

**In the Environment Court
At Wellington**

**I Te Koti Taiaio o Aotearoa
Te Whanganui-a-Tara Rohe**

ENV-2019-WGN-

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| Under | the Resource Management Act 1991 |
| In the matter of | an appeal under clause 14 of Schedule 1 to the Act in relation to the proposed Natural Resources Plan for the Wellington Region |
| Between | Wellington Water Limited Appellant |
| And | Wellington Regional Council Respondent |

NOTICE OF APPEAL BY WELLINGTON WATER LIMITED

18 September 2019

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**To the Registrar
Environment Court
Wellington**

1. Wellington Water Limited (**WWL**) appeals parts of the decision of Wellington Regional Council (**GWRC**) on the proposed Natural Resources Plan for the Wellington Region (**the Plan**).
2. WWL made a submission (S135) and a further submission (FS25) on the Plan.
3. WWL is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991.
4. WWL received notice of the decision on 31 July 2019
5. The decision was made by an independent hearing panel on behalf of GWRC.
6. Attached to this notice are copies of WWL's submission and further submission.
7. In accordance with the Court's directions, WWL has not attached a copy of the Plan to this notice.

REGIONALLY SIGNIFICANT INFRASTRUCTURE

8. The parts of the decision that WWL is appealing are:
 - 8.1 The definition of "catchment based flood and erosion risk management activities";
 - 8.2 The definition of "upgrade";
 - 8.3 The definition of "reverse sensitivity";
 - 8.4 Objective O6;
 - 8.5 Objective O8;
 - 8.6 Objective O12;
 - 8.7 Objective O13;

- 8.8 Policy P12: Benefits of regionally significant infrastructure and renewable electricity generation activities;
 - 8.9 Policy P13: Providing for regionally significant infrastructure;
 - 8.10 Policy P14: Incompatible activities adjacent to regionally significant infrastructure, renewable electricity generation activities and significant mining resources;
 - 8.11 Policy P15: Flood protection activities;
 - 8.12 Policy P16: New flood protection and erosion control;
 - 8.13 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
9. The reasons for the appeal are:
- 9.1 The definition of "catchment based flood and erosion risk management activities" is too narrow. It excludes many structures controlled and/or maintained by WWL for flood and/or erosion risk management that may not be provided for in a river management scheme or floodplain management plan, or that are in the coastal marine area.
 - 9.2 The definition of "upgrade" relies on a subjective standard that would have upgrades fall outside of the definition if they give rise to any "significant adverse effects". The subjectivity of this creates uncertainty, and there is no sound rationale for treating an upgrade as if it is not an upgrade on account of its adverse effects. Further the subjectivity of the definition is doubled by requiring that there be no "significant adverse effects" and in addition requiring that the effects be the "same or similar in character, intensity and scale" as the existing structure and activity. The use of both subjective standards makes the definition unclear and uncertain.
 - 9.3 The definition of "reverse sensitivity" only enables protection of vulnerable activities in terms of their operation. It does not enable them to be protected in terms of maintenance or upgrade. In the case of regionally significant infrastructure, which often has a functional need to remain in its present location, and which inevitably requires maintenance and/or upgrade, this is a significant issue.

- 9.4 Objective O6 recognises the benefits of fresh water availability for the health needs of people, but those needs are narrowly defined to include "hygiene, sanitary and domestic requirements". This does not adequately recognise the wider benefits of water supply, as one of the regionally significant functions of water supply infrastructure. WWL supplies water for a wide range of uses to promote health, safety and wellbeing of the community, including hospitals, schools, fire-fighting, public sanitary facilities, public facilities and amenities, provision to businesses and more. This is why water supply infrastructure is regionally significant. The narrower focus of Objective O6 does not give effect to Policy 7 of the Regional Policy Statement. Nor does it give effect to the objectives and policies of the National Policy Statement for Freshwater Management that identify one of the purposes of water management is to enable economic well-being and economic opportunities. This was previously reflected in Objective O8 (which the decisions have deleted).
- 9.5 Objective O12 recognises the benefits of regionally significant infrastructure but does not provide for them.
- 9.6 Objective O13 only protects regionally significant infrastructure in the coastal marine area and beds of lakes and rivers. Much of WWL's regionally significant infrastructure is not in the coastal marine area or the bed of a lake or river (though it may be adjacent). As presently worded the Objective does not afford this infrastructure any protection.
- 9.7 This does not give effect to Policy 8 of the Regional Policy Statement, and is not consistent with Policy P14 which requires protection of regionally significant infrastructure from incompatible use, regardless of the location of the infrastructure.
- 9.8 In its present form Objective O13 does not protect WWL's infrastructure from the effects of discharges to air by others, or water takes by others.
- 9.9 Limiting the protection of regionally significant infrastructure to the areas described in Objective O13 is also inconsistent with the Plan's promotion of discharges of wastewater to land (e.g. Objective O49 and Policy P62). Discharges to land would require additional significant wastewater discharge infrastructure to be located outside the coastal marine area and beds of lakes and rivers.
- 9.10 Policy P12 does not sufficiently recognise the benefits of the three waters infrastructure that WWL manages and operates. It does not record what the benefits are, and provides limited recognition of

those benefits by reference to four matters to which 'regard' must be had.

- 9.11 Policy P13 only "provides for" regionally significant infrastructure. Policy P14 only protects regionally significant infrastructure "from incompatible use and development". In combination these Policies leave regionally significant infrastructure vulnerable to potential incompatibilities with mana whenua values, recreational values, ecological values, historic heritage values and natural character values.
 - 9.12 WWL is responsible for much regionally significant infrastructure in or near sites with recognised values, including sites that the Plan identifies as significant on account of those values. There are strong objective and policy directives — for example, in Objectives O14, O17, O18, O27, O28, O29, O31 and Policies P31 to P40, P44, P45, P46 and P48 — for avoiding adverse effects on, or protecting and restoring, sites with such values. These outcomes may be incompatible with the function, use, operation, maintenance or upgrade of WWL's regionally significant infrastructure.
 - 9.13 The comparatively weaker requirements in Policies P13 and P14, create an imbalance that does not reflect the mutual importance of regionally significant infrastructure alongside other values. The NPS-FM considers both ecosystem health and human health to be compulsory values when looking at freshwater management.
 - 9.14 Policy P15 should apply to the flood and/or erosion risk management structures that WWL manages in rivers and in the CMA. This may be achieved through amendments to the definition of "catchment based flood and erosion risk management activities".
 - 9.15 Policy P16 should recognise and provide for new flood protection and erosion control. Recognition on its own has little practical effect and limited guidance when determining resource consents.
10. WWL seeks the following relief:
- 10.1 The definition of "catchment based flood and erosion risk management activities" is amended to apply to flood and erosion risk management structures in the CMA and that may not be provided for in a river management scheme or flood plain management plan.
 - 10.2 The definition of "upgrade" is amended so that it is not reliant on subjective standards and so that it accommodates functional

improvements to regionally significant infrastructure to accommodate growth or other service level requirements.

- 10.3 The definition of "reverse sensitivity" is amended to include maintenance and upgrade of, and consequent use of, existing lawfully established regionally significant infrastructure.
- 10.4 Objective O6 is amended to adequately recognise the wider benefits of availability of fresh water, including economic benefits, or Objective O8 is reinstated.
- 10.5 Objective O12 is amended to provide for the benefits of regionally significant infrastructure.
- 10.6 Objective O13 is amended so that it does not only apply to infrastructure in the coastal marine area and beds of rivers or lakes, and so that it protects WWL's infrastructure from the effects of discharges to air by others, or water takes by others.
- 10.7 Policy P12 is amended to identify what the benefits of three waters infrastructure are, and recognise those benefits in a meaningful way.
- 10.8 Policy P13 states that regionally significant infrastructure is "provided for" but this is not meaningfully carried through into the regulatory provisions of the Plan.
- 10.9 Policies P13 and P14 are amended to make better provision for protection of regionally significant infrastructure relative to mana whenua values, recreational values, ecological values, historic heritage values and natural character values so that, in circumstances where incompatibility arises, the objective and policy provisions do not predetermine which values take priority.
- 10.10 Policy P15 is amended to any extent necessary to make it consistent with amendments made to the definition of "catchment based flood and erosion hazard risk management activities".
- 10.11 Policy P16 is amended to provide for new flood protection and erosion control measures.
- 10.12 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

SITES WITH SIGNIFICANT VALUES

11. The parts of the decision that WWL is appealing are:
 - 11.1 Objective O24;
 - 11.2 Policy P39: Adverse effects on outstanding water bodies;
 - 11.3 Policy P40: Ecosystems and habitats with significant indigenous biodiversity values;
 - 11.4 Policy P41: Managing adverse effects on ecosystems and habitats with significant indigenous biodiversity values;
 - 11.5 Policy P41A: Effects on the spawning and migration of indigenous fish species;
 - 11.6 Policy P42: Protecting and restoring ecosystems and habitats with significant indigenous biodiversity values;
 - 11.7 Policy P44: Protection and restoration of sites with significant mana whenua values;
 - 11.8 Policy P45: Managing adverse effects on sites with significant mana whenua values;
 - 11.9 Schedule F1: Rivers and lakes with significant indigenous ecosystems;
 - 11.10 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
12. The reasons for the appeal are:
 - 12.1 Objective O24 has been amended so that it applies more broadly. It now applies to sites with significant mana whenua values. These are not mapped. They are described in Schedule C. For clarity the Objective should refer to Schedule C.
 - 12.2 Policy P39 requires adverse effects on outstanding water bodies in Schedule A to be avoided. This is not qualified by reference to the degree of effect, and nor is it adequately balanced by policies that are supportive of the benefits of regionally significant infrastructure.

