation of a rapid and frequent multi-modal transport network and active mode network.

O. That the development avoids areas identified as wāhi toitū on Map 44.

Q. That a precautionary approach be taken when considering development on areas identified as wāhi toiōra, such that if the land is not needed in the short-medium term it should not be considered for urban development.

²⁹ Including Kiwirail, WIAL, Ātiawa, Waka Kotahi, and Ngāti Toa.

this should ideally be undertaken as part of a Section 32 assessment for a plan change, and this clause sets a clear expectation for this to be done, given the potential adverse effects such large-scale plan changes can have on infrastructure, existing urban areas, primary production, and the competitive operation of development markets. I therefore consider the clause has merit, can be met, and does not require amendment or deletion.

155 I agree with the relief sought by Waka Kotahi and HortNZ to add reverse sensitivity to clause (f). I consider that for greater consistency with other RPS policies, reverse sensitivity is a more useful term than land use conflicts, so I recommend the relief sought by HortNZ is accepted.

Recommendations

156 I recommend that Policy UD.3 as amended by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

157 In accordance with Section 32AA, I consider that my recommended amendments to Policy UD.3 are most appropriate as they are mostly minor and related to clarity, certainty and possible issues with implementation. They mostly do not alter the policy intent, except for the following changes which will assist with effective and efficient implementation of the policy intent and thereby achieving Objective 22:

157.1 The amendment to clause (b)(i) to recognise that medium and high density development may form part of a range of housing typologies provided, better supports Objective 22 clause (a) and provides more flexibility in implementation.

157.2 The amendments to clause (e) address submitter concerns regarding its relationship with a Section 32 assessment and the metrics considered.

157.3 The replacement of land use conflicts with reverse sensitivity better supports consistency with other RPS policies, particularly Policy UD.5.

POLICY 31

158 Policy 31 is a regulatory policy that gives effect to the intensification direction in the NPS-UD (Policy 3 and Policy 5). Policy 31 is addressed in the evidence of Kāinga Ora, PCC, Waka Kotahi, HCC, and WCC. Appendix 1 compares the specific relief sought by submitters where it is extensive.

Kāinga Ora

159 Matt Heale seeks amendments to Policy 31 to direct high-density development in town centres zones in larger urban areas, to align with the amendments sought to Policy 30 to reinforce a centres hierarchy. The submitter also seeks minor amendments to capitalise the references to city, metropolitan and town centre zones.

160 Tim Heath provides economic evidence discussing the benefits of a clear, regionally consistent centres hierarchy. Brendon Liggett submits evidence providing context to the Kāinga Ora submission in seeking that the NPS-UD is implemented to the fullest extent, that intensification is prioritised, and that the status quo is not favoured going forward. The evidence also explains that Kāinga Ora seeks a regionally consistent hierarchy because the region's housing and employment markets operate in a regional context.

PCC

161 PCC seeks that the relief sought in its original submission is accepted in full, due to it being clearer, more concise and better giving effect to the NPS-UD.

WCC

162 WCC seeks that Policy 31 is deleted as it does not add any value beyond the NPS-UD and risks conflicting with the NPS-UD.

HCC

163 HCC seeks that Policy 31 does the minimum to align the RPS with the NPS-UD, and only provide further direction on regional issues where necessary; noting the territorial authorities have now largely given effect to the NPS-UD and MDRS. HCC seeks that the terms added to the policy's chapeau are stripped back as they duplicate other RPS policies or lack sufficient clarity or definition to be implemented.

Waka Kotahi

164 Waka Kotahi supports the recommended amendments to Policy 31.

Analysis and recommendations

165 I do not agree with WCC's views on Policy 31, for the reasons expressed in the Section 42A report³⁰. I consider that deleting Policy 31 would provide a gap in the policy framework of the RPS. Given that Policy 3 and Policy 5 of the NPS-UD apply to regional policy statements, it would not be clear how the RPS has given effect to NPS-UD intensification direction if Policy 31 was deleted. I also highlight that Policy 31 does two things in addition to reflecting NPS-UD direction:

- It seeks to enable intensification where it contributes to Objective 22 and Policy UD.5.
- It provides additional direction to Wairarapa councils to enable them to provide for intensification.

