

**Before the Environment Court
At Wellington
I Mua I te Kōti Taiao
Te Whanganui-a-Tara Rohe**

ENV-2019-346-103

Under Clause 14, Schedule 1 of the Resource Management Act
1991

In the matter of appeals on the Proposed Natural Resources Plan

Between Various

Appellants

ENV-2019-000103, 105-133

And **Wellington Regional Council**

Respondent

**Memorandum of counsel on behalf of Wellington Regional Council:
Update to the Court on matters to be set down for a hearing**

Date: 17 August 2020



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MAY IT PLEASE THE COURT

1 On 22 June 2020, the Court issued directions regarding the ongoing mediation process for the Proposed Natural Resources Plan (**Proposed Plan**). This included directions relating to matters which had not been resolved through mediation, and which may need to be set down for a hearing.

2 On 3 July 2020, the Greater Wellington Regional Council (**Council**) filed a memorandum in response to the directions.

3 In that memo the Council stated that:

At this point, the Council is hopeful that all outstanding matters from the first 22 Topics can be resolved. It wishes to continue with mediation in good faith with those parties and it considers that the nature of those discussions means that those topics may be resolvable. The Council does not want to pre-empt these further discussions, but notes the following topics may not be able to be resolved:

Driving on beaches at Titahi Bay (Topic 13, Issue 2).

General conditions relating to fish passage and inanga spawning in the coastal management, wetlands and beds of lakes and rivers parts of the Proposed Plan.

Some elements of the Regionally Significant Infrastructure provisions.

The natural hazard policies, noting significant progress was made at mediation on 30 June 2020.

4 On 23 July 2020, the Court issued the following directions:

The Council proposes to update the Court by mid-August (i.e. following completion of the current mediation schedule) as to whether certain topics may need hearing time. The Council is directed to provide the Court with a report on that subject by 17 August 2020.

5 The Council considers that all of the matters listed above continue to work towards a resolution and it considers that there is value in continuing to progress those matters through informal or formal mediation. A more detailed update on each matter is provided below:

- 5.1 In respect of driving on beaches at Titahi Bay, on 20 July the parties attended an in person meeting at the Environment Court. This was to be Court assisted mediation but the Commissioner was unwell. Significant progress towards resolution has been made and discussions are ongoing.
- 5.2 Regarding the general conditions for fish passage and inanga, while the issue in respect of inanga spawning remains outstanding, the issues are being narrowed.
- 5.3 Regarding RSI, following reconvened discussions on 21 July 2020, most matters have been resolved, except for the issue of provision for the national grid in the Proposed Plan. Discussions are continuing on this point, with a revised proposed being received today from Transpower.
- 5.4 Regarding the natural hazard policies, following mediation on 30 June 2020 the parties have continued to refine their positions and the outstanding issues. The issues have now been narrowed to one policy, which the parties are continuing to discuss.
- 6 Further time to enable those discussions is requested.
- 7 In addition, following mediation in July and August, it has become evident that the following topic may require hearing time:
- 7.1 Issues relating to NZCPS 11(a), specifically the appeal by Wellington International Airport Limited on the geographic extent of Schedule F2(c) (significant habitats for indigenous birds in the coastal marine area) and Map 18 which illustrates the same.
- 8 However, broader discussions on the NZCPS 11(a) topic, which relates to the avoidance of effects on indigenous biodiversity in the coastal marine area, are continuing. While it is acknowledged that the broader discussions will not resolve WIAL's concern with the extent of the

scheduled sites, the discussions may narrow the issues more generally in respect of this topic/WIAL's appeal. Subject to any opposition from WIAL, further time to enable those discussions is requested before steps to set the matter down for hearing are requested as the matter will likely not be heard in isolation from related appeal points.

Directions sought

- 9 As set out above, the Council and parties are continuing to progress and/or narrow these issues.

- 10 The Council therefore considers it is premature to set down hearing directions and timetables and requests directions requiring a further update to the Court in 4 weeks, on Monday 14 September 2020 on the above matters.

Date: 17 August 2020



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