- 12.3 WWL operates and maintains main water supply intakes at Kaitoke and Wainouiomata which may require replacement during the life of the Plan. It is highly likely that replacements would need to be relocated more than 20m upstream from the existing intakes in order to maintain appropriate pressure. However, the Hutt and Wainouiomata Rivers are considered outstanding water bodies from 20m upstream of the intakes. Consequently, a new intake more than 20m upstream in either location would be a non-complying activity. A new intake would have more than minor adverse effects, and would be unable to satisfy Policy P39. It would not be a consentable activity.
- 12.4 Given the importance of new intakes to the water supply network, and the Plan's requirement to recognise the benefits of the network, it is inappropriate that these foreseeable upgrades have no feasible consent pathway.
- 12.5 Further, the outstanding ecological values that are recognised through the Schedule A listing are themselves a direct result of the catchment being protected for water supply purposes — so for these values to be used to prohibit future water supply is inappropriate.
- 12.6 Policy P40 requires "restoration" which is an uncertain standard, and not supported in this context by the Regional Policy Statement. The Policy, along with Policy P41 applies equally to all rivers and lakes within Schedule F1, which does not recognise that the stated values will differ where there are already structures in place that are part of WWL's regionally significant infrastructure. For example, there will be a significant difference between natural and piped streams. Within an urban environment it will not be possible to restore all freshwater ecosystems that have been piped. Provision must be made for ongoing maintenance, operation and upgrade of regionally significant infrastructure.
- 12.7 Policy P41 is allied to Policy P40 and Schedule F1, and the relevant reasons for appealing those provisions apply to Policy P41.
- 12.8 Policy P41A will constrain WWL activities that are fundamental to the health and safety of people and communities. The Policy requires more than minor adverse effects to be avoided, which does not allow for maintenance, operation and upgrade activities for the regionally significant infrastructure under WWL's control. Requiring effects to be avoided is not appropriate in respect of activities to maintain regionally significant infrastructure, the effects of which tend to be temporary, and which are provided for in the rules as discretionary activities. The Policy is no longer limited to "significant" effects. The Policy omits a time period in paragraph (c). The

spawning periods recognised in corresponding rules have been extended, making the Policy apply for longer. Collectively these mean the Policy does not adequately recognise the benefits of regionally significant infrastructure or the temporary nature of relevant effects.

- 12.9 Policy P42 applies to "surrounding areas" which is vague and uncertain. It is also unclear how the Policy is intended to apply beyond the boundary of scheduled sites, as this is not reflected in the rules.
 - 12.10 Policy P44 requires mana whenua values to be restored. It is not clear what the standard restoration is to be measured against, which creates uncertainty, and may not reflect that some sites with significant mana whenua values are within relatively highly modified urban environments.
 - 12.11 Policies P44 and P45 create strong policy directives for protection and restoration of sites with significant mana whenua values, which is supplemented by Objective O14. However, some regionally significant infrastructure is situated within these sites and next to these sites. The benefits of such infrastructure are also to be recognised and the use, maintenance, and upgrade of such infrastructure protected.
 - 12.12 Schedule F1 should reflect that not all parts of the relevant rivers and lakes are of equal value in terms of significant indigenous ecosystems. For example, the Schedule does not identify parts of urban streams that are piped, and may therefore have lesser indigenous ecosystem values. The Schedule should also be consistent with Policy 23 of the Regional Policy Statement, and needs to be considered together with related policies, such as P40, P41 and P41A
13. WWL seeks the following relief:
- 13.1 Objective O24 is amended to state that the sites with significant mana whenua values to which it applies are those listed in Schedule C.
 - 13.2 Policy P39 is amended to require a lesser standard than avoidance, or to require a lesser standard than avoidance specifically for regionally significant infrastructure with a functional need to locate in a scheduled site, or to exclude the Policy from applying to regionally significant infrastructure. In respect of the specific issues for upgrading water intakes at Kaitoke and Wainuiomata an

alternative would be to amend Schedule A1 so that Policy P39 does not apply to the potential sites for the new intake structures.

- 13.3 Policy P40 is amended so that the standard required is clear and does not require reinstatement of ecosystems and habitats to pristine or pre-development conditions. The Policy is amended to reflect that ecosystem and habitat values will vary, restoration will not be possible in all cases, and allowance is made for the ongoing operation, maintenance and upgrade of regionally significant infrastructure.
- 13.4 Policy P41 is amended in line with amendments to Policy P40 and Schedule F1.
- 13.5 Policy P41A is amended to provide for WWL's activities to maintain and upgrade regionally significant infrastructure. This may include substituting the 'avoidance' requirement with a more appropriate standard, and/or explicitly recognising the temporary nature of the effects and the necessity for WWL's work in relevant water bodies so as to enable the benefits of regionally significant infrastructure to continue, and/or reintroducing the word "significant", and/or adding a time period to paragraph (c).
- 13.6 Policy P42 is amended to so that the extent of its application is clear, and it is consistent with the corresponding rule framework.
- 13.7 Policy P44 is amended to eliminate the uncertainty that arises from concept of "restoration" in the absence of a clear and objective measure of performance; and to account for the highly modified urban context of some sites with significant mana whenua values.
- 13.8 Policies P44 and P45 are amended alongside other amendments proposed to Policies P13 and P14 so that there is greater recognition of the mutual requirements to protect sites with significant mana whenua values *and* protect regionally significant infrastructure, and so that situations giving rise to these mutually important considerations are not predetermined at a policy level.
- 13.9 Schedule F1 is amended to:
 - (a) recognise that different parts of the relevant rivers and lakes have differing value in terms of significant indigenous ecosystems, where structures forming part of regionally significant infrastructure exist;
 - (b) make the Schedule consistent with Policy 23 of the Regional Policy Statement;

- (c) ensure the integrated functioning of the Schedule along with Policies P40, P41, P41A and the related rule framework makes appropriate provision for works to operate, maintain and upgrade regionally significant infrastructure.

13.10 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

FRESHWATER ALLOCATION AND QUALITY

14. The parts of the decision that WWL is appealing are:

- 14.1 The definition of "efficient allocation";
- 14.2 The definition of "health needs of people";
- 14.3 Objective O52;
- 14.4 Objective O52A;
- 14.5 Policy P111: Water takes at minimum flows and minimum water levels;
- 14.6 Policy P115: Authorising takes below minimum flows and lake levels;
- 14.7 Policy P116: Reallocating water;
- 14.8 Policy P118: Reasonable and efficient use;
- 14.9 Policy P125: Taking of groundwater or ground disturbance;
- 14.10 Policy P130: Bores;
- 14.11 Rule R42: Minor discharges — permitted activity;
- 14.12 Rule R140: Dewatering — permitted activity;
- 14.13 Rule R140B: Dewatering — restricted discretionary activity;
- 14.14 Rule R146: Investigation and monitoring bores — permitted activity;

- 14.15 Rule R146A: Construction and excavation activities deeper than 5m below ground level in community drinking water supply protection areas and the Hutt aquifer system — discretionary activity;
 - 14.16 Rule R147: Drilling, construction or alteration of any bore — controlled activity;
 - 14.17 Policy WH.P2: Minimum flows and minimum water levels in the Wellington Harbour and Hutt Valley Whaitua;
 - 14.18 Rule WH.R1: Take and use of water in the Wellington Harbour and Hutt Valley Whaitua — restricted discretionary activity;
 - 14.19 Rule WH.R4: Take and use of water exceeding minimum flows or core allocation — prohibited activity;
 - 14.20 Table 8.1: Minimum flows for rivers in the Wellington Harbour and Hutt Valley Whaitua;
 - 14.21 Table 8.2: Surface water allocation amounts for rivers and category A groundwater and category B groundwater in the Te Awa Kairangi/Hutt River, Wainuiomata River and Oro;
 - 14.22 Table 8.3: Groundwater allocation amounts for Category B and Category C groundwater in the Wellington Harbour and Hutt Valley Whaitua;
 - 14.23 Schedule Q: Reasonable and efficient use measures;
 - 14.24 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
15. The reasons for the appeal are:
- 15.1 The Plan's approach to water allocation is convoluted and unclear. It relies on definitions of four different categories of groundwater where the differences between the categories are confusing and unclear. It also does not adequately reflect existing consented takes, or the likelihood of future increases to accommodate population growth. Instead, the Plan supports amounts that are derived from a desktop calculation and that are less than existing consented takes, which do not properly represent either the available resource or the effects of taking. Further, the Plan applies a sinking lid approach, by increasing the difficulty of renewing existing consented takes (by defining those as "over allocation" and

setting an objective to phase out over allocation) and prohibiting any future consents for greater volumes. This approach is integrated across relevant definitions, objectives, policies, rules, and methods. Accordingly, while WWL's appeal focusses on particular provisions of importance within this scheme, the relief that may be appropriate to address this issue may extend to provisions that are ancillary or require consequential change.