166 I do not agree with the relief sought by Kāinga Ora, noting that I am not an economist and it is beyond my area of expertise to respond to Tim Heath's economic evidence. I have recommended accepting the relief sought in Kāinga Ora's original submission by providing greater recognition for town centre zones, and distinguishing between city and metropolitan centre zones. I empathise with the desire for regional consistency, and I agree that the region has an interconnected housing and employment market and ongoing demand for housing. However, irrespective of how Policy 30 is amended, I remain of the view that the RPS should not, at this point, go further than the minimum intensification direction in the NPS-UD. In my opinion, territorial authorities are better suited to determining which centres are best suited for different levels of intensification in the context of that city or district, and the submitter recognises that this process has been undertaken through the Intensification Planning Instruments and subsequent hearings.

167 To be clear, I am not opposed to the need for a strategic centres hierarchy and appreciate the regional benefits this provides, for larger centres in particular. I am not, however, convinced that the RPS should prescribe levels of intensification to different centres above

³⁰ Paragraph 393-399 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

and beyond the minimum national direction that it is required to give effect to. In my view directing specific intensification is better determined by territorial authorities, as they may have particular priorities in supporting specific centres based on local factors.

168 The relief sought by Matt Heale to Policy 31 would be extrapolating significant direction from the following part of NPS-UD Policy 3:

‘In relation to tier 1 urban environments, regional policy statements and district plans enable:

... (d) 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.’

169 This direction is not, in my view, sufficient impetus to direct high-density development in town centre zones. While I appreciate the approach taken by Kāinga Ora to separate smaller and larger urban town centres, I remain of the view that the relief they are seeking is not directed by the NPS-UD and is better dealt with by territorial authorities as part of how they respond to growth. The combined amendments sought to Policies 30 and 31 would direct significant additional intensification which may then be inconsistent with district plans that have given effect to the NPS-UD and MDRS, and may undermine the significant work done to date on centres through Intensification Planning Instruments.

170 I do not consider the capitalisation of the particular centre names, which Matt Heale seeks, to be necessary. The zones are referred to in lower case in the NPS-UD and National Planning Standards. However, I agree with the minor amendment sought to clause (b)(ii) to replace ‘and’ with ‘or’; this supports consistency.

171 I have addressed PCC’s original submission in my Section 42A analysis³¹, including why I have recommended it is not accepted in full, and I have already addressed HCC’s concerns about the certainty of terms in this rebuttal evidence with respect to Objective 22. I do not consider any further amendments to the policy are necessary.

Recommendations

³¹ Paragraphs 404-405 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

172 I recommend that only one minor amendment is made to Policy 31 according to Matt Heale’s relief, as shown in Appendix 2. I also recommend that ‘urban areas’ is replaced with ‘urban zones’ as discussed in relation to the definition of urban areas.

Section 32AA evaluation

173 In accordance with section 32AA, I consider that my recommended amendment to Policy 31 is most appropriate as it is very minor and supports consistent terminology use, which will ultimately improve implementation.

POLICY UD.2

174 Policy UD.2 is a consideration policy seeking to enable Māori to express their culture and traditions. Policy UD.2 is addressed in the evidence of PCC and HCC.

HCC

175 HCC seeks that Policy UD.2 does not apply to resource consents.

PCC

176 PCC seeks the following amendments to Policy UD.2 to provide more direct and appropriate direction to plan users. PCC considers the policy should only apply to resource consents and notices of requirement, because direction to district plans will be addressed by other policies:

Policy UD.2: Enable Māori to express their culture and traditions – consideration

When considering an application for a resource consent, or notice of requirement, ~~or a plan change of a district plan for subdivision, use or development, seek to enable Māori to express their culture and traditions in land use and development by: as a minimum~~

(a) providing for mana whenua / tangata whenua to express and their relationship with their culture, land, water, sites, wāhi tapu, and other taonga; and

(b) recognising and protecting taonga and sites and areas of significance, awa and moana and important places where mana whenua / tangata whenua still practice mātauranga.

