

**NOTICE OF SUBMISSION TO THE PROPOSED WELLINGTON REGIONAL POLICY  
STATEMENT PURSUANT TO CLAUSE 6 OF THE FIRST SCHEDULE OF THE  
RESOURCE MANAGEMENT ACT 1991**

To: Wellington Regional Council  
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**1. THIS IS A SUBMISSION BY THE OIL COMPANIES TO THE PROPOSED  
REGIONAL POLICY STATEMENT FOR THE WELLINGTON REGION**

The Oil Companies receive, store and distribute refined petroleum products.

The Oil Companies have commercial, shore and marine based and aviation and bulk storage facilities and are also owners of retail outlets and suppliers of petroleum products to individually owned retail outlets. In the Wellington Region this includes the bulk storage tanks adjoining the Seaview Wharf and connected to that wharf via a wharfline.

Maintaining the fuel supply into Wellington is a significant issue for the Region, and is one which involves a number of cross-boundary considerations.

**2. THE SPECIFIC PROVISIONS OF THE PROPOSED REGIONAL POLICY  
STATEMENT FOR THE WELLINGTON REGION THAT THIS SUBMISSION  
RELATES TO ARE LISTED AS FOLLOWS:**

- Definition of Regionally Significant Infrastructure
- Policies 6, 7 and 38 and policy omissions
- Coastal Environment Chapter – Section 3.2, in particular the introduction and objectives 3 and 4
- Natural Hazards - Section 3.8, in particular Objectives 18 and 19, Policy 28 and AER 18

- Method 35
- Policy 33 – Contaminated Land
- Method 24

### 3. THE REASONS FOR THIS SUBMISSIONS ARE AS FOLLOWS:

#### 3.1 Definition of Regionally Significant Infrastructure

Regionally significant infrastructure is defined in the 'Definitions Section' of the RPS as follows:

*Regionally significant infrastructure includes:*

- *pipelines for the distribution or transmission of natural or manufactured gas or petroleum*
- *strategic telecommunications facilities, as defined in section 5 of the Telecommunications Act 2001*
- *strategic radio communications facilities, as defined in section 2(1) of the Radio Communications Act 1989*
- *the national electricity grid, as defined by the Electricity Governance Rules 2003*
- *facilities for the generation and transmission of electricity where it is supplied to the national electricity grid*
- *the local authority water supply network and water treatment plants*
- *the local authority wastewater and stormwater networks, systems and wastewater treatment plants*
- *the Strategic Transport Network, as defined in the Wellington Regional Land Transport Strategy 2007-2016*
- *Wellington City bus terminal and Wellington Railway Station terminus*
- *Wellington International Airport*
- *Commercial Port Areas within Wellington Harbour (including Miramar, Burnham and Seaview wharves) and adjoining land and storage tanks for bulk liquids.*

The Oil Companies support the inclusion of references to bulk storage fuel facilities and associated wharflines as regionally significant infrastructure but oppose part of the phrasing of the definition as follows (section opposed is underlined):

- *Commercial Port Areas within Wellington Harbour (including Miramar, Burnham and Seaview wharves) and adjoining land and storage tanks for bulk liquids.*

The use of the term "adjoining" is misleading. For example, the bulk storage terminals in Seaview are connected by wharflines but are some 600 – 1200 km away from the Seaview wharf. It is considered that the use of the term "adjacent" would properly recognise that the land and storage tanks for bulk liquid that are associated with and near to, but not immediately next to, the Seaview wharf are intended to fall within the definition of regionally significant infrastructure. Clarification is also required to ensure that all associated infrastructure, for example the wharflines between the port and the tanks, clearly falls within the definition.

#### 3.2 Policies 6 and 7

Policies 6 and 7 are regulatory policies to direct district and regional plans and the RLTS. They are referred to as policies that must be given effect to by regional, city or district plans and policies that the Wellington Regional Land Transport Strategy must not be inconsistent with.

Policy 6 reads as follows:

**Policy 6: Recognising the benefits from regionally significant infrastructure and renewable energy – regional and district plans.**

*District and regional plans shall include policies that recognise:*

*(a) the social, economic, cultural and environmental benefits of regionally significant infrastructure including:*

- (i) people can travel to, from and around the region efficiently;*
- (ii) public health and safety is maintained through the provision of essential services, supply of potable water and the collection and transfer of sewage;*
- (iii) people have access to energy so as to meet their needs; and*
- (iv) people have access to telecommunication services.*

*(b) the social, economic, cultural and environmental benefits of energy generated from renewable energy resources including:*

- (i) security of supply and diversification of our energy sources;*
- (ii) reducing dependency on imported energy resources; and*
- (iii) reducing greenhouse gas emissions.*

Policy 6 is supported insofar as it is an inclusive policy that recognises the regional and wider benefits of people having access to energy so as to meet their needs, and requires district and regional council to include policy provisions to give effect to this.