- 15.2 The defined term "efficient allocation" is convoluted and unclear, and in any event the term is not used in the Plan.
- 15.3 The definition of "health needs of people" focusses on "hygiene, sanitary and domestic requirements" and does not adequately recognise the wider benefits of water supply. WWL supplies water for a wide range of uses to promote health, safety and wellbeing of the community, including hospitals, schools, fire-fighting, public sanitary facilities, public facilities and amenities, provision to businesses and more. This is why water supply infrastructure is regionally significant. The narrower focus of the current definition of "health needs of people" does not give effect to the Regional Policy Statement. Nor does it enable communities to provide for their economic well-being as required by the National Policy Statement for Freshwater Management.
- 15.4 Objective O52 is unclear and uncertain. The combination of terms used, including "efficiency", "maximised" and "through time" makes the Objective difficult to interpret and uncertain in application.
- 15.5 Objective O52A refers to "over-allocation" which is not defined in the Plan. The Plan provides for "allocation amounts" which are defined as the amounts specified in Tables 8.2 and 8.3. The amounts in Table 8.2 are significantly less than the amounts actually allocated to WWL under its existing consents, and the basis for the amounts in Table 8.3, and their relationship to the amounts in Table 8.2, is confusing and unclear. Both tables rely on definitions of a number of different categories of groundwater, which are themselves unclear (in the definitions section, Policy P108 and Table 4.1).
- 15.6 This approach toward "over-allocation" seems to imply the amounts already consented for WWL's water takes are "over-allocation", which is not warranted and not based on any actual assessment.
- 15.7 Objective O52A requires existing over-allocation to be phased-out, so if WWL's existing takes are viewed as "over-allocation", there may be considerable difficulty renewing those takes, despite the necessity for renewing such consents to provide for ongoing security of supply.

- 15.8 The over-allocation concept employed in the Plan does not take account of the necessity for some redundancy in the consented takes. This is critical for a robust water supply scheme, to allow WWL to vary the take of water between its three main sources in response to fluctuations in demand, and supply side risks.
- 15.9 Policy P111 incorporates text that was previously in Policy P115 that refers to water used by industry from a community drinking water supply for a 7 year period. The operation of the Policy is unclear and uncertain. It also appears to require the use of water by industry to cease, which fails to recognise that water supplied to industrial sites includes water for hygiene and sanitary requirements. It is inappropriate for the Policy to require cessation of the supply of water for hygiene and sanitary requirements. It is also impracticable to achieve.
- 15.10 Policy P116 has been amended to replace "core allocation" with a new term, "allocation amounts". Core allocation includes recognition of consented allocation amounts, whereas "allocation amounts" excludes consented allocation. "Allocation amounts" refers exclusively to amounts that are significantly less than the amounts already consented for WWL water takes, and relies on default figures, not assessed figures (as addressed below). This Policy now forms part of a 'sinking lid' on existing water allocations, along with the requirement in Objective O52A to phase out "over-allocation". This fails to recognise that the existing consented takes are necessary for a reliable and secure water supply system that appropriately provides for the health and safety of people and the wider well-being of the community; and that there is a high likelihood that allocations will need to increase into the future to keep pace with population growth.
- 15.11 Policy P118 refers to maximising the efficient use of water when designing systems to convey or apply water. It is not clear how the efficiency of any end use relates to the design of conveyance. It is also unclear what "maximising" means in this context. Policy P118 seems to have limited relevance to municipal water suppliers such as WWL because of the limited ability to control the end use of water, yet the Policy would apply to WWL.
- 15.12 Policy P118 invokes the criteria in Schedule Q (efficient use) which do not adequately reflect the practicalities of what WWL can control
- 15.13 Policy P125 ought to apply to bores and all other forms of ground disturbance, but it is unclear whether it does or not.

- 15.14 Policy P130 may need to be amended to ensure consistency with Policy P125 and Rule R146A.
- 15.15 Rule R42 provides for minor discharges as a permitted activity. The conditions are not consistent with best practice for protecting drinking water supply.
- 15.16 Rules R140, R140B and R146A do not adequately protect production wells for community drinking water supply. Effects on a production well can arise from dewatering or ground disturbance in proximity to a production well, whether the dewatering or disturbance is less than 5m deep or more than 5m deep.
- 15.17 Rules R146 and R147 do not adequately protect production wells for community drinking water supply. Effects on a production well can arise from a new bore created in proximity to the well, whether the new bore is less than 5m deep or more than 5m deep. These effects cannot be managed under a controlled activity rule, as consent cannot be declined, and even if "location" is a matter for control, it would be unlawful to grant consent yet require the proposed bore to be substantially re-located.
- 15.18 Rule 147 provides for bores over 5m deep (within defined water protection areas) as a controlled activity, but the matters of control do not include effects on the drinking water supply or the aquifer. The control on location is insufficient to address the effect on drinking water as is the control on management of contaminants. In addition, controlled activities cannot be declined which is inappropriate when considering activities that may affect the quality of community drinking water supplies.
- 15.19 Policy WH.P2 incorporates references to the allocation amounts in Tables 8.2 and 8.3. As addressed elsewhere, the amounts in Table 8.2 are default amounts, based on a desktop calculation, and are significantly less than the amounts for which WWL already holds consents. It is not clear what the basis is for the amounts in Table 8.3. Both tables rely on references to defined categories of groundwater, the meaning of which is not clear from the definitions, or the associated Policy P108 and descriptions in Table 4.1. Collectively these provisions create considerable uncertainty and doubt, and are not appropriate for managing allocation.
- 15.20 Rule WH.R4 in combination with Rule WH.R1 prohibits any increase in the volume of water takes currently consented. Despite investments in improving the efficiency of the water supply network and community education to reduce water usage, population growth is projected to increase demand. The Plan provisions should provide a consent pathway for seeking increases in volumes of consented

takes, subject to full assessment of all relevant environmental effects, and this should not be deemed to be an “over allocation”. A prohibition on new takes also perversely precludes future reliance on water from areas that have been identified and managed for future water supply, such as Akatarawa and Pakuratahi Forest Parks. Prohibiting such options will improperly constrain water supply choices that have to be made during the likely lifespan of the Plan.

- 15.21 Table 8.1 should provide for minimum flow below the Kaitoke water supply intake to be reduced to 400L/s for special circumstances, such as when lining the Macaskill Lakes.
- 15.22 The allocation figures in Table 8.2 are not the result of an effects assessment. They are default figures, derived from applying a desktop formula. The use of such default figures to define “allocation amounts”, and the apparent intention that any amount above that is — in the Plan’s terms — “over allocation” is inappropriate. It misrepresents that water takes above the amounts in Table 8.2 (including the current, consented takes) have adverse effects or are otherwise undesirable.
- 15.23 The figures in Table 8.3, and definitions on which they rely (including their relationship with the figures in Table 8.2, the definitions of different categories of groundwater and the associated Policy P108 and Table 4.1) are convoluted and confusing.
- 15.24 This approach to allocation is not appropriate in the context of the forthcoming whitua plan change processes. It creates a risk that the setting of freshwater objectives in the whitua plan change processes will be inappropriately influenced by allocation figures that are confusing and unclear, that are not based on any actual assessment of the impact of water takes on relevant ecological and other values, and that do not reflect the actual water allocation resource that is available, now and into the future (including from managed future supply areas).
- 15.25 Schedule Q, which is referenced in many provisions relating to water allocation, is premised on the ability to differentiate between the water uses by different sectors. The purpose of this is not clear, and nor is it achievable in its present form. Water use is not metred throughout the region, and even if it were, sectorial use could still only be estimated.
- 15.26 The provisions of the Plan variously refer to the “Hutt Valley aquifer system”, the “Hutt Valley aquifer zone”, the “Hutt Valley Aquifer Zone”, and possibly other variants — usually accompanied by a reference to Map 30A or a related Map — which is inconsistent and may lead to confusion and uncertainty.

16. WWL seeks the following relief:
- 16.1 The definition of "efficient allocation" is deleted, or if retained (which should only occur if the term is used somewhere in the Plan), the definition is amended so that its meaning is clear and fit-for-purpose.
 - 16.2 The definition of "health needs of people" is amended to recognise the full extent of the benefits of water supply infrastructure for municipal supply, as an element of regionally significant infrastructure.
 - 16.3 Objective O52 is amended so as to be clear and certain, or otherwise deleted. Amendments could include deleting the reference to "maximised", clarifying what "efficiency" means, and deleting or clarifying what is meant by the reference to "through time".
 - 16.4 Objective O52A is amended so that any reference to "over-allocation" is clear and certain and does not imply that WWL's existing consented takes are an over-allocation, or is otherwise deleted. If amended, consequential changes may be required to the related definitions of "allocation amount" "core allocation" and "health needs of people", amongst others.
 - 16.5 Objective O52A is amended so that it does not require WWL's existing consented takes to be phased-out, or is otherwise deleted.
 - 16.6 Policy P111 is amended to remove any requirement to cease water supply for human health needs, and to clarify or delete the requirement for industrial uses to cease after 7 years.
 - 16.7 Policy P116 is amended in line with other amendments sought by WWL to reflect the need to retain water allocation amounts that are approved under WWL's existing consents, the likelihood that such amounts will need to increase into the future, and that future allocation decisions should be based on an accurate assessment of the actual resource available.
 - 16.8 Policy P118 is amended either to exclude municipal water supply networks, or — if it applies to such networks — to amend it so that it applies in an appropriate way.
 - 16.9 Policy P125 is amended to make clear that it applies to bores and all other forms of ground disturbance, and to provide an appropriate policy basis, together with Policy P130, for Rule R146A.