Analysis and recommendations

- 177 I agree with the amendments sought by PCC as they support the interpretation of the policy, with the following exceptions:
- 177.1 I don't agree it is necessary to remove the application to district plan reviews and changes; this would be unlike other consideration policies. If a district plan already gives effect to this direction through other means, then no additional work is necessary.
- 177.2 I don't agree with the removal of 'as a minimum'. The two clauses in Policy UD.2 as drafted by PCC both apply to mana whenua / tangata whenua and not to Māori, as sought by NPS-UD direction. The policy should not exclude other means to achieving its intent, as I discuss in my Section 42A analysis³².
- 178 I don't agree with HCC that Policy UD.2 should not apply to resource consents, for the reasons outlined in my Section 42A analysis³³. I consider that these consideration policies appropriately apply to resource consents under Section 104 of the RMA, and provide for a consistent level of direction across the region. If a policy has already been given effect by the district plan, it does not add any additional work as a consent application will already need to meet these requirements. Some consideration policies are appropriate to 'fall away', and where they are intended to be transitional this is made clear. I consider if Policy UD.2 was transitional there is a risk that gaps would be created in the policy framework, where Objective 22 was not adequately supported by the policies.
- 179 I recommend that Policy UD.2 as amended by my Section 42A report is amended as shown in Appendix 2.

Section 32AA evaluation

- 180 In accordance with Section 32AA, I consider that my recommended amendments to Policy UD.2 are most appropriate as they provide further detail without changing the policy intent, which will support interpretation and thereby effective and efficient implementation.

DEFINITION OF WALKABLE CATCHMENT

³² Paragraph 595 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

³³ Paragraph 598 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

181 In their planning evidence for Hearing Stream 3 on Climate Change, Rory Smeaton on behalf of PCC, and Victoria Woodbridge on behalf of Kāinga Ora, both sought that the definition of walkable catchments, which was introduced through the Section 42A report of Louise Allwood³⁴, was addressed further in Hearing Stream 4. I have therefore addressed this definition further here. Louise Allwood recommended the following amendments in rebuttal evidence for Hearing Stream 3:

A walkable catchment is an area that an average person could walk from a specific point to get to multiple destinations. A walkable catchment consists of a maximum 20 minute average walk, or as otherwise identified defined by territorial authorities in district plans.

Kāinga Ora

182 In Hearing Stream 3 Kāinga Ora raised concerns with the definition seeking greater specificity and alignment with the NPS-UD. Kāinga Ora's evidence for this hearing stream supports these concerns and seeks the following amendment:

A walkable catchment is an area ~~generally that an average person could walk from a specific point to get to multiple destinations. A walkable catchment consisting of a minimum of five minute and a maximum 20-minute average walk, or as otherwise identified by territorial authorities.~~

PCC

183 In Hearing Stream 3, PCC also raised a concern that the definition as drafted may be problematic, as district plans that have been varied by an Intensification Planning Instrument may not already contain a definition. In this hearing stream, PCC agrees that the amendments made in Louise Allwood's rebuttal evidence address the concerns raised, however goes on to state that it still lacks clarity and direction and should therefore be deleted, noting that the relevant territorial authorities have already notified their Intensification Planning Instruments and the need for the definition going forward is unclear.

Analysis and recommendations

³⁴ Section 42A report of Louise Allwood for Hearing Stream 3, dated 31 July 2023
<https://www.gw.govt.nz/assets/Documents/2023/06/S42A-Report-Integrated-Management-16.06.23.pdf>

184 In response to PCC's view that the definition is redundant, while I recognise that the Intensification Planning Instruments have now been promulgated, in my opinion the term is useful to capture the planning concepts '15-minute neighbourhoods' that the NPS-UD seeks to achieve. The term is used in Policy UD.5 on well-functioning urban areas to refer to this concept, as well as in transport infrastructure policies. I therefore do not agree that the definition should be deleted and note that PCC's original submission sought the addition of a definition for walkable catchments.

185 I agree with Kāinga Ora that the reference to 'multiple destinations' is too vague. I mostly agree with the relief sought by Matt Heale; I do not consider that the first part of the definition is necessary so I recommend the definition is simplified and shortened. I still consider that the reference to 'otherwise identified by territorial authorities' is useful and should be retained, recognising that there are more specific and detailed assessments of walkable catchments have been undertaken by tier 1 territorial authorities in giving effect to NPS-UD Policy 3.

