

BEFORE THE WELLINGTON REGIONAL COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the **Proposed Natural Resources Plan** for the Wellington Region

Hearing One: Overall policy framework for the proposed plan,
Beneficial Use and Development, & Areas and site with significant
mana whenua values

BETWEEN **PORIRUA CITY COUNCIL**

Submitter

AND **WELLINGTON REGIONAL COUNCIL**

Plan Proponent

Response to Hearing's Panel Questions

Hearing One

15 June 2017

1. Definition: Local Authority Infrastructure

1. The Panel requested that Porirua City Council (PCC) provide a definition of Local Authority Infrastructure that would define the term suggested in a new point (m) under policy 8, to include *local authority infrastructure maintenance activities*.
2. PCC seeks this relief because while a local road such as Sunset Parade in Plimmerton may not be “regionally significant”, it is a vital resource for the local community and PCC should be able to maintain and upgrade the road and associated infrastructure without having to go through onerous consenting processes. The lack of recognition of the value of this type of urban infrastructure means that their positive effects will not be a matter for consideration, thereby making the consenting process more onerous.
3. In order to achieve what PCC in particular are concerned about in relation to this, the definition of *Local Authority Infrastructure* could include:
 - a) land transport infrastructure as defined in the Land Transport Management Act 2003, to the extent that it is controlled by local authorities.
4. This would ensure that the maintenance of the local roading and associated infrastructure is recognised as beneficial and generally appropriate under P8 of the proposed plan.
5. Having considered the point in more detail following the Panel’s question, PCC have come to the following alternative suggestion, taking into account also the Panel’s 5th Minute which highlighted the intent for conferencing among submitters on the definition of Regionally Significant Infrastructure (RSI).
6. The relief sought could be achieved through amending the definition of RSI to include the following:
 - b) the roads within the region that are categorised as *Primary Collector* or above under the One Network Road Classification (ONRC).
7. This addition to the RSI definition would then cover the local roads that are of significant importance to PCC’s communities, without including all local roads in the region. It would then recognise the benefits, allow the use, maintenance, operation and

upgrading of the local roading infrastructure as well as protecting the network from reverse sensitivity effects under P12, P13 and P14 of the proposed plan.

2. Whaitua integration conflicts

8. The Panel requested that PCC elaborate on the potential conflicts between the integration of the Whaitua and the PNRP as indicated in PCC's original submission. In the last few months PCC have been working proactively with Greater Wellington Regional Council (GWRC) to address these issues and reach agreements collaboratively.

3. Consistency with NZCPS public access.

9. Policy P9 of the proposed plan as notified overly emphasised avoidance of adverse effects in relation to public access to and along the coastal marine area and the beds of lakes and rivers; so much so we consider it to be inconsistent with the New Zealand Coastal Policy Statement (NZCPS)¹ and the Regional Policy Statement (RPS)² in recognising and protecting the need for public open space and public access.
10. The s42a revision of this policy has amended this to better align with the NZCPS and the RPS, however, P9 now reads that public access to and along these areas is to be maintained and enhanced *except* where it is necessary to:
- a) protect the values of estuaries, sites with significant mana whenua values identified in Schedule C (mana whenua), sites with significant historic heritage value identified in Schedule E (historic heritage) and sites with significant indigenous biodiversity value identified in Schedule F (indigenous biodiversity), or
 - b) protect public health and safety, or
 - c) provide for a temporary activity such as construction, a recreation or cultural event or stock movement, and where the temporary restrictions shall be for no longer than reasonably necessary before access is fully reinstated, and
- ...

¹ Objective 4 *maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:... maintaining and enhancing public walking access to and along the coastal marine area*

² Objective 8 *Public access to and along the coastal marine area, lakes and rivers is enhanced*

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11. PCC considers that to achieve the relief sought the policy requires amending to remove the word 'except', so that maintenance and enhancement of public access would be done where necessary for points a, b and c.
12. Furthermore, PCC considers that the points a, b and c above are not consistent with the NZCPS and the RPS in regards to public access. P9 does not expressly allow for local infrastructure upgrades as would be necessary from time to time to ensure continued public access. PCC suggest the below point be added as d) to P9:
- d) Local authority infrastructure maintenance
13. P138 concerns structures in sites with significant values. This policy excludes new, replacements, additions or alterations to structures in those schedules identified if the structure is a local road, which provides public access. As the proposed plan reads at the moment, these roads are not included in the definition of RSI and thus would not be included in this policy. If the definition of RSI is not amended to include local roads, PCC would suggest that P138 is amended to include the following as point e):
- e) It is necessary to enable the operation, maintenance and upgrade of local authority infrastructure.
14. If PCC's relief sought in regards to amendments to the definition of RSI discussed at section 1 were accepted, P138 would not require the amendment above-mentioned.

4. Jurisdictional justification for land use provisions in a regional plan

15. The Panel enquired as to the jurisdictional background that allowed GWRC to include land use provisions given that land use is more of a territorial authority function.
16. S30 of the RMA sets out the functions of regional councils. At 30(1)(a) regional councils give effect to the RMA through *the establishment, implementation and review of objectives, policies and methods to achieve integrated management of the natural and physical resources of the region*. 'Physical resources' is broad in its definition and includes buildings, roads, structures and infrastructure in both urban and rural environments. Existing urban development and existing infrastructure both fall within

this definition and both provide for the social, economic and cultural well-being of people and communities.

17. Section 30(1)(ba) of the RMA requires regional councils to : *establish, implement and review objectives, policies, and methods to ensure that there is sufficient development capacity in relation to housing and business land to meet the expected demands of the region*, while 30(1)(ga) concerns the creation of *objectives, policies and methods for strategic integration of infrastructure with land use*. These sections of the RMA in our view provide scope for the proposed plan to recognise the benefits of the urban environment and development of land to the community. Bay of Plenty Regional Council, ECan and Environment Southland³ have included in their regional plans recognition of the benefits of development of land for the community.
18. While it is accepted that the primary purpose of the proposed plan is to protect natural resources, these natural resources do not exist in a vacuum. Much of the Wellington Region is developed or heavily modified, and while restoration is to be encouraged, this must be balanced with the need for urban resources to be maintained and enhanced as well. The lack of recognition of the value of urban development means that the positive effects of these activities will not be a matter for consideration, thereby making the consenting process more onerous.
19. There is no clear demarcation for regional authorities and territorial authorities in the management of land. It is the discretion of GWRC to exercise that function. District plans can include provisions for the land use and the infrastructure activities that they are required to carry out under the LGA. They cannot include provisions that will overcome the barriers to these activities in the policy framework of the proposed plan. The key point PCC is emphasising is 'recognise'. PCC is not seeking to challenge the role or function of Territorial Authorities or Regional Councils; only for GWRC to 'recognise' the value of the built environment alongside the natural resources. GWRC have a responsibility to recognise the benefits of land use development in order to assist territorial authorities to achieve their functions under the RMA and the LGA.

³ BOPRC: Land and Water Plan – Objective 22 and Policy 32
ECan: Land and Water Regional Plan – Objective 3.5
Environment Southland: Proposed Southland Water and Land Plan – Objective 13 and policy 13