- 16.10 Policy P130 is amended for consistency with Policy P125, and to provide an appropriate policy basis, together with Policy P125, for Rule R146A.
- 16.11 Rule R42 is amended to include a condition that the discharges shall be outside a community drinking water supply protection area, and to incorporate any other best practice standards for the protection of drinking water supply.
- 16.12 Rules R140 and R140B are amended by adding a condition requiring the dewatering or ground disturbance not to be proximate to a production well for community drinking water supply.
- 16.13 Rule R146 is amended by adding a condition requiring bores not to be proximate to a production well for community drinking water supply. Rule R147 is amended by adding the same condition, such that bores proximate to a production well for community drinking water supply cannot be consented as controlled activities.
- 16.14 Rule R147 is amended by adding a condition in the same terms as conditions (a) and (e) from Rule R146.
- 16.15 Policy WH.P2 is amended for consistency with other amendments to objectives, policies, rules and other provisions that relate to the setting of appropriate and realistic "allocation amounts".
- 16.16 WH.R4 and WH.R1 are amended so that increases in volume of water takes are not prohibited, and together with the objectives, policies and other provisions, the rules provide a consent pathway for seeking increases in volumes of WWL's current consented takes, and seeking new and additional takes in appropriate locations, subject to full assessment of all relevant environmental effects.
- 16.17 Table 8.1 is amended to provide for minimum flow below the Kaitoke water supply intake to be reduced to 400L/s for special circumstances, such as when lining the Macaskill Lakes.
- 16.18 The allocation figures in Tables 8.2 and 8.3 are amended to reflect either actual allocated amounts (represented by the sum total of currently consented takes), or any alternative amounts that are based on a robust effects assessment; with such consequential changes as may be necessary for consistency between the Tables and related definitions, objectives, policies, rules and other Plan provisions relating to the management of water allocation.
- 16.19 The deletion or amendment of those parts of Schedule Q that require differentiation of water usage by sector.

- 16.20 In all cases, references to the “Hutt Valley aquifer system”, “Hutt Valley aquifer zone” or “Hutt Valley Aquifer Zone” should be made consistent with the relevant maps which employ the phrase “Hutt Valley Aquifer Protection Zone”.
- 16.21 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

COMMUNITY DRINKING WATER SUPPLY PROTECTION AREAS

17. The parts of the decision that WWL is appealing are:
- 17.1 Policy P69: Human drinking water supplies;
 - 17.2 Rule R83: Discharge of collected animal effluent onto or into land — controlled activity;
 - 17.3 Rule R85: Discharge of compost or solid animal waste to land — permitted activity;
 - 17.4 Rule R86: Discharge of compost or solid animal waste to land — restricted discretionary activity;
 - 17.5 Rule R92: Discharges to land from a new pit latrine, a new farm refuse dump, a new offal pit, or of collected animal effluent within a community drinking water supply protection area — restricted discretionary activity;
 - 17.6 Map 27b: Groundwater community drinking water supply protection areas – Hutt Valley;
 - 17.7 Schedule M: Community drinking water supply abstraction points.;
 - 17.8 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
18. The reasons for the appeal are:
- 18.1 Policy P69 now applies to the Hutt community drinking water supply catchment area. It contains a strong directive to avoid adverse effects, but this is coupled with a reference to the 2007 National Environmental Standards for Sources of Human Drinking Water, which no longer represent best practice and are being reviewed.

- 18.2 Rule R83 has been amended so that it no longer applies to solid animal waste (due to the introduction of a new definition of "solid animal waste" that separates it from "animal effluent"). A corresponding amendment has been made to Rule R85 to allow solid animal waste to be discharged within a community drinking water supply protection area. This does not sufficiently protect the community drinking water supply, and is inconsistent with the approach taken to discharge of biosolids within a community drinking water supply protection area, which is expressly not permitted (Rules R77 and R78). It is possible this is due to a clerical error, as the decision recorded that it was adopting the changes proposed by the s42A officer, who recommended that discharge of solid animal waste within a community drinking water supply protection area would become a restricted discretionary activity under Rule R92. WWL supports such discharge being a restricted discretionary activity under either Rule R86 or Rule R92.
- 18.3 Rule R83 has also been amended by adding the phrase "where a contaminant may enter water", which may be mistaken for a reference merely to surface water; yet (e)(iii) demonstrates that the rule is concerned with effects on all water that relates to community drinking water supply, which includes both surface and groundwater. To avoid confusion, the reference to "water" in the opening words should therefore be amended.
- 18.4 Map 27b spatially defines the "community drinking water supply protection area" for Hutt Valley groundwater. Most of the water supplied to the Hutt Valley aquifer (known as the Waiwhetu aquifer) comes from the Hutt River. Water passes from the River to the aquifer through an infiltration zone along the Hutt River roughly between Taita Gorge and Kennedy Good Bridge. Contamination anywhere in the catchment of the Hutt River upstream from this infiltration zone could contaminate the aquifer and thus the community drinking water supply. The protection area defined spatially on Map 27b should therefore be extended to cover the Hutt River catchment upstream of the infiltration zone.
- 18.5 The abstraction point on Little Huia Creek has been omitted from Schedule M1, and the bore supplying the Dowse public fountain (Laings Road, Lower Hutt) has been omitted from Schedule M2, for no apparent reason.
19. WWL seeks the following relief:
- 19.1 Policy P69 is amended to refer to more current standards than the 2007 NES.

- 19.2 Either:
- (a) Rule R83 is retained as notified (with consequential amendments deleting the definition of "solid animal waste", deleting changes that make Rule R85 apply to discharges of solid animal waste, and deleting changes that prevent Rule R92 from applying to discharges of solid animal waste as a subset of "animal effluent"); or
 - (b) Rule R85 is amended so that discharge of solid animal waste in a community drinking water supply protection area is not permitted, and corresponding changes are made to either Rule R86 or R92, or both, so that this discharge is managed under one of those rules as a discretionary restricted activity, provided the discharge is set back a minimum of 20m from any bore used for water abstraction for potable supply, and a matter for discretion is effects on water quality including the water quality of community drinking water supply.
- 19.3 The opening words of Rule R83 are amended to make clear that the reference to water includes both surface water and ground water.
- 19.4 Map 27b is amended by enlarging the area depicted as a "community drinking water supply protection area" to cover the entire catchment of the Hutt River upstream of the length of river between Taita Gorge and Kennedy Good Bridge. This includes (but is not limited to) urban Upper Hutt, and the catchments of all significant tributaries of the Hutt River such as the Whakatikei, Akatarawa, Mangaroa and Pakuratahi Rivers.
- 19.5 Schedule M1 is amended to include the Little Huia Creek abstraction point.
- 19.6 Schedule M2 is amended to include the Dowse public fountain (Laings Road, Lower Hutt).
- 19.7 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

WASTEWATER

20. The parts of the decision that WWL is appealing are:

- 20.1 The definition of "wastewater";

- 20.2 The definition of "new discharge";
 - 20.3 The definition of "existing discharge";
 - 20.4 The definition of "wastewater network";
 - 20.5 The definition of "good management practice";
 - 20.6 Objective O49;
 - 20.7 Objective O50;
 - 20.8 Policy P62: Promoting discharges to land;
 - 20.9 Policy P67: Minimising discharges to water or land;
 - 20.10 Policy P76: Minimising wastewater and stormwater interactions;
 - 20.11 Policy P81: Minimising and improving wastewater discharges;
 - 20.12 Policy P83: Avoiding new wastewater discharges to freshwater;
 - 20.13 Policy P83A: Discouraging new discharges of treated wastewater to coastal water;
 - 20.14 Policy P85: Biosolids and treated wastewater to land;
 - 20.15 Rule R61: Wastewater discharges to coastal and fresh water — discretionary activity;
 - 20.16 Rule R62: New discharges of wastewater to freshwater — non-complying activity;
 - 20.17 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
21. The reasons for the appeal are:
- 21.1 Wastewater often contains varying proportions of stormwater, so it is inaccurate to define "wastewater" as not containing stormwater. This makes unclear the provisions that differentiate between discharges of wastewater and stormwater, and leads to uncertainty in the application of the Plan.

- 21.2 The definition of “new discharge” applies to some discharges that are in fact increases of existing consented discharges. Such discharges should not be treated as if they are entirely new.
- 21.3 It is unclear what will constitute a “previously occurring heavy rainfall event overflow” in the definition of “existing discharge”. This lack of clarity makes the definition, and the application of related policies and rules, uncertain.
- 21.4 The new phrase added to end of the definition of “wastewater network” does not fit grammatically with the rest of the definition, which may make its meaning uncertain. The definition should include the systems designed to discharge wastewater from a treatment plant, rather than the discharge activity.
- 21.5 Objective O49 promotes discharges of wastewater to land over discharges of wastewater to fresh water and coastal water. For WWL, it is not possible to discharge to land the treated wastewater that is presently discharged to coastal water. This is due to topography, geology, land availability and other practical constraints. These constraints are better understood now than when the Regional Policy Statement was prepared. Consequently, Policy 16 of the RPS does not reflect current knowledge and to that extent is inaccurate and/or incomplete. Objective O49 should not perpetuate promoting an outcome that is now known to be practically unachievable.
- 21.6 Objective O49 does not recognise the regionally significant benefits of discharges of wastewater to coastal water, and the sunk costs in the regionally significant infrastructure that enables such discharges.
- 21.7 Within the region there is very little land that might be suitable to receive discharges of wastewater (in terms of land area, assimilative capacity, topography, proximity and other considerations), and Objective O49 does not recognise that there may be far greater benefits if such land remains available for other uses.
- 21.8 Further, there are significant public health benefits in discharging some wastewater through constructed bypasses in high rainfall events, which are also not recognised by Objective O49.
- 21.9 Objective O49, in combination with Policies that promote discharge of wastewater to land over water, such as Policies P67 and P62, will add an unnecessary layer of complexity and uncertainty to consent processes for renewal of existing discharge consents, or consents for new discharges. In each individual case, new investigations of land-disposal alternatives will be required. This is neither efficient nor

warranted when land-based disposal has been comprehensively examined and shown to be impracticable for WWL wastewater treatment plants.