186 I also don't consider the reference to a minimum time is necessary and that it may lead to unintended consequences. While I appreciate that Kāinga Ora seeks the addition of a minimum to ensure that walkable catchments are not defined as smaller than 5-minutes for the purpose of enabling intensification, it is strange to say that a 3-minute walk is not within a walkable catchment. For the purpose of promoting walkable neighbourhoods as the term 'walkable catchment' is used in Policy UD.5, in my view a minimum is therefore not appropriate.

187 The amendments recommended by Kāinga Ora may provide some greater clarity which PCC seeks. I recommend the definition is amended, in addition to Louise Allwood's amendments, as follows:

~~A walkable catchment is an area that an average person could walk from a specific point to get to multiple destinations.~~ A walkable catchment generally consists of a maximum 20-minute average walk, or as otherwise identified defined by territorial authorities in district plans.

Section 32AA evaluation

188 In accordance with Section 32AA, I consider that my recommended amendments to the walkable catchment definition are most appropriate as they improve clarity and certainty, thereby reducing the risk of confusion and unintended consequences. They do not change the policy intent or application of the definition in practice.

DEFINITION OF MEDIUM DENSITY DEVELOPMENT

189 The medium density development definition is addressed in the evidence of PCC, WCC, and HCC.

WCC

190 WCC supports the recommended amendments.

HCC

191 HCC supports some amendments, but seeks that ‘commercial, residential and industrial’ is replaced with ‘urban’ to encompass recreation and community facilities, and that reference to a minimum height of 3 stories is reinstated.

PCC

192 PCC seeks that the definition is deleted, because the submitter considers it is subjective, not useful, and no longer necessary given the other amendments sought by PCC.

Analysis and recommendations

193 In response to WCC, I remain of the opinion that the qualifier ‘anticipated’ recognises that the height standard might be less than 6 stories, as in the situation identified by WCC. I do not consider the amendment sought is necessary to allow for such circumstances, and think it is useful to align with NPS-UD Policy 3 in this situation.

194 In response to PCC, I have discussed this in my Section 42A analysis. Because I do not agree with PCC’s requested deletion of reference to the term, it remains necessary in my view and the evidence has not changed my opinion.

195 I agree with HCC’s suggested addition of ‘urban’, as it simplifies the definition to capture other kinds of urban activities which may form part of medium density development. I also consider ‘predominately’ can be removed as it is no longer required. However, I do

not consider that the reference to a building height of 3 stories should be reinstated. My view has not changed since my Section 42A analysis on this matter³⁵.

196 I recommend the definition is amended as follows:

Means areas used ~~predominately~~ for ~~commercial, residential and mixed use urban~~ activities with moderate concentration and bulk of buildings, such as detached, semi-detached and terraced housing, low-rise apartments, and other compatible activities, ~~with a minimum building height of 3 stories.~~

Section 32AA evaluation

197 In accordance with Section 32AA, I consider that my recommended minor amendments to the definition are most appropriate for the reasons outlined.

DEFINITION OF HIGH DENSITY DEVELOPMENT

198 The high density development definition is addressed in the evidence of PCC, WCC, and HCC.

WCC

199 WCC seeks that the reference to an ‘anticipated building height of at least 6 stories’ is deleted from the definition.

HCC

200 HCC supports the amendments, but seeks that ‘commercial, residential and industrial’ is replaced with ‘urban’ to encompass recreation and community facilities.

PCC

201 PCC seeks that the definition is deleted, because the submitter considers it is subjective, not useful, and no longer necessary given the other amendments sought by PCC.

Analysis and recommendations

³⁵ Paragraphs 692-696 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

202 In response to PCC, I have discussed this in my Section 42A analysis. Because I do not agree with PCC's requested deletion of reference to the term, it remains necessary in my view and the evidence has not changed my opinion.

203 I agree with HCC's amendment, as it simplifies the definition to capture other kinds of urban activities which may form part of high density development. I also consider 'predominately' can be removed as it is no longer required.

204 I recommend the definition is amended as follows:

Means areas used ~~predominately~~ for ~~commercial, residential and mixed use urban~~ activities with high concentration and bulk of buildings, such as apartments, and other compatible activities, ~~with a minimum an anticipated~~ building height of ~~at least~~ 6 stories.