Policy 6 needs to be amended, however, so that it does not restrict district and regional plans to only using policies to give effect to Policy 6. The use of methods, including rules, to give effect to the policy is equally valid.

Policy 7 is as follows:

**Policy 7: Protecting regionally significant infrastructure – regional and district plans**

*District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new land uses or activities under, over, or alongside.*

**Explanation**

*Regionally significant infrastructure is an important physical resource that enables people and communities to provide for their social, economic and cultural wellbeing, and their health and safety.*

*Regionally significant infrastructure includes:*

*...[definition]*

*Incompatible land uses or activities are those which adversely affect the efficient operation of infrastructure or restrict its ability to be maintained. It may also include new land uses that are sensitive to activities associated with infrastructure.*

...

Policy 7 is generally supported. The term “alongside” should, however, be deleted and replaced with the term “adjacent”. Adjacent is considered to be a more suitable term because its meaning has been clarified over time through case law. A change to the explanation is required, as well as to the policy.

The text in paragraphs 3 and 4 of the explanation needs to be amended to appropriately identify that regionally significant infrastructure needs to be protected from land uses and activities that not only adversely affect their efficient operation and ability to be maintained, but also that affect their upgrading and future development.

Repeating the full text of the definition of regionally significant infrastructure in the explanation to the policies is unnecessary as the phrase is defined.

### **3.3 Policy 38**

Policy 38 is a regulatory policy that needs to be given particular regard when assessing and deciding on resource consents, notices of requirement, or when changing, varying or replacing city, district or regional plans.

Policy 38 reads as follows:

***Policy 38: Recognising the benefits from regionally significant infrastructure and renewable energy – consideration***

*When considering an application for a resource consent, notice of requirement or a change, variation or replacement to a district or regional plan, particular regard shall be given to:*

- (a) the social, economic, cultural and environmental benefits of regionally significant infrastructure and/or energy generated from renewable energy resources; and*
- (b) the nationally significant wind and marine renewable energy resources within the region and the need for electricity generation facilities to locate where these resources exist.*

***Explanation***

...

*Policy 38(a) shall cease to have effect once policy 6 is given effect in a relevant district or regional plan.*

Policy 38(a) is generally supported, however it is unclear why it only relates to the benefits of regionally significant infrastructure and not to the broader range of issues that have been, or that need to be, identified.

Further, the sunset clause in the explanation of Policy 38a is opposed. Policy 38 should continue to have effect once a district plan is in place to address, for example, situations where plans are changed or where, over time, the provisions in a plan are deemed to be inadequate over the passage of time but a plan change has not yet been initiated.

### **3.4 Coastal Environment Chapter – Section 3.2**

#### **3.4.1 Para 3 (Introduction)**

Paragraph 3 of the Introduction recognises that significant infrastructure is located in the coastal environment and that this infrastructure is essential to the community's economic and social wellbeing. The Oil Companies support recognition of this fact.

### **3.4.2 Objective 3**

Objective 3 refers to the protection of habitats and features in the coastal environment. Objective 3 should be amended to refer to the protection of habitats and features from inappropriate use and development or from adverse effects, rather than the need to protect such areas per se.

### **3.4.3 Objective 4**

Objective 4 appropriately refers to the protection of the natural character of the coast from the adverse effects of inappropriate use and development. Objective 4 is supported.

## **3.5 Natural Hazards - Section 3.8**

The focus of the natural hazards section should be on addressing risk rather than avoiding development per se.

Insofar as Objectives 18 and 19 are risk focused rather than activity focussed, they are supported.

Policy 28 needs to be redrafted so as to clarify that it is not the natural hazards areas per se that subdivision and development needs to avoid, but rather that generating unacceptable risk needs to be avoided.

Anticipated Environmental Result 18 will need to be consequentially amended.

## **3.6 Method 35 – Industry Led Codes of Practice**

The oil industry has been one of the leading industries in responding to the challenge set by the RMA to look at alternative means of regulation by developing a range of codes of practice and environmental guidelines. The industry has developed, in consultation with Central Government and Regional and Territorial regulatory authorities, a number of industry focussed codes of practice, which represent industry best practice, including the "Guidelines for Assessing & Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand" (MfE 1999), "Above-Ground Bulk Tank Containment Systems - Environmental Guidelines for the Petroleum Marketing Oil Companies" (MfE 1995) and "Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand" (MfE 1998).

It is important that such codes are not just developed but that they are appropriately recognised in planning documents.

Method 35 records the Council's support for industry-led Codes of Practice. Method 35 is supported, subject to some changes to the explanation to include specific reference to oil industry codes of practice.

## **3.7 Contaminated Land**

### **3.7.1 Policy 33**

Policy 33: Avoiding activities on contaminated land – district plans, reads as follows:  
*District plans shall include policies and rules that do not allow activities on contaminated land if that activity could be adversely affected by the contamination.*

The policy could be interpreted (by a third party) as a 'zero tolerance' policy, where no land use activities can be developed on contaminated land. The policy should, as per the associated explanation, clearly adopt the appropriate test for land use change, which is the "fit for purpose" test. This means that subsequent land uses and development are only controlled where they will actually increase the exposure of humans to any potentially contaminated land. The wording of the policy should be clarified.

### 3.7.2 Method 24

Method 24 is to maintain a database of sites:

- (a) with a history of storing, using or manufacturing hazardous substances;
- (b) where major spills involving hazardous substances have occurred; and
- (c) where analysis of soil or water samples has confirmed that the site is contaminated.

Method 24 is supported.

## 4. THE OIL COMPANIES SEEK THE FOLLOWING DECISION:

- 4.1 Amend that part of the definition of regionally significant infrastructure which refers to the Commercial Port Areas to clarify that all associated infrastructure, for example the wharflines between the port and the tanks, falls within the definition. This could be achieved by making amendments to the following effect (new text underlined):

*Commercial Port Areas within Wellington Harbour (including Miramar, Burnham and Seaview wharves) and adjacent land, including nearby bulk fuel supply infrastructure and storage tanks for bulk liquids and associated wharflines.*

- 4.2 Retain Policy 6 insofar as it is an inclusive policy that recognises the regional and wider benefits of regionally significant infrastructure, and requires district and regional council to include policy provisions to give effect to this.

- 4.3 Amend Policy 6 to include the use of methods, including rules, in addition to policies. This could be achieved by making amendments to the following effect (new text underlined):

***Policy 6: Recognising the benefits from regionally significant infrastructure and renewable energy – regional and district plans.***

*District and regional plans shall include policies and methods, including rules, that recognise:*

*(a) the social, economic, cultural and environmental benefits of regionally significant infrastructure including:*

- (i) people can travel to, from and around the region efficiently;*
- (ii) public health and safety is maintained through the provision of essential services, supply of potable water and the collection and transfer of sewage;*
- (iii) people have access to energy so as to meet their needs; and*
- (iv) people have access to telecommunication services.*

*(b) the social, economic, cultural and environmental benefits of energy generated from renewable energy resources including:*

- (i) security of supply and diversification of our energy sources;*
- (ii) reducing dependency on imported energy resources; and*
- (iii) reducing greenhouse gas emissions.*

- 4.4 Amend the text in paragraphs 3 and 4 of the explanation to Policy 7 to appropriately identify that regionally significant infrastructure needs to be protected from land uses and activities that not only adversely affect their efficient operation and ability to be maintained, but also that affect their ability to be upgraded, and to replace the text 'alongside' with the text 'adjacent'. This could be achieved by making amendments to the following effect (new text underlined and additional text in strikethrough):

***Policy 7: Protecting regionally significant infrastructure – regional and district plans***

*District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new land uses or activities under, over, or ~~alongside~~ adjacent.*

***Explanation***

...  
*Incompatible land uses or activities are those which adversely affect the efficient operation of infrastructure and/or restrict its ability to be maintained and upgraded. It may also include new land uses that are sensitive to activities associated with infrastructure.*

*Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or ~~alongside~~ adjacent are prevented. The Wellington Regional Council and city and district councils will need to ensure that activities provided for in a district or regional plan are compatible with the efficient operation, and maintenance and upgrading of the infrastructure and any effects that may be associated with that infrastructure.*

- 4.5 Amend Policy 38 to address the broader range of issues that have been, or that need to be, identified when assessing and deciding on resource consents, notices of requirement, or when changing, varying or replacing city, district or regional plans, including the effects of and on regionally significant infrastructure. This could be achieved by making amendments with the following effect (new text underlined and additional text in strikethrough):

***Policy 38: Recognising the benefits from regionally significant infrastructure and renewable energy – consideration***

*When considering an application for a resource consent, notice of requirement or a change, variation or replacement to a district or regional plan, particular regard shall be given to:*

- (a) the social, economic, cultural and environmental benefits of regionally significant infrastructure and/or energy generated from renewable energy resources; ~~and~~*
- (b) the protection of regionally significant infrastructure from incompatible new land uses or activities under, over, or adjacent;*
- (c) the recognition and provision for a reasonable envelope of effects in which to facilitate the ongoing operation, maintenance and upgrading of regionally significant infrastructure*
- ~~(b)~~ (d) the nationally significant wind and marine renewable energy resources within the region and the need for electricity generation facilities to locate where these resources exist.*

## **Explanation**

When considering the effects on and of regionally significant infrastructure, the benefits of regionally significant infrastructure must be taken into account.

*The benefits of energy generated from renewable energy resources include:*

- *security of and the diversification of our energy sources*
- *reducing our dependency on imported energy resources – such as oil, natural gas and coal*
- *reducing greenhouse gas emissions.*

*The benefits are not only generated by large scale renewable energy projects but also smaller scale, distributed generation projects.*

...

- 4.6 Delete the following text from the Explanation of Policy 38:  
*Policy 38(a) shall cease to have effect once policy 6 is given effect in a relevant district or regional plan.*
- 4.7 Delete the full text of the definition of regionally significant infrastructure from the explanations to Policy 6, 7 and 38. If necessary simply cross-reference to the definitions section of the RPS.
- 4.8 Retain the recognition, in Paragraph 3 of the Introduction to the Coastal Environment Chapter (Section 3.2), that significant infrastructure is located in the coastal environment and that this infrastructure is essential to the community's economic and social wellbeing.
- 4.9 Amend Objective 3 to refer to the protection of the values of habitats and features from inappropriate use and development. This could be achieved by making amendments with the following effect (new text underlined):  
*Habitats and features in the coastal environment are protected from inappropriate use and development because of their significant indigenous biodiversity, recreational, cultural, historical, or landscape values.*
- 4.10 Retain Objective 4 without modification.
- 4.11 Retain the focus on risk (as opposed to activities) in Objectives 18 and 19.
- 4.12 Amend Policy 28 to clarify that it is not the natural hazards areas per se that subdivision and development needs to avoid, but rather that increasing the associated risk needs to be avoided and consequentially amend the associated Anticipated Environmental Result. This could be achieved by making amendments to the following effect (new text underlined, deleted text in strikethrough):

### **Policy 28 ...**

*District plans shall :*

- (a) *identify areas at high risk from natural hazards ; and*  
(b) *include policies and rules to avoid subdivision and development in those areas, if such activities would result in unacceptable levels of risk.*



**AER:**

*(b) contain policies and rules to avoid subdivision and development in those areas, if unless the associated risk is acceptable.*

There is ~~No~~ new subdivision and development creates unacceptable risks in areas at high risk from natural hazards.

- 4.13 Retain Method 35 insofar as it records the Council's support for industry-led Codes of Practice, and include specific recognition of the relevant Oil Industry Guidelines. This could be achieved by making amendments to the following effect (new text underlined, deleted text in strikethrough):

**Method 35; Support industry-led environmental accords and codes of practice.**

Support industry-led environmental accords and codes of practice — ~~such as the Dairying and Clean Streams Accord, and the New Zealand Environmental Code of Practice for Plantation Forestry~~ — where these would lead to the achievement of objectives in the Regional Policy Statement. Such codes represent industry best practice and include the Dairying and Clean Streams Accord, and the New Zealand Environmental Code of Practice for Plantation Forestry, and the following Oil Industry Codes of Practice:

- “Guidelines for Assessing & Managing Petroleum Hydrocarbon Contaminated Sites in New Zealand (MfE 1999)”;
- “Above-Ground Bulk Tank Containment Systems - Environmental Guidelines for the Petroleum Marketing Oil Companies (MfE 1995)”; and
- “Environmental Guidelines for Water Discharges from Petroleum Industry Sites in New Zealand (MfE 1998)”.

- 4.14 Clarify Policy 33 so that it clearly reflects the ‘fit for purpose’ concept and is applied only when the land use is changed. This could be achieved by making amendments to the following effect (new text underlined, deleted text in strikethrough):

~~District plans shall include policies and rules that do not allow activities on contaminated land if that activity could be adversely affected by the contamination.~~  
to manage new activities on contaminated land to ensure that any adverse effects arising from the contamination do not adversely affect the activity.

- 4.15 Retain Method 24 without modification.

- 4.16 Any additions, deletions or consequential amendments made necessary as a result of the matters raised in these submissions.

- 4.17 Any other such relief as to give effect to this submission.

**5. THE OIL COMPANIES WISH TO BE HEARD IN SUPPORT OF THIS SUBMISSION.**

**6. IF OTHERS MAKE A SIMILAR SUBMISSION, THE OIL COMPANIES WOULD BE PREPARED TO CONSIDER PRESENTING A JOINT CASE AT ANY HEARING.**

Dated at TAKAPUNA this <sup>5<sup>th</sup></sup>..... day of *June* 2009

Signature for and on behalf of  
The Oil Companies

*Karen Blair*  
.....  
Karen Blair

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