- 21.10 Objective O50 requires discharges of wastewater to freshwater to be progressively reduced. Where such discharges are existing, and result from heavy rainfall events, reduction may not be achievable. In such circumstances, the discharges seem to be a non-complying activity under Rule R62 (depending on the interpretation of "existing discharge"), but the requirements stated in Objective O50 (in combination with additional reduction emphasis in Policy P81) may make such discharges un-consentable. This is inappropriate given the discharges occur due to extreme weather events over which WWL has no control, and the discharges are a fail-safe measure to protect the health and well-being of the community.
- 21.11 Policy P62 promotes discharges of contaminants to land over direct discharges to water. This applies more broadly than the relevant RPS Policy (Policy 16), and ought not to apply to all forms of contaminants.
- 21.12 However, discharge to land is not achievable for the wastewater that is presently discharged to water from wastewater treatment plants under WWL's control. This is due to topography, geology, land availability and other practical constraints. These constraints are better understood now than when the Regional Policy Statement was prepared in 2009. Consequently, Policy 16 of the RPS does not reflect current knowledge and to that extent is inaccurate and/or incomplete. Policy P62 should not perpetuate promoting an outcome that is now known to be practically unachievable.
- 21.13 Policy P67 requires discharges to water or land to be minimised. This includes discharges of wastewater. WWL cannot control the volume of waste that enters the wastewater network and ultimately must be treated and discharged. The Policy does not reflect the considerable benefits of such discharges for the health and well-being of the community. The Policy does not appear to have been developed to address municipal wastewater discharges.
- 21.14 Policy P67 also specifies four matters for achieving minimisation, which it describes as a hierarchy, yet they are not structured as a hierarchy. They are written as concurrent requirements, yet applying them concurrently is not possible. Further, WWL does not and/or cannot control some of the listed matters, and others are unclear: WWL cannot avoid the production of wastewater, it is unclear what context will be used in assessing whether the amount of contaminants has been "reduced" or the volume of discharge

has been “minimised”, and WWL cannot in practice promote discharge to land over discharge to water.

- 21.15 Policy P67 was more workable when it applied to the adverse effects of discharges, and not to discharges regardless of their effects.
- 21.16 Policy P67 also does not recognise the differences between discharges of wastewater to freshwater and coastal water.
- 21.17 Nor does the Policy recognise the sunk costs in stormwater and wastewater infrastructure.
- 21.18 Further, within the region there is very little land that might be suitable to receive discharges of wastewater, and Policies P62 and P67(d) do not reflect that there may be far greater benefits if such land remains available for other uses.
- 21.19 Policy P76(b) requires progressive elimination of wastewater contamination of stormwater. Wastewater contamination of stormwater can never be fully avoided, so elimination is impracticable.
- 21.20 Policy P81 should not require the quantity of existing discharges to coastal water to be reduced. It is more appropriate to focus on minimising the effects of the discharge by progressively improving the quality of the discharge. WWL cannot control the volume of wastewater entering the wastewater network. If there remains a requirement to progressively reduce the quantity of discharge, then it will not be feasible to consent discharges that allow for population or economic growth.
- 21.21 Policies P81 and P83 should both be effects-based, i.e. shift focus away from the *activity* of discharging and onto the *effects* of discharging.
- 21.22 Policy P83A discourages new discharges of treated wastewater to coastal water. This is not appropriate given population growth is going to increase the volumes of wastewater requiring discharge, and discharge to land is not feasible. In this context, and as new discharges of treated wastewater to coastal water are a discretionary activity, Policy P83A should not discourage such discharges.
- 21.23 Policy P85 requires discharge of biosolids to land to be managed in accordance with relevant good management practice guidelines. This is too vague and uncertain. There should be a more definitive

reference to relevant guidance, or use of a more established concept such as “best practicable option”.

21.24 Rule R61 (b) does not align well with the definition of “existing discharge”. The definition includes discharges that are overflows caused by heavy rainfall events, yet the nature of such events would prevent one or more of the conditions in Rule R61 from being satisfied. Consequently, the discharge would become a non-complying activity under Rule R62(a), and would be unconsentable due to its more than minor adverse effects, and inability to comply with the minimisation requirements of Policy P81 (b).

21.25 Rule R62 provides for new discharges to freshwater as a non-complying activity. However new discharges to freshwater may give rise to more than minor effects, in which case they can only be consented if they are not contrary to policy. Policy P83 requires that they be avoided. Consequently, such discharges would in effect be prohibited. Discharges of this sort should be determined on an effects basis, not pre-determined by policy.

22. WWL seeks the following relief:

22.1 The definition of “wastewater” is amended to recognise that wastewater can and does contain stormwater.

22.2 The definition of “new discharge” and “existing discharge” are amended to enable fully new discharges to be treated distinctly from discharges that are in fact increases of existing consented discharges.

22.3 The definition of “existing discharge” is amended to clarify the meaning of “previously occurring heavy rainfall event overflows”.

22.4 The new phrase at the end of the definition of “wastewater network” is amended to say “and ~~the~~ discharge of treated wastewater from a wastewater treatment plant”.

22.5 Objective O49 is amended so that it no longer promotes discharge of wastewater to land over discharge of wastewater to fresh water and coastal water.

22.6 Objective O50 is amended specifically to recognise that reduction of discharges that result from heavy rainfall events may not be achievable, and more generally to ensure that the objectives of the Plan support a consent pathway for such discharges, given their importance for protecting the health and well-being of the community.

22.7 Policy P62 is deleted or amended so that it no longer promotes discharge of wastewater to land, over discharge of wastewater to water.

22.8 Policy P67 is amended:

- (a) To be effects-based;
- (b) To not require WWL's discharges of wastewater to be minimised;
- (c) To better reflect the significant benefits for the health and well-being of the community that are a product of the discharges;
- (d) To function properly as a hierarchical cascade of requirements, rather than a list of concurrent requirements;
- (e) To clarify what context will be applied when assessing the requirements to 'reduce' in paragraph (b) and 'minimise' in paragraph (c), so as to ensure these provisions in the hierarchy are workable in practice;
- (f) To not require WWL to avoid the production of wastewater, nor promote discharge to land over discharge to water;
- (g) To recognise the differences between discharges of wastewater to freshwater and coastal water;
- (h) To recognise the sunk costs in wastewater infrastructure;
- (i) To reflect that the limited land that may be suitable to receive discharges may be better used for other purposes.

22.9 Policy P76 is amended to require progressive reduction of wastewater contamination of stormwater, or some alternative standard more achievable than progressive elimination.

22.10 Policy P81 is amended so that it in the case of existing discharges to coastal water it does not require the quantity of discharge to be reduced.

22.11 Policies P81 and P83 are amended to reflect that some wastewater discharged to freshwater is of better quality than the receiving

freshwater, and the focus should be on the *effects* of discharging, not the *activity* of discharging.

- 22.12 Policy P83A is amended so that it does not discourage new discharges of treated wastewater to coastal water, or is otherwise deleted.
- 22.13 Policy P85 is amended to refer to definitive guidance for managing discharge of biosolids to land, or to better known concepts such as "best practicable option".
- 22.14 Rule R61 is amended to the extent necessary to ensure that existing discharges that result from heavy rainfall events are consentable (taking into account any amendments that may be made to related provisions, particularly the definition of "existing discharge", Rule R62 and Policy P81 (b)).
- 22.15 Rule R62 (and to the extent necessary, Rule R61 and Policy P83) are amended so that there is an effects-based consent path for new discharges of wastewater to freshwater.
- 22.16 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

STORMWATER (DISCHARGES)

- 23. The parts of the decision that WWL is appealing are:
 - 23.1 The definition of "good management practice";
 - 23.2 The definition of "stormwater network";
 - 23.3 Policy P62: Promoting discharges to land;
 - 23.4 Policy P67: Minimising discharges to water or land;
 - 23.5 Policy P73: Minimising adverse effects of stormwater discharges;
 - 23.6 Policy P75: Second-stage local authority network consents;
 - 23.7 Policy P76: Minimising wastewater and stormwater interactions;

- 23.8 Policy P78: Managing stormwater from a port, airport or state highway;
 - 23.9 Rule 48A: Stormwater from new subdivision and development — permitted activity;
 - 23.10 Rule R51: Stormwater from a local authority network with a stormwater management strategy — restricted discretionary activity;
 - 23.11 Rule R52: Stormwater from a port, airport or state highway — restricted discretionary activity;
 - 23.12 Rule 52A: Stormwater from new subdivision and development — restricted discretionary activity;
 - 23.13 Schedule N: Stormwater management strategy;
 - 23.14 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
24. The reasons for the appeal are:
- 24.1 The definition of "stormwater network" does not include the many sections of natural watercourses (modified or not) that are part of the network. It is also not clear that it includes ephemeral secondary flow paths that are a significant part of the network. Omission of these significant components fails to properly recognise the benefits of the stormwater network as regionally significant infrastructure, and undermines any protection of this infrastructure from incompatible use and development.
 - 24.2 Policy P62 requires stormwater discharge to land to be promoted over stormwater discharge to water, which is completely impracticable and does not align with the more limited scope of Policy 16 of the Regional Policy Statement.
 - 24.3 Policy P67 requires discharges to water or land to be minimised. This includes discharges of stormwater. It is not within WWL's control to minimise the discharge of stormwater. The Policy does not reflect the considerable benefits of such discharges for the health, safety and well-being of the community. The Policy does not appear to have been developed to address local authority network stormwater discharges.