Section 32AA evaluation

205 In accordance with Section 32AA, I consider that my recommended minor amendments to the definition are most appropriate for the reasons outlined.

DEFINITION OF REGIONAL FORM

206 My Section 42A analysis recommended that the operative regional form definition, which was removed by Change 1 as notified, is reinstated to support the amendments to Objective 22.

207 PCC seeks that the definition of regional form is replaced with a more concise definition, and seeks the following definition:

The spatial distribution and arrangement of the region's urban and rural areas, infrastructure networks, and their relationship with natural environmental features.

208 While I agree that the definition could be more concise and mostly support the suggested wording, I consider the re-drafted definition does not recognise the role of transport linkages specifically. I therefore recommend the definition is amended as follows:

The spatial distribution, arrangement and design of the region's urban areas and rural areas and linkages between them, infrastructure networks, open space, and their relationship with natural environment values and features.

The physical layout or arrangement of our urban and rural communities and how they link together. For example, transport networks (e.g. roads, rail, ports), and the patterns of residential, industrial, commercial and other uses alongside or around these networks, and in relation to the topography and geography of the region (e.g. its ranges and valleys, rivers, lakes and coastline). It includes the physical appearance or urban design, housing choice and density, and the arrangement of open spaces.

Section 32AA evaluation

209 In accordance with Section 32AA, I consider that my recommended amendments to the definition are most appropriate as they do not change the intent or meaning of the definition and seek to shorten it and make it more concise, which will support effective and efficient implementation of the term and associated objective and policies.

DEFINITIONS OF RAPID TRANSIT

210 PCC seeks that two new definitions are added to Change 1 for rapid transit stop and rapid transit service, using the NPS-UD definitions. The justification that PCC provides for the two new definitions, is that criteria should be set for rapid transit stops within the Wellington Region, to ensure a consistent approach to implementing NPS-UD Policy 3 is taken by territorial authorities. I note that this view is different to PCC's justification for why the walkable catchments definition should be deleted, where it states that territorial authorities have implemented NPS-UD Policy 3 so a definition for walkable catchments is not needed.

211 The term 'rapid transit stop' is used in Policy 31, however this is the only place that this term is used in Change 1. I don't consider a definition for one use of a term is necessary. The term 'rapid transit service' is not used anywhere in Change 1 or the RPS, so a definition is not necessary. I therefore disagree with the request that these definitions are added.

DEFINITION OF HIGHLY PRODUCTIVE AGRICULTURAL LAND

212 HortNZ requests that either the existing definition for 'highly productive agricultural land' is amended, or that a new definition for 'highly productive land' is inserted. My view on

the merits of adding a new definition for highly productive land has not changed following HortNZ's statement of evidence.

CHAPTER 3.9 INTRODUCTION

213 PCC, UHCC, WCC and HCC seek that the introduction of Chapter 3.9 is shortened and refined. None of these submitters provide specific amendments and they have a range of views regarding its content; some consider it should provide an overview of the provisions while others consider it should not duplicate or refer to other provisions.

214 I have not considered re-drafting the chapter introduction to shorten it in this rebuttal evidence, given its limited statutory weight and the need to focus on other provisions. I consider the recommended addition of a 'how this chapter works' section to be useful to assist plan users, which is highlighted by Wellington Water and Waka Kotahi's planning evidence. I consider the introduction provides appropriate setting and context to the chapter. If the Panels consider it would be useful to shorten or refine the introduction, I could consider this further upon request.

215 Winstones supports the amendments proposed in the Section 42A report regarding the inclusion of recognition of the local supply of aggregate, and recommends minor changes to clarify the intent of the paragraph and the relationship between local aggregate supplies and well-functioning urban areas as follows:

Well-functioning urban areas support the efficient use of existing urban-zoned land and infrastructure, and protect regionally significant infrastructure from potentially incompatible development and reverse sensitivity effects. The retention of productive rural land is promoted through compact urban form. Well-functioning urban areas must be supported by ensuring a~~They also support the~~ reliable local supply of aggregate to support ~~enable~~ urban development and associated infrastructure where necessary. By being compact they also retain productive rural land.

