

**BEFORE THE ENVIRONMENT COURT  
WELLINGTON REGISTRY**

**ENV-2019-WLG-000106**

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of an appeal pursuant to Clause 14(1) of  
the First Schedule to the Act

**BETWEEN** Minister of Conservation  
*Appellant*

**AND** Greater Wellington Regional Council  
*Respondent*

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**NOTICE OF REPRESENTATION AT PROCEEDINGS  
UNDER SECTION 274 OF THE RESOURCE MANAGEMENT ACT 1991**

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To: The Environment Court Registrar  
PO Box 5027  
Wellington

1. Powerco Limited (“Powerco”) wishes to be a party to the following proceedings:
  - 1.1 ENV-2019-WLG-000106 between Minister of Conservation (“Appellant”) and Greater Wellington Regional Council (“Respondent”) in relation to the respondent’s decisions on submissions to the Proposed Wellington Regional Plan (“the Proposed Regional Plan”).
2. Powerco lodged submissions on the Proposed Regional Plan on the subject matter of the proceedings.
3. Powerco is New Zealand’s second largest gas and electricity distribution company. In the Wellington Region, Powerco operates both gas and electricity networks. This comprises an electricity network within the Wairarapa, covering the area from south of Eketahuna to Cape Palliser and a gas network covering Wellington City, Hutt Valley and Porirua.
4. Powerco is not a trade competitor for the purposes of section 308C or 308CA of the Resource Management Act 1991.
5. Powerco is interested in the following matters raised by the Appellant:
  - 5.1 Objectives O20 and O21 (para. 7.5.4)
  - 5.2 Policy P27: High risk areas (para. 7.16)
  - 5.3 Policy P70: Managing point source discharges for aquatic ecosystem health and mahinga kai (para. 7.22-23)
  - 5.4 Policy P71: Quality of point source discharges to rivers (para. 7.25)
  - 5.5 Policy P138: Structures in sites with significant values (para. 7.37)
  - 5.6 Rule R117: New structures – permitted activity (para. 7.63-64)
  - 5.7 Rule R151: Additions or alterations to structures – controlled activity (para. 7.80)
6. The reasons for Powerco’s interest in these matters are as follows:
  - 6.1 Powerco seeks to ensure that the provisions of the Proposed Regional Plan continue to provide appropriate recognition and provision for Powerco’s assets;

and do not unreasonably and/or unnecessarily restrict Powerco’s development and maintenance activities. Powerco also seeks to ensure that the Appellant’s appeal does not prevent the outcomes sought in Powerco’s own appeal from being achieved.

- 6.2 The Appellant opposed Objectives O20 and O21 and sought to adopt a new objective that seeks to avoid increases in risk, residual risk and adverse effects from coastal hazards in areas potentially affected by coastal hazards over at least the next 100 years. Powerco considers the objective wording sought by the Appellant to be onerous, particularly in light of case law regarding the meaning of the word “avoid”<sup>1</sup>. Furthermore, “areas potentially affected by coastal hazards over at least the next 100 years” is not defined in the Proposed Regional Plan and is therefore uncertain. Powerco is concerned that the objective sought could be interpreted as preventing all and any development in coastal areas, including necessary works to maintain and upgrade regionally significant infrastructure. The objective sought essentially quotes Policy 25(a) of the NZCPS, but doesn’t acknowledge the high-level context of the NZCPS. For instance, Policy 25(a) of the NZCPS is to be read in the context of Policy 9, which seeks to recognise that a sustainable national transport system requires an efficient national network of safe ports. The new objective sought is opposed.
- 6.3 The Appellant also seeks to amend Policy P27(b) so that the hazard risk is “not increased, and reduced if practicable.” Powerco opposes the relief sought for the reasons outlined in Paragraph 6.2 above.
- 6.4 Powerco opposes the relief sought in relation to Policies P70 and P71 as the changes have the potential to unduly restrict Powerco’s ability to operate, maintain and upgrade its assets.
- 6.5 The Appellant seeks to amend P138, which requires the avoidance of new, replaced or altered structures in significant sites, to add sites which have not been identified but which may meet policy 11(a) of the NZCPS, by adding the following wording: “or that meets the criteria in Policy 11(a) of the New Zealand

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<sup>1</sup> Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 38 and R J Davidson Family Trust v Marlborough District Council [2018] NZCA 316

Coastal Policy Statement". The relief sought is uncertain and may result in unintended consequences.

6.6 The Appellant seeks to amend R117 (permitted activity rule for new structures in, on, under, or over the bed of any river or lake) to exclude reclamation or include appropriate dimension parameters, and exempt the rule from the inanga spawning habitat identified in Schedule F1b. The relief sought is open to interpretation with regard to 'appropriate dimension parameters', therefore Powerco wishes to join this matter as an interested party.

6.7 The Appellant seeks to amend Rule R151 to exclude scheduled sites and create a new discretionary or restricted discretionary activity rule for additions of structures within scheduled sites. Powerco is concerned that the amendments sought are onerous, noting that some of the schedules cover large areas of the region. For example, Schedule F2c identifies significant habitats for indigenous birds in the coastal marine area, which incorporates the entire Wellington Harbour, including the commercial port areas.

7. Powerco agrees to participate in mediation or other alternative dispute resolution of the proceedings.



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David le Marquand  
Principal Planning and Policy Consultant  
4Sight Consulting Limited

Dated this 9<sup>th</sup> day of October 2019

**Address for Service:**

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**A copy of this notice has been served on the following parties:**

**Greater Wellington Regional Council**

Via email: [RegionalPlanAppeals@gw.govt.nz](mailto:RegionalPlanAppeals@gw.govt.nz)

**Department of Conservation**

K Anton and M Downing

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