- 24.4 Policy P67 also specifies four matters for achieving minimisation, which it describes as a hierarchy, yet they are not structured as a hierarchy. They are written as concurrent requirements, yet applying them concurrently is not possible. Further, WWL does not and/or cannot control some of the listed matters, and others are unclear: WWL cannot avoid the production of stormwater, it is unclear what context will be used in assessing whether the amount of contaminants has been “reduced” or the volume of discharge has been “minimised”, and WWL cannot in practice promote discharge to land over discharge to water.
- 24.5 Policy P67 was more workable when it applied to the adverse effects of discharges, and not to discharges regardless of their effects.
- 24.6 Policy P67 also does not recognise the sunk costs in stormwater infrastructure.
- 24.7 In Policy P73 it is not clear how the term “good management practice” relates to current engineering practice or asset management systems, and the concept is overly subjective. It is not clear what aspect of stormwater discharge should be subject to “good management practice” (e.g. management of land use within a catchment, design of components of the stormwater network, design of outfall structures). Further, the requirement to minimise effects to the smallest amount reasonably practicable is not appropriate, as the level of effects is directly related to the volume of rainfall, which cannot be controlled.
- 24.8 Policy P75 should not retain a reference at (b) to stormwater management plans, to be consistent with the agreed removal of references to stormwater management plans from Schedule N. Stormwater strategies, rather than detailed management plans, are a more appropriate tool for managing the installation of quality stormwater infrastructure.
- 24.9 Policy P76 requires progressive elimination of wastewater contaminating stormwater, and progressive reduction of stormwater and groundwater infiltration and inflow into the wastewater network. Elimination is not an appropriate standard. Cross-contamination occurs due to blockages, outages and heavy rainfall events, none of which can be eliminated. Nor is elimination desirable: allowing for some cross-contamination lessens the scale of potential discharge of wastewater to property that would result in worse consequences for the health and well-being of the community.

- 24.10 Policy P78 needs to be consistent with Rule R52, and needs to be clear about who is responsible for the “minimisation” steps specified in (a) to (d). WWL’s stormwater network may receive stormwater from stormwater infrastructure of a port, airport or state highway, such that the only discharge that technically occurs is at the outfall from WWL’s stormwater network, yet WWL is unable to implement steps (a) to (d), as those are only within the control of the port, airport or state highway operator.
- 24.11 Rules R48A and 52A are entirely new. Rule R48A applies the conditions of Rule R48 except condition R48(c). This includes condition (e) to limit the concentration of total suspended solids (TSS). It appears that any discharge that falls out of Rule R48A is intended to be caught by Rule R52A. However, both rules are unclear as to how they are intended to apply in relation to a discharge through a local authority stormwater network: whether the TSS is measured where stormwater leaves the network, or enters the network; if measured where the stormwater leaves the network, how the measurement can attribute the concentration of TSS to a particular source site or source area; who is to apply for or hold consent; if it is the network operator, how they can address the first two matters for discretion under Rule 52A; and how these two rules relate to the other consents held for discharges from the network under Rules R50 or R51.
- 24.12 Rule R51 should not retain a reference under *Matters for discretion* to stormwater management plans, to be consistent with the agreed removal of references to stormwater management plans from Schedule N. Stormwater strategies, rather than detailed management plans, are a more appropriate tool for managing the installation of quality stormwater infrastructure.
- 24.13 Rule R52 has been amended to clarify that it applies to discharges from a port, airport or state highway that occur *through* a local authority stormwater network. Further clarification is desirable to ensure there is no duplication between the consent requirements under R52 (being requirements for the relevant port, airport or state highway operator) and the consent requirements under R50 and R51 (being requirements for the local authority stormwater network operator). In addition, the matters for discretion do not include reference to compliance with current local authority quality outcomes.
- 24.14 Schedule N needs to be updated to conform to current best practice.

25. WWL seeks the following relief:
- 25.1 The definition of "stormwater network" is amended to include the many sections of natural watercourse (modified or not) that are part of the network, and all ephemeral secondary flow paths that are part of the network.
- 25.2 Subject to the relief sought in the Wastewater section of this appeal, Policy P62 is amended so that it does not apply to stormwater.
- 25.3 Policy P67 is amended:
- (a) To be effects-based;
 - (b) To not require WWL's discharges of stormwater to be minimised;
 - (c) To better reflect the significant benefits for the health and well-being of the community that are a product of the discharges;
 - (d) To function properly as a hierarchical cascade of requirements, rather than a list of concurrent requirements;
 - (e) To clarify what context will be applied when assessing the requirements to 'reduce' in paragraph (b) and 'minimise' in paragraph (c), so as to ensure these provisions in the hierarchy are workable in practice;
 - (f) To not require WWL to avoid the production of stormwater, nor promote discharge to land over discharge to water;
 - (g) To recognise the sunk costs in stormwater infrastructure.
- 25.4 Policy P73 is amended, in conjunction with the definition of "good management practice", to ensure it refers to a clear and workable standard for engineering practice and asset management; and to ensure it is clear what aspects of stormwater discharge are to be managed in accordance with the standard. The Policy is also amended to change the requirement from 'minimising adverse effects to the smallest amount reasonably practicable', to something more meaningful and achievable.
- 25.5 Policy P75(b) is amended by deleting the reference to stormwater management plans.

- 25.6 Policy P76 is amended so that it does not require contamination of stormwater by wastewater to be eliminated, and employs instead a feasible and more desirable standard, such as reduction.
- 25.7 Policy P78 is amended so that it is consistent with Rule R52, and allocates responsibilities for minimisation to the relevant port, airport or state highway operators.
- 25.8 Rules R48A and R52A are amended so that their meaning and implementation are clear, practicable, and reconciled with other rules that manage discharges of stormwater from a local authority network; or otherwise deleted.
- 25.9 Rule R51 is amended by deleting the reference (under *Matters for discretion*) to stormwater management plans.
- 25.10 Rule R52 is amended so that:
- (a) There is no duplication between the obligations for a port, airport or state highway operator and the obligations for the operator of the local authority stormwater network;
 - (b) The obligations for management or minimisation of adverse effects sit with the relevant port, airport or state highway operator; and/or
 - (c) The matters for discretion include reference to compliance with current local authority quality outcomes.
- 25.11 Schedule N is amended to reflect current best practice.
- 25.12 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

BEDS OF LAKES AND RIVERS

26. The parts of the decision that WWL is appealing are:
- 26.1 The definition of "drain";
 - 26.2 The definition of "ephemeral flow path";
 - 26.3 Policy P102: Reclamation or drainage of the beds of lakes and rivers;

- 26.4 Policy P106: Management of plants in the beds of lakes and rivers;
 - 26.5 5.5.4 Beds of lakes and rivers general conditions;
 - 26.6 Rule R112: Maintenance, repair, replacement, upgrade or use of existing structures (excluding the Barrage Gates) — permitted activity;
 - 26.7 Rule R114: River crossing structures — permitted activity;
 - 26.8 Rule R115: Culverts — permitted activity;
 - 26.9 Rule R116: Establishing a dam — permitted activity;
 - 26.10 Rule R117: New structures — permitted activity;
 - 26.11 Rule R119: Clearance or removal of flood debris and beach recontouring — permitted activity;
 - 26.12 Rule R122: Removing vegetation from the bed of any river or lake — permitted activity;
 - 26.13 Rule R127: Reclamation of the beds of rivers or lakes — non-complying activity;
 - 26.14 Rule R129: All other activities in river and lake beds — discretionary activity;
 - 26.15 Method M14A: Mapping of drains and highly modified rivers and streams;
 - 26.16 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
27. The reasons for the appeal are:
- 27.1 The definition of “drain” remains unclear, which may affect the definition of “surface water body”, and the application of other provisions that refer to drains or surface water bodies, such as Rules R97, R121, R122 and Method M14.
 - 27.2 The definition of “ephemeral flow path” requires that there be conveyance or temporary retention of water “during or immediately following heavy rainfall events”. Heavy rainfall events is not defined

and may support different meanings, leaving the definition unclear and uncertain. The term "heavy rainfall event" also needs to have a consistent meaning between this definition and other parts of the plan where it is used, such as in the definition of "existing discharge".

- 27.3 Policy P102 makes provision for reclamation or drainage of ephemeral flow paths in clause (g), but does not require the risk from flood hazard to be managed.
- 27.4 Policy P106 should not apply to the Macaskill water storage lakes, as it is not relevant to unnatural lakes constructed for the purposes of water storage.
- 27.5 The general conditions in 5.5.4 are inappropriate for works that WWL undertakes in the beds of rivers and lakes for stormwater network maintenance. For example:
- (a) Clause (d) does not reflect that there are many existing structures within the network that do not provide fish passage, and it is unworkable to require fish passage to be maintained when working on those structures;
 - (b) Clauses (e) and (f) collectively preclude work within large parts of the network for up to 8 months, which fails to provide for WWL's work to clear damage or debris immediately after (or sometimes immediately before) storm events — which cannot be scheduled to avoid those periods as it is in response to a weather event;
 - (c) Clause (g) imposes a sedimentation standard that is difficult to interpret and apply, and may be impracticable for much of the maintenance activity that WWL undertakes.
- 27.6 The majority of network-related maintenance activities that WWL undertakes in the beds of streams and rivers should be provided for as a permitted activity with conditions appropriate to the temporary nature of works and scale of environmental effects.
- 27.7 Rule R112 provides for the use of existing structures in the beds of lakes or rivers, but does not provide for the structures themselves. In the absence of a rule permitting the structures, they will require consents, even though they were previously lawful and may be long-established. This is an onerous and inappropriate requirement, given the Plan's recognition of the benefits of stormwater network structures as components of regionally significant infrastructure.