216 I recommend the following amendments in response to Winstones:

...Well-functioning urban areas support the efficient use of existing urban-zoned land and infrastructure, and protect regionally significant infrastructure from potentially incompatible development and reverse sensitivity effects. The retention of productive rural land is promoted through compact urban form. Well-functioning urban areas are supported by a

~~They also support the reliable local supply of aggregate to support enable urban development and associated infrastructure where necessary. By being compact they also retain productive rural land...~~

Section 32AA evaluation

In accordance with section 32AA, I consider that my recommended minor amendments to the chapter introduction with regard to aggregate, are most appropriate as they do not change the meaning and merely clarify the wording to mitigate the risk of incorrect interpretation.

REGIONALLY SIGNIFICANT ISSUES

PCC

217 PCC recommends that the new regionally significant issue 4 on inadequate infrastructure is replaced with:

The development of well-functioning urban environments, including providing for sufficient development capacity, is constrained in many locations within the region by a lack of capacity in existing development infrastructure and additional infrastructure. These constraints include the availability and affordability of funding required for delivery of new or upgrading of existing infrastructure.

Wellington Water

218 Wellington Water seeks that regionally significant issues 2, 3 and 5 are consolidated and that their titles are revised to better reflect their focus. Wellington Water also supports the amendments requested by PCC to the new regionally significant issue 4 on infrastructure. Wellington Water's original submission requested that this new issue is added.

HortNZ

219 HortNZ seeks that the loss of highly productive land is recognised in regionally significant issue B.

Analysis and recommendations

220 I don't agree with Wellington Water that the issues need to be refined. While I acknowledge they are related to each other and may overlap, they each have a distinct focus. Issue 2 relates to the impacts of the location and nature of development on natural and cultural values and climate resilience; issue 3 relates to the quality of the design of development; and issue 5 relates to the coordination and level of planning behind how and where development occurs.

221 I agree with PCC that the new issue 4 as drafted could suggest that no new urban development is currently possible, so I agree it should be amended. I support the issue as drafted by PCC, with the exception that 'well-functioning urban environments' should instead be 'well-functioning urban areas' for consistency with other recommended amendments to Change 1 provisions. I also consider that just referring to 'infrastructure' is adequate as opposed to referring to development and additional infrastructure, as sought by Wellington Water. I recommend that the issue is amended as follows:

~~There is insufficient supporting infrastructure to enable urban development, while providing for high-quality, The development of well-functioning urban areas, including providing for sufficient development capacity, is constrained in many locations within the Wellington Region by a lack of capacity in existing infrastructure. These constraints include the availability and affordability of funding required for delivery of new infrastructure, or upgrading of existing infrastructure.~~

222 I have considered the statement by HortNZ regarding regionally significant issue B (now issue 2), and it has not changed my view that I outline in my Section 42A analysis³⁶. Given the phrasing of the issue I remain of the opinion that its focus is on climate resilience, degradation of the natural environment, and the impacts of this on mana whenua / tangata whenua, and note that issue 2 (now issue 5) already covers the loss of rural land.

Section 32AA evaluation

223 In accordance with Section 32AA, I consider that my recommended amendments to regionally significant issue 4 more effectively summarises the issue and improves interpretation, thereby supporting the policy framework in responding to it.

³⁶ Paragraphs 371-372 of the Section 42A report for Hearing Stream 4, dated 4 September, <https://www.gw.govt.nz/assets/Documents/2023/09/S42A-Report-HS4-Urban-Development.pdf>

POLICY 67

224 Policy 67 is a non-regulatory policy in Chapter 4.4, which is addressed in the evidence of PCC. PCC seeks significant amendments to Policy 67 which are shown in Appendix 1, including shortening the title and chapeau, removing the clause on actions in the FDS, and removing the clause on the productive capability of rural areas which I recommend is reinstated.

225 While I have not considered PCC’s amendments in detail given the need to focus on other provisions, their planning evidence has not changed my view on the wording of Policy 67. PCC seeks that clause (e) on the FDS being implemented is deleted; I disagree that the FDS will not have non-regulatory actions, as an FDS Implementation Plan must be prepared under clause 3.18 of the NPS-UD which may contain actions beyond strictly regulatory measures. I therefore consider clause (e) should be retained to signal this.

DATE:

26 September 2023

Mika Helena Zöllner

Senior Policy Advisor

Greater Wellington Regional Council