

Before the Independent Hearings Panels

In the matter of the Resource Management Act 1991 (**RMA**)

And

In the matter of Proposed Change 1 to the Wellington Regional Policy Statement (**RPS**) (being both a freshwater planning instrument, and a non-freshwater planning instrument)

And

In the matter of Hearing Stream 2 (Overarching Issues, Overarching Objectives and Integrated Management topics)

Legal submissions in reply on behalf of Wellington Regional Council – Hearing Stream 2

Date: 28 July 2023



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MAY IT PLEASE THE PANEL:

INTRODUCTION

1 These legal submissions in reply on behalf of the Wellington Regional Council (**GWRC**) have been prepared for the purpose of Hearing Stream 2 on Proposed Change 1 to the Operative Regional Policy Statement (**Change 1**). The hearings were held on 18 and 19 July 2023.

2 These submissions address:

2.1 The 'new' section 79A of the Resource Management Act 1991 (**RMA**) being inserted by the Natural and Built Environment Bill (**NBE Bill**) – referred to in Minute 8.

2.2 Why the Emissions Reduction Plan and National Adaptation Plan are relevant under the RMA.

3 GWRC filed one section 42A report – Integrated Management, Jerome Wyeth. It also filed rebuttal evidence from Mr Wyeth. Initial legal submissions were filed on 23 June 2023 and reply legal submissions were filed on 7 July 2023 (which included a response to Minute 5 regarding categorisation of provisions between the freshwater process and usual Schedule 1 process).

4 These legal submissions respond to legal issues raised by submitters or the Panels during the hearing.

The 'new' section 79A of the RMA

5 In Minute 8, the Panels raised the relevance of section 79A of the RMA, which is to be inserted into the RMA as a result of the Natural and Built Environment Bill coming into force (when it does). It states:

Despite section 79 or any other provision of this Act, local authority (sic) must not commence a full review of a regional or district plan on and from day (sic)

after the date that the Natural and Built Environment Act 2022 receives the Royal Assent.

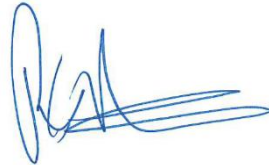
- 6 It is submitted that this section is not relevant to any further changes to the operative Wellington Regional Policy Statement because proposed section 79A specifically refers to 'a full review of a regional or district plan'. 'Regional plan' is not defined to include a regional policy statement.
- 7 However, as noted in the reply of Mr Wyeth, the NBE Bill as a whole does create a new Plan structure and with the supplementary orders papers before Parliament, further changes to it are possible. How the final Bill is worded and how the new Plan process unfolds means it is uncertain the extent to which Greater Wellington will initiate further review of the RPS.

Relevance of the Emissions Reduction Plan and National Adaptation Plan

- 8 This issue was raised with counsel by Chair Nightingale in Hearing Stream 1 and counsel submitted that while section 61(1)(d) and (e) are not applicable to Change 1 because of the transitional provision in clause 26 of Schedule 12 to the RMA (addressed in Hearing Stream 1 submissions), it does not make them irrelevant. They are still potentially relevant to the section 32 matters for consideration.
- 9 This issue was raised again with Meridian in Hearing Stream 2 by Commissioner Nightingale and counsel understood its position to be that they could be considered, but it is not mandatory to have regard to them. There was a suggestion Meridian may be coming back to the Panels on that issue.
- 10 It is submitted that while section 61(1)(d) and (e) of the RMA are not to be applied to Change 1, section 61(2)(a)(i) is still relevant, as it was not part of the recent climate change amendments. This requires the Council to have regard to any 'management plans

and strategies prepared under other Acts'. As both the Emissions Reduction Plan and National Adaptation Plan are prepared under the Climate Change Response Act 2002, it is submitted they are matters that should be given regard.

Date: 28 July 2023

A handwritten signature in blue ink, consisting of a large, stylized initial 'K' followed by several horizontal strokes.

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K M Anderson / E L Manohar / K H Rogers
Counsel for Wellington Regional Council