- 27.8 The conditions in Rule R112, apart from those in 5.5.4 (which is addressed above), do not provide adequately for WWL's maintenance, repair, replacement and upgrade works. In particular:
- (a) Clause (g) relies on measurements of cross-sections that are open to varied interpretations that make the standard uncertain and difficult to apply;
 - (b) Clause (g) includes "deposition" as if it is part of a structure, which is impracticable;
 - (c) The requirements in clause (h) to limit works for maintenance of the function of structures to a distance of 5m from the structure, and disturbance of up to 10m², are arbitrary and therefore inappropriate. They should be linked to the size of the relevant water body and its sensitivity to such works.
- 27.9 Rule R114 does not make provision for existing river crossing structures as a permitted activity.
- 27.10 Rule R115 does not make provision for existing culverts as a permitted activity.
- 27.11 Rule R116 does not make provision for existing dams as a permitted activity.
- 27.12 Rule R117 provides insufficient area allowance for the occupation of bed by new structures.
- 27.13 Rule R119 provides for clearance or removal of flood debris but is limited to debris that is on the bed of a lake or river. This makes no allowance for important clearance work that WWL undertakes where flood debris is caught against screens, piers or other debris arrestors but is not on the bed.
- 27.14 The conditions in Rule R119, apart from those in 5.5.4 (which is addressed above), do not provide adequately for WWL's clearance of flood debris and beach recontouring. In particular:
- (a) Clause (f) precludes beach recontouring for any part of the bed covered by water at the time of disturbance; and
 - (b) Clause (j) excludes any clearance or removal of flood debris or beach recontouring within a site in Schedule C;

Both of which are inappropriate restrictions for work of this nature, and fail to take account of the temporary nature of the works and the relatively limited scale of their environmental effects. Further, the meaning of clause (g) is confusing and unclear, and the standards do not allow for temporary damming and diversion as an associated activity.

- 27.15 Rule R122 applies to the beds of rivers or lakes that form part of WWL's stormwater network. Condition (i), which requires fish refuge areas, is not practicable for much of the vegetation clearance that WWL undertakes. In some instances the river width cannot facilitate mechanical clearance of one side at a time, and in all cases it is not efficient or feasible to undertake the work on two separate occasions, 3 months apart.
- 27.16 Rule R127 makes provision for reclamation within certain scheduled sites where it is "necessary" for regionally significant infrastructure, as a non-complying activity. It is not consistent with the objectives and policies to make provision for this as a non-complying activity. Nor is it appropriate to incorporate a subjective "necessity" assessment.
- 27.17 Non-compliance with any of the permitted activity conditions in Rules R112 to R124 triggers full discretionary activity status under Rule R129. This is not appropriate for regionally significant infrastructure. Such infrastructure provides significant social and economic benefits, which the Plan is required to recognise.
- 27.18 Method M14A makes provision for future mapping of drains and highly modified rivers and streams. This mapping may determine whether particular rules apply (e.g. Rules R121 and R122) to a given water body. However, the mapping was not notified with the Plan and has not been subject to public input through the submissions and hearing procedures. It is inappropriate for an additional mapping layer to be introduced in this way.
28. WWL seeks the following relief:
- 28.1 The definition of "drain" is amended to improve the clarity of the term as it applies to Rules R97, R121, R122 and Method M14, and in response to any amendments made to any of those provisions.
- 28.2 The definition of "ephemeral flow path" is either: amended to clarify the meaning of "heavy rainfall events" and ensure it has a consistent and workable meaning in all places in the Plan where it appears; or substituted with another term that is clearer, with corresponding changes made to other places in the Plan where the term "heavy rainfall events" appears.

- 28.3 Policy P102(g) is amended to include a requirement that the risk from flood hazard is managed.
- 28.4 Policy P106 is amended to include words that exclude it from applying to constructed lakes which are for the purpose of community drinking water supply.
- 28.5 The general conditions in 5.5.4 are amended, or new provisions are introduced, to provide for the majority of network-related maintenance activities that WWL undertakes in the beds of streams and rivers as a permitted activity with conditions appropriate to the temporary nature of works, the scale of environmental effects and the benefits.
- 28.6 Rule R112 is amended, or another rule is added to the Plan, to provide for WWL's existing structures in, on, under or over the beds of lakes or rivers as permitted activities.
- 28.7 The conditions in Rule R112 are amended to make provision for WWL's standard maintenance, repair, replacement and upgrade works.
- 28.8 Rule R114 is amended to provide for WWL's existing river crossing structures as a permitted activity.
- 28.9 Rule R115 is amended to provide for WWL's existing culverts as a permitted activity.
- 28.10 Rule R116 is amended to provide for WWL's existing dams as a permitted activity.
- 28.11 Rule R117 is amended to allow for occupation of up to 20m² of bed, as a permitted activity.
- 28.12 Rule R119 is amended to provide for WWL's clearance or removal of flood debris that is trapped by screens, piers or other debris arrestors but that may not be on the bed of the river or lake. This may require a specific consequential amendment to the definition for flood debris also.
- 28.13 The matters listed in (a) to (c) of Rule R119 are supplemented with a fourth matter that provides for any associated temporary damming or diversion.

- 28.14 Conditions (f) and (j) to Rule R119 are either deleted, or otherwise are amended so that they do not apply to flood debris clearance and beach recontouring works undertaken by WWL.
- 28.15 Condition (g) of Rule R119 is amended to make its meaning clear and certain.
- 28.16 Rule R122 is amended so that clause (i) is deleted, or is excluded from applying to trimming or removal of vegetation by WWL to maintain the function of the stormwater network.
- 28.17 Rule R127 is amended so that reclamation associated with regionally significant infrastructure does not require a "necessity" assessment, and is a discretionary activity.
- 28.18 Rule R129 is amended, along with related amendments to Rules R112 to R124, so that non-compliance with any of the permitted activity conditions in Rules R112 to R124 — in respect of WWL's infrastructure — attracts a less onerous activity status than full discretionary.
- 28.19 Method M14A is deleted.
- 28.20 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

BIODIVERSITY, AQUATIC ECOSYSTEM HEALTH AND MAHINGA KAI

- 29. The parts of the decision that WWL is appealing are:
 - 29.1 Objective O29;
 - 29.2 Policy P31: Biodiversity, ecosystem health and mahinga kai;
 - 29.3 Policy P32: Adverse effects on biodiversity, aquatic ecosystem health and mahinga kai;
 - 29.4 Policy P34: Fish passage;
 - 29.5 Policy P35: Restoring fish passage;
 - 29.6 Schedule G2;

29.7 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.

30. The reasons for the appeal are:

30.1 Restoration of fish passage is not an appropriate objective (as stated in Objective O29) in relation to the regionally significant infrastructure that WWL operates and manages. It is unrealistic in an urban setting, and lacks clarity: it is not clear to what standard fish passage must be restored.

30.2 Policy P31 also requires restoration in relation to a range of biodiversity, aquatic ecosystem health and mahinga kai values. This does not adequately recognise the regionally significant infrastructure that WWL operates and manages. Restoration is unrealistic in an urban setting and lacks clarity: the standard to which restoration is required is not clear.

30.3 Policy P32 addresses some of the same subject matter as Objective O29 and Policy P31, so changes made to either of those provisions may need to be reflected in corresponding changes to Policy P32.

30.4 Policy P34 effectively precludes construction of in stream dams and weirs, which previously were supported by the notified version of Policy P11. It also imposes an avoidance standard, and is not qualified by the recognition that fish and koura species do not have access to all water, and not all potential habitat is of equal significance.

30.5 Policy P35 requires "restoration" which is an uncertain standard, and further uncertainty is introduced by the phrase "where appropriate".

30.6 Schedule G2 Principle 1 should only apply to residual adverse effects of an activity that are more than minor, or should otherwise not apply to regionally significant infrastructure.

31. WWL seeks the following relief:

31.1 Objective 29 is amended so that it does not require restoration of fish passage, or does not require restoration of fish passage in relation to regionally significant infrastructure, or states an alternative outcome that is more realistic in an urban setting, or more appropriate having regard to the benefits of regionally significant infrastructure and the current state of fish passage.

- 31.2 Policy P31 is amended to delete references to restoration; substitute such references with an alternative that is appropriate in an urban setting, provides a clear standard for implementation, and adequately recognises the regionally significant infrastructure that WWL operates and manages; or clarify the meaning of restoration so that the concept takes account of the urban setting and WWL's infrastructure, and provides a clear standard for implementation.
- 31.3 Policy P32 is amended so as to be consistent with and complement Objective O29 and Policy P31.
- 31.4 Policy P34 is amended so that it does not require avoidance and so that it adequately reflects that passage is already impeded in places and not all habitat is of equal significance.
- 31.5 Policy P35 is amended so that the standard required is clear and does not require reinstatement of waterways to pristine or pre-development conditions, and the circumstances when it will apply are clear.
- 31.6 Schedule G2 Principle 1 is amended to only apply to residual effects that are more than minor, or otherwise amended so as to exclude it from applying to regionally significant infrastructure.
- 31.7 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

COASTAL MANAGEMENT

- 32. The parts of the decision that WWL is appealing are:
 - 32.1 The definition of "operational requirement";
 - 32.2 Policy P138: Structures in sites with significant values;
 - 32.3 Rule R154: New temporary structures outside sites of significance — permitted activity;
 - 32.4 5.7.2 Coastal management general conditions;
 - 32.5 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.

