

**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

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

To: The Environment Court Registrar
PO Box 5027
Wellington

1. Z Energy Limited, BP Oil New Zealand Limited and Mobil Oil New Zealand Limited (“the Oil Companies”) wish 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. The Oil Companies lodged submissions on the Proposed Regional Plan on the subject matter of the proceedings.
3. The Oil Companies receive, store and distribute refined petroleum products. Within the Wellington Region, the Oil Companies own, operate and/or supply service stations, truck stops and various commercial activities, including Wellington International Airport. These facilities provide an essential service to the residents and businesses of Wellington Region.
4. The Oil Companies also own and operate bulk storage facilities and associated pipelines, including located at Seaview and adjacent to Wellington Airport, from which petroleum products are distributed throughout the region and beyond. These facilities are recognised in the Proposed Regional Plan as regionally significant infrastructure and are critical to the functioning of the region as a whole.
5. The Oil Companies are not trade competitors for the purposes of section 308C or 308CA of the Resource Management Act 1991.
6. The Oil Companies are interested in the following matters raised by the Appellant:
 - 6.1 Objectives O20 and O21 (para. 7.5.4)
 - 6.2 Policy P27: High risk areas (para. 7.16)
 - 6.3 Policy P70: Managing point source discharges for aquatic ecosystem health and mahinga kai (para. 7.22)
 - 6.4 Policy P71: Quality of point source discharges to rivers (para. 7.25)
 - 6.5 Rule R151: Additions or alterations to structures – controlled activity (para. 7.80)

7. The reasons for the Oil Companies' interest in these matters are as follows:
- 7.1 The Oil Companies seek to ensure that the provisions of the Proposed Regional Plan continue to provide appropriate recognition and provision for the Oil Companies' assets, in particular those comprising regionally significant infrastructure; and do not unreasonably and/or unnecessarily restrict the Oil Companies' development and maintenance activities and oil industry standardised procedures. The Oil Companies also seek to ensure that the Appellant's appeal does not prevent the outcomes sought in the Oil Companies' own appeal from being achieved.
- 7.2 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. The Oil Companies consider the objective wording sought by the Appellant to be onerous, particularly in light of case law regarding the meaning of the word "avoid"¹. 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. The Oil Companies are 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.
- 7.3 The Appellant also seeks to amend Policy P27(b) so that the coastal hazard risk is "not increased, and reduced if practicable." The Oil Companies oppose the relief sought for the reasons outlined in Paragraph 7.2 above.

¹ 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

- 7.4 The Appellant seeks to amend Policy P70 so that clause (b) applies to wastewater discharges to coastal water. The implications of the amendment are not clear, therefore the Oil Companies wish to become party to that matter.
- 7.5 The Oil Companies are also concerned that the relief sought in relation to Policy P71 has potential to unduly restrict the Oil Companies' ability to operate, maintain and upgrade their assets.
- 7.6 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. The Oil Companies are 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 where the Oil Companies have existing assets.
8. The Oil Companies agree to participate in mediation or other alternative dispute resolution of the proceedings.

PP. *(Thomas)*

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

Dated this 9th day of October 2019

Address for Service:

4Sight Consulting Limited
PO Box 911 310
Victoria Street West
AUCKLAND 1142
Attention: David le Marquand
and Kahliat Thomas

Ph: 021 122 3429

E-Mail:

davidl@4sight.co.nz;
kahliat@4sight.co.nz

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

Greater Wellington Regional Council

Via email: RegionalPlanAppeals@gw.govt.nz

Department of Conservation

K Anton and M Downing

kanton@doc.govt.nz

mdowning@doc.govt.nz