

**BEFORE INDEPENDENT HEARING COMMISSIONERS AT
WELLINGTON**

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER the hearing of submissions on Proposed
Change 1 to the Regional Policy
Statement for the Wellington Region

**STATEMENT OF EVIDENCE OF MACIEJ WIKTOR LEWANDOWSKI ON BEHALF
OF PEKA PEKA FARM LIMITED (SUBMITTER 118)**

HEARING STREAM 3 – CLIMATE CHANGE

14 AUGUST 2023

PLANNING

1. INTRODUCTION

1.1 My name is Maciej (Mitch) Wiktor Lewandowski. I am a Resource Management Consultant and Director of Building Block Planning Ltd, a Wellington based planning and resource management consultancy which I established in April 2022.

Qualifications and Experience

1.2 I hold a Bachelor of Resource Studies from Lincoln University, a Master of Resource and Environmental Planning from Massey University, and a Post Graduate Diploma in Management from Massey University. I am a Full

Member of the New Zealand Planning Institute and accredited resource management commissioner.

1.3 I have 21 years' professional experience. In my current role I assist a range of private and public sector clients, including Peka Peka Farm Ltd (“PPFL”), across a range of resource management matters. My recent experience also includes assisting the Wellington City Council in the development of the Proposed Wellington City District Plan.

1.4 Prior to my current role I was employed by Urban Perspectives Limited as a Resource Management Consultant for a period of 3 years. Prior to that role, I was employed by the Wellington City Council for a period of 5 years, as Principal Advisor Planning within the Council's District Plan team. I was formerly also the District Plan Manager at Upper Hutt City Council.

Involvement in Peka Peka Farm Ltd's submission to Proposed Change 1

1.5 I reviewed Proposed Change 1 (“PC1”) following its notification in order to provide PPFL with advice as to its contents, and subsequently prepared both PPFL's submission and further submission to PC1.

Code of conduct

1.6 I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions that I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

2. SCOPE OF EVIDENCE

2.1 PPFL's submission in respect of PC1 was concerned with ensuring that PC1 did not have the effect of unduly restricting the competitive operation of land and development markets by prohibitively or unduly restricting appropriate greenfield development.

2.2 The submission addresses a number of provisions across the climate change, urban development and freshwater chapters. In respect of the climate change chapter, the following provisions were addressed:

(a) Objective CC.2

- (b) Objective CC.3
- (c) Objective CC.7
- (d) Objective CC.8
- (e) Policy CC.2
- (f) Policy CC.4
- (g) Policy CC.8
- (h) Policy CC.9
- (i) Policy CC.11

2.3 PPFL's further submission provided general support for the submission of Porirua City Council ("**PCC**"). There is one provision addressed by PCC that is specifically discussed in this evidence:

- (a) Policy CC.1

2.4 I address these submission points, and the response to them provided through the relevant Council Section 42A ("**s42A**") reports:

- (a) Climate Change – General
- (b) Climate Change – Transport
- (c) Climate Change – Resilience and Nature Based Solutions

2.5 In preparing this evidence I have read:

- (a) The relevant s42A reports and associated appendices:
 - (i) Climate Change – General
 - (ii) Climate Change – Transport
 - (iii) Climate Change – Resilience and Nature Based Solutions; and
- (b) The section 32 evaluation prepared for PC1.

3. SUMMARY OF EVIDENCE

3.1 My evidence focusses on two principal matters:

- (a) the appropriateness of some provisions in terms of their necessity and achievability and therefore suitability in serving a resource management purpose; and
- (b) Ensuring that PC1 does not take an overly restrictive position in providing for appropriate greenfield development, and that it appropriately balances reductions in greenhouse gas emissions with giving effect to the National Policy Statement on Urban Development (“**NPS-UD**”) in the round.

3.2 In my view, some of the provisions addressed in this evidence do not serve an appropriate resource management purpose and are better advanced outside of resource management plans.

3.3 In addition, I am of the view that a number of the climate change provisions should not be considered in isolation, must be read in concert with other RPS provisions (notably those relating to urban development) and should not conflict with or undermine the purpose and intent of these other provisions.

4. CONTEXT

4.1 PPFL owns a 138.7 hectare landholding at Peka Peka. The land is zoned for rural purposes but it’s utility for productive use is limited. The land is adjacent to the existing Peka Peka urban area. The existing urban area at Peka Peka is situated slightly to the north of the main urban area of Waikanae and is presently relatively poorly serviced by infrastructure and transport.



Figure 1. The Peka Peka Farm Ltd landholding.

- 4.2 PPFL is investigating future development opportunities for the site, including urban development. The site presents a range of development opportunities, as well as significant opportunities for ecological restoration including of large wetland areas and stream enhancement. There are also opportunities to enhance mana whenua values on the site, and PPFL has been actively engaging with Ātiawa ki Whakarongotai and Ngāti Raukawa about its future plans and how these plans could also assist to achieve some of the cultural aspirations of these entities.
- 4.3 Notwithstanding that it is a greenfields site, development of the PPFL land would assist to consolidate the urban area at Peka Peka, provide critical mass to enable local services and transport links to establish in order to service both the existing urban area at Peka Peka as well as the proposed development area, and act as a catalyst for additional infrastructure that could also enable densification of the existing urban area. It would also provide an elevated and

resilient area of urban zoned land that could be utilised to assist with managed retreat from natural hazards (such as inundation), should that be necessary in the future.

4.4 PPFL is concerned that PC1 should not impose inappropriate hurdles in the consideration of otherwise appropriate new greenfield areas across the region. These concerns span a range of provisions introduced by PC1, primarily across the climate change and urban development topic areas.

4.5 While this evidence focusses on climate change provisions, there is an interrelationship between chapters. Cognisance of this relationship needs to be maintained. For instance, Policy 55 seeks to provide for appropriate urban expansion, and notes¹:

Policy 55: Providing for appropriate urban expansion

When considering an application for resource consent, or a change, variation or review of a district plan for urban development beyond the region's urban areas (as at August 2022), particular regard shall be given to whether:

(a) the urban development contributes to establishing or maintaining the qualities of a well-functioning urban environment, including:

...

(ii) the location, design and layout of the proposed development shall apply the specific management or protection for values or resources identified by this RPS, including:

...

6. Provides for climate resilience and supports a low or zero carbon transport network consistent with Policies CC.1, CC.4, CC.10 and CC.17.

...

4.6 In turn, Policy UD.3 is a consideration policy that relates to responsive planning to developments providing significant development capacity. It states:

¹ As notified in PC1.

Policy UD.3: Responsive planning to developments that provide for significant development capacity

When considering a change of a district plan for a development in accordance with clause (d) of Policy 55, particular regard shall be given to whether the following criteria is met:

- (a) the location, design and layout of the proposal:
 - (i) contributes to establishing or maintaining the characteristics and qualities of a well-functioning urban environment identified in Policy 55(a)(ii) and Objective 22.

4.7 Therefore the content of the climate change provisions is important both in isolation, but also when considered with other RPS provisions which they cross-reference to. While these other provisions will be addressed in a subsequent hearing stream, I have prepared my evidence with a view to the relationship between these provisions.

4.8 These comments are made in the broader context of the requirements of the NPS-UD. Of particular relevance to the the submission of PPFL are the following:

- (a) Objective 1 – achieving well-functioning urban environments.
- (b) Objective 2 – housing affordability is improved by supporting competitive land and development markets.
- (c) Objective 6 – local authority decisions on urban development integrated infrastructure planning and funding decisions, are strategic over the medium to long-term, and are responsive to proposals that would supply significant development capacity.
- (d) Objective 8 – urban environments support reductions in greenhouse gas emissions and are resilient to the current and future effects of climate change.
- (e) Policy 1 – planning decisions contribute to well-functioning urban environments, which, as a minimum:
 - (i) have or enable a variety of homes with reference to type, price and location, along with enabling Māori to express cultural traditions and norms;
 - (ii) have good accessibility between housing, jobs, community services and open spaces, including by way of active and public transport;

- (iii) support, and as much as possible limit adverse impacts on, the competitive operation of land and development markets; and
 - (iv) support reductions in greenhouse gas emissions, and are resilient to the current and future effects of climate change.
- (f) Policy 2 – providing at least sufficient development capacity over the short, medium and long term.
- (g) Policy 6 – decision-makers have particular regard to the planned urban built form anticipated by RMA planning documents that have given effect to the NPS-UD, the urban form planned by those documents may involve significant changes to an area, the benefits of urban development that is consistent with well-functioning urban environments (as described by Policy 1), the contribution that will be made to providing or realising development capacity, and the likely and current effects of climate change.
- (h) Policy 8 – local authority decisions are responsive to plan changes that would add significant development capacity and contribute to well-functioning urban environments, even if that development capacity is unanticipated by RMA planning documents or is out of sequence with planned land release.

4.9 Notwithstanding the greater focus of the NPS-UD on density and intensification, and the benefits to be derived from that, the NPS-UD does not seek to restrict greenfield development. Indeed the NPS-UD seeks to ensure the competitive operation of land and development markets through Objective 2 and as a component of well-functioning urban environments as indicatively defined by Policy 1.

4.10 At paragraph 65 of the section 32 evaluation for PC1, it notes that “there are three issues that the NPS-UD requires the RPS to cover:

- Providing for well-functioning and liveable urban environment[s]
- Enabling and managing urban intensification
- Providing for responsive planning through introducing criteria for “adding significantly to development capacity”.

4.11 While the competitive operation of land and development markets forms a part of the well-functioning urban environment concept, I have not been able to

find any specific consideration of the impacts of PC1, and in particular the climate change provisions, on the same.

- 4.12 In my review of the section 32 evaluation for PC1, I consider that insufficient consideration has been given to the impacts of the climate change provisions, and the provisions of PC1 as a whole, on the competitive operation of land and development markets. Appendix B of the section 32 evaluation provides a summary of the NPS-UD requirements addressed by PC1, and while it lists the elements of a well-functioning urban environment, there is no specific consideration of the impacts on the competitive operation of land and development markets. Surprisingly, Objective 2 is not mentioned at all which is in my view a significant shortcoming. I am not aware of any specific economic consideration of the PC1 provisions and their impacts on the competitive operation of land and development markets.
- 4.13 Further, in respect of well-functioning urban environments, the only climate change provisions that are listed as relevant are policies CC.3 and CC.14. As will be evident from my subsequent evidence below, I consider that there are additional climate change policies that would impact on well-functioning urban environments and the competitive operation of land and development markets. The s32AA evaluations provided through the s42A reports are equally silent on these matters.
- 4.14 Another key outcome sought by the NPS-UD is to ensure at least sufficient development capacity exists at all times, along with the requirement to meet the needs of a range of households in regard to the type, price and location of housing options.
- 4.15 The most recent Housing and Business Development Capacity Assessment for the region² indicates that the region has a total realisable capacity for greenfield development of 17,345 dwellings as part of an overall capacity of 78,904 (21.9%). For the Kāpiti district, realisable greenfield capacity is 2,766 as part of an overall realisable capacity of 7,818 (35.4%).
- 4.16 When compared against projected residential demand, the region has a long-term shortage 25,462 dwellings. Kāpiti district has a shortage of 8,367 which is the next largest shortage in the region after Wellington city.
- 4.17 These numbers do not account for recent plan changes across the region to implement the intensification requirements of the NPS-UD. I understand

² https://wrlc.org.nz/wp-content/uploads/2022/05/HBA-Chapt1-intro-and-regional-summary-with-Appendices_web.pdf

updated capacity assessments for the region's councils are currently being prepared.

- 4.18 The Kāpiti Coast District Council in 2022 notified Plan Change 2 to its District Plan. The principal purpose of Plan Change 2 was to respond to the requirements of the NPD-UD and Medium Density Residential Standards (“**MDRS**”) introduced through the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021.
- 4.19 The Hearing Panel for Plan Change 2 has recently released its recommendation report on the plan change³. At paragraph 14(c) of their recommendation report, the Hearing Panel made the following observation (emphasis added):

The Panel is somewhat sceptical that the MDRS will yield the additional household capacity by intensification that the Council currently projects. Greenfield development must be in the mix to meet the district's housing needs. We do not recommend the adoption of many rezoning requests. However, most submissions on re-zoning addressed in this report had very sensible ideas for greenfield development if proposed planned using well-conceived structure plans to manage the opportunities and constraints the site presents...The Panel's view is that PC2 will not meet the Council's required supply of land for housing is supported by the evidence of Kāinga Ora and also the following statement from Mr Foy on behalf of the Mansell family...

- 4.20 Consistent with the direction of the NPS-UD, the quote above highlights the ongoing role of greenfield development in providing for sufficient development capacity in Kāpiti (noting that I doubt the need for greenfields land to meet demand is limited to that district), supporting the competitive operation of land and development markets, enabling well-functioning urban environments and providing for a range of housing choices to meet a variety of household needs.
- 4.21 It is therefore imperative that in seeking to achieve a reduction in greenhouse gas emissions, these wider imperatives are appropriately incorporated into the assessment. The benefits of any reductions sought need to be considered against potential costs such as impediments to the supply of land, undermining the competitive function of land markets and failing to enable well-functioning urban environments. They must also be weighed in the context of other climate change tools – notably the New Zealand Emissions

³ https://kapiticoast.infocouncil.biz/Open/2023/08/CO_20230810_ATT_2578_EXCLUDED.PDF

Trading Scheme (“ETS”) which already accounts for transport emissions for example.

- 4.22 From this context, the following section addresses the climate change provisions of PC1 relevant to PPFL.

5. CLIMATE CHANGE PROVISIONS

Objective CC.2

- 5.1 As notified, Objective CC.2 stated:

The costs and benefits of transitioning to a low-emission and climate-resilient region are shared fairly to achieve social, cultural, and economic well-being across our communities.

- 5.2 The PPFL submission sought that the objective be deleted as it was unclear what resource management purpose it served and how it can be achieved through an RMA planning document.

- 5.3 Through the relevant section 42A report, the objective is recommended to be amended as follows:

The costs and benefits of transitioning to a low-emission and climate-resilient region are ~~shared fairly to achieve social, cultural, and economic well-being across our~~ equitable between sectors and communities.

- 5.4 While removing reference to the ‘three well-beings’ removes some subjectivity from the objective, the substitution of ‘shared fairly’ for the synonymous ‘equitable’ does not in my view address the issues of what this objective seeks in real terms and how this objective can be achieved through RMA planning documents. While acknowledging the ‘feel-good’ factor being espoused, I support the relief sought in the PPFL submission that the objective should be deleted.

Objective CC.3

- 5.5 The PPFL submission expressed support for the broad intent of the objective. It also expressed concern about the ability of RMA plans to achieve the objective and whether the RMA plans were the most appropriate means by which to achieve the objective.

- 5.6 As notified the objective states:

To support the global goal of limiting warming to 1.5 degrees Celsius, net greenhouse gas emissions from transport, agriculture, stationary energy, waste, and industry in the Wellington Region are reduced:

- (a) By 2030, to contribute to a 50 percent reduction in net greenhouse gas emissions from 2019 levels, including a:
 - (i) 35 percent reduction from 2018 levels in land transport generated greenhouse gas emissions, and
 - (ii) 40 percent increase in active travel and public transport mode share from 2018 levels, and
 - (iii) 60 percent reduction in public transport emissions, from 2018 levels, and
- (b) By 2050, to achieve net zero emissions.

5.7 My fundamental concern with the objective relates to its achievability. Taking transport as an example, and as I understand the ETS, a 35% reduction in land transport generated emissions in the Wellington region, will make no difference to the overall land transport emissions from New Zealand as a whole, as capped by the ETS. The same would apply to public transport emissions. In other words, the ETS is already addressing the topic area at a national level. The Policy would likely have the chilling effect of constraining otherwise efficient activities, for no actual benefit.

5.8 And while an increase in active travel and public transport mode share is undoubtedly beneficial and a laudable goal, I have serious reservations about whether such specific targets can be achieved through RMA plans and I do not consider such plans are the most efficient means to achieve such outcomes. Again, these matters are better addressed by the scheme specifically established to address climate change – the ETS. Although matter (a) is qualified through the use of “contribute to”, matters (i) to (iii) are still presented as firm targets.

5.9 The s42A report recommends the following amendment to the objective:

To support the global goal of limiting warming to 1.5 degrees Celsius, net greenhouse gas emissions from transport, agriculture, stationary energy, waste, and industry in the Wellington Region are reduced:

- (a) By 2030, to contribute to a 50 percent reduction in net greenhouse gas emissions from 2019 levels, including a:

(i) 35 percent reduction from 2018 levels in land transport generated greenhouse gas emissions, and

(ii) 40 percent increase in active travel and public transport mode share from 2018 levels, and

(iii) 60 percent reduction in public transport emissions, from 2018 levels, and

(b) By 2050, to contribute to achieving net zero greenhouse gas emissions.

5.10 Paragraph 184 of the relevant s42A report outlines alternative relief to the objective sought by Kāinga Ora. The alternative relief sought states:

Net greenhouse gas emissions from transport, agriculture, stationary energy, waste and industry in the Wellington Region are reduced by 2030 and achieves net zero emissions by 2050.

5.11 Relatedly, and addressed in the same paragraph, Hutt City Council has sought the addition of an explanatory note to the objective as follows:

Note: while policies and methods of this RPS contribute to achieving this objective, it is primarily achieved outside of the resource management system, including through the New Zealand Emissions Trading Scheme.

5.12 In my view, the re-framing of the objective as proposed by Kāinga Ora is preferable. I also support the note sought by Hutt City Council and consider it to be complementary to the relief sought by Kāinga Ora. Alternatively, the note would also provide useful context to the objective in either its notified form, or as recommended through the s42A report should the Panel adopt that recommendation.

5.13 And notwithstanding my opposition to the objective as notified, should the Panel seek to approve the objective as recommended through the s42A Report, I note that I support the amendment proposed to clause (b) of the objective adding the words 'contribute to'.

Objectives CC.7 and CC.8

5.14 The PPFL submission queried the resource management purpose of Objective CC.7 and how it would be achieved through an RMA plan. Resultingly, PPFL sought the deletion of the objective. Alternatively, PPFL suggested that Objective CC.7 could be combined with Objective CC.6 as both address similar matters and that this would assist in simplifying the structure of the RPS by reducing the overall number of provisions.

5.15 As now recommended, Objective CC.7