33. The reasons for the appeal are:
- 33.1 The definition of "operational requirement" does not include a reference to safety.
 - 33.2 Policy P138(e) requires that structural works in certain scheduled sites be avoided if there are "practicable alternative locations or methods" for the works. The meaning of "practicable" in this context is unclear and the requirement that there be "no" practicable alternatives is inappropriately high for regionally significant infrastructure. The policy may be triggered by structural work necessary for regionally significant infrastructure. The imposition of an "avoidance" policy, in combination with a number of rules that may make the work non-complying, will in effect mean that such work is unconsentable, despite the benefits that regionally significant infrastructure provides.
 - 33.3 Rule R154 permits new temporary structures within the coastal marine area, but does not provide for the temporary damming or diversion that such structures may cause, which can be necessary to create a dry work environment for working on regionally significant infrastructure. The rule also invokes general condition 5.7.2(i) which requires all works to be contained within the coastal marine area, which may not be the best practicable option.
 - 33.4 General condition 5.7.2(c) is problematic for clearance of WWL structures in the vicinity of the foreshore of the Hutt Valley Aquifer Zone, such as the Nevis Street stormwater outfall. This outfall effectively acts as a groyne, with considerable accretion of sediment, particularly on one side of the structure. It is not clear how the 0.5m depth condition will be measured in such circumstances.
 - 33.5 General condition 5.7.2(k) is problematic as stormwater structures will impede fish passage.
 - 33.6 General condition 5.7.2(l) is problematic because it precludes clearing debris and accumulated sediment from around stormwater structures in the coastal marine area for five months of the year. Work of this sort cannot be scheduled — it is undertaken in response to extreme weather events (either immediately before or immediately after a storm).
34. WWL seeks the following relief:
- 34.1 The definition of "Operational requirement" is amended to recognise that activities may need to be carried out in a particular

location or in a particular way so as to function safely, in addition to effectively and efficiently.

- 34.2 Policy P138 is amended to clarify the meaning of "practicable" in (e) and/or to ensure that appropriate provision is made for structural works necessary to maintain or upgrade regionally significant infrastructure, such as by exempting such infrastructure from the "avoidance" requirement, or by allowing that proposed works for such infrastructure may proceed even where there are practicable alternatives, provided the proposal is the most practicable.
- 34.3 Rule R154 is amended to provide for temporary damming and diversion of coastal water associated with temporary structures, subject to reasonable conditions.
- 34.4 General condition 5.7.2(i) is amended to remove the requirement for all work to be contained in the coastal marine area.
- 34.5 General condition 5.7.2(c) is amended to make provision for works necessary to clear WWL structures, such as the Nevis Street stormwater outfall.
- 34.6 General condition 5.7.2(k) is amended to make allowance for stormwater structures to impede fish passage.
- 34.7 General condition 5.7.2(l) is amended to allow for clearance of debris and accumulated sediment around stormwater structures in response to extreme weather events.
- 34.8 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

NATURAL HAZARDS

- 35. The parts of the decision that WWL is appealing are:
 - 35.1 The definition of "Hard hazard engineering";
 - 35.2 The definition of "High risk areas";
 - 35.3 Objective O20;
 - 35.4 Policy P27: High risk areas;

- 35.5 Policy P28: Hazard mitigation measures;
- 35.6 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
36. The reasons for the appeal are:
- 36.1 The definition of hard hazard engineering does not reflect that such engineering is not merely designed to prevent erosion from land — it is commonly used to protect infrastructure that is functionally required to be located at the interface between land and water.
- 36.2 The definition of high risk areas applies to all areas in the coastal marine area and the beds of lakes and rivers, and is not based on any actual assessment of hazard. The term is used in Objective O21 and Policy P27, both of which require hazard to be “avoided”. This combination of an avoidance requirement in objectives and policies, coupled with a global application of the term, is not consistent with Policy 29 of the Regional Policy Statement, and is unduly restrictive for WWL’s structures in the CMA or the beds of lakes and rivers.
- 36.3 Objective O20 is unclear and subjective in its use of the term “acceptable”.
- 36.4 Policy P27 requires use and development to be avoided in high risk areas, unless conditions (a) to (e) are collectively satisfied. The regionally significant infrastructure under WWL’s management cannot always avoid high risk areas, and the risk cannot always be mitigated to achieve a “low” residual risk.
- 36.5 Policy P28 does not provide for hard hazard engineering to protect regionally significant infrastructure.
37. WWL seeks the following relief:
- 37.1 The definition of hard hazard engineering is amended to recognise that such engineering is commonly used to protect infrastructure, such as by adding “or infrastructure” after the phrase “to prevent erosion of the land”.
- 37.2 The definition of high risk areas is amended so that it is based on an appropriate assessment of actual hazard, and only applied to those areas that are in fact at high risk; and/or amendments are made to

the corresponding objectives and policies to lessen the requirement for WWL's infrastructure to "avoid" high risk areas.

- 37.3 Objective O20 is amended to clarify the meaning of "acceptable" and avoid inappropriate levels of subjectivity.
- 37.4 Policy P27 is amended so that it does not inappropriately constrain the presence, operation, maintenance and upgrade of three-waters infrastructure, much of which is located in the CMA or the beds of lakes and rivers. In particular, paragraph (b) is amended to reflect that in some instances it is not possible to reduce the hazard risk to a "low" risk.
- 37.5 Policy P28 is amended so that hard hazard engineering mitigation and protection methods are not required to be avoided in respect of regionally significant infrastructure.
- 37.6 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

NATURAL FORM AND FUNCTION

38. The parts of the decision that WWL is appealing are:

- 38.1 Policy P24: Assessing outstanding natural character;
- 38.2 Any other parts of the decision that are related to the part listed above, such that resolving the issues in respect of the above part requires consequential changes to be made to those other parts.

39. The reasons for the appeal are:

- 39.1 Policy P24 applies to all areas of natural character, including those that are not outstanding. It requires significant adverse effects to be avoided on all areas of natural character that are not outstanding. This does not reflect the functional or operational need for some regionally significant infrastructure to be located in areas of natural character, and seems to preclude any options for remedying or mitigating any significant adverse effects that this might give rise to.

40. WWL seeks the following relief:

- 40.1 Policy P24 is amended to recognise that regionally significant infrastructure may need to locate in areas of natural character, and

to make allowance for any significant adverse effects of such activities to be remedied or mitigated where avoidance is not the best practicable option.

- 40.2 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

LAND USE IN RIPARIAN MARGINS AND STOCK ACCESS TO WATER BODIES

- 41. The parts of the decision that WWL is appealing are:

- 41.1 Policy P72;

- 41.2 Any other parts of the decision that are related to the part listed above, such that resolving the issues in respect of the above part requires consequential changes to be made to those other parts.

- 42. The reasons for the appeal are:

- 42.1 Policy P72 is circular and inappropriate. It requires the zone of reasonable mixing to be determined with particular regard to avoiding significant adverse effects within the zone. This is inconsistent with the purposes for identifying such a zone, which is not to manage effects within the zone, but to identify the boundary beyond which effects will be managed.

- 43. WWL seeks the following relief:

- 43.1 Policy P72 is amended so that it does not promote effects management within the zone of reasonable mixing.

- 43.2 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.

AIR QUALITY MANAGEMENT

- 44. The parts of the decision that WWL is appealing are:

- 44.1 Policy P58: Industrial discharges;

- 44.2 Policy P59: Industrial point source discharges;

- 44.3 Any other parts of the decision that are related to the parts listed above, such that resolving the issues in respect of the above parts requires consequential changes to be made to those other parts.
45. The reasons for the appeal are:
- 45.1 It is unclear whether Policy P58 applies to discharges to air from wastewater treatment plants and potable water treatment plants. Such emissions should not be required to be minimised. Policy P58 also requires the use of "good management practice". This is too vague and uncertain. There should be a more definitive reference to relevant guidance, or use of a more established concept such as "best practicable option".
- 45.2 It is unclear whether Policy P59 applies to discharges to air from wastewater treatment plants and potable water treatment plants. Such emissions should not be required to be avoided.
46. WWL seeks the following relief:
- 46.1 Policy P58 is amended so that it does not apply to discharges to air from wastewater treatment plants and potable water treatment plants, or the requirement for such emissions to be minimised is deleted; and the reference to "good management practice" is replaced with a reference to definitive guidance or better known concepts such as "best practicable option", or the definition of "good management practice" is amended to ensure it refers to a clear and workable standard for engineering practice and asset management.
- 46.2 Policy P59 is amended so that it does not apply to discharges to air from wastewater treatment plants and potable water treatment plants, or the requirement to avoid significant adverse effects from such discharges is deleted.
- 46.3 Such other relief, whether it be alternative, additional or consequential, to that set out above as may be required to address the issues identified.



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How to become party to proceedings

You may be a party to this appeal if—

- (a) you made a submission on the matter of this appeal; and
- (b) within 15 working days after the period for lodging a notice of appeal ends, you lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- (c) within 20 working days after the period for lodging a notice of appeal ends, you serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the relevant decision or the appellant's original and further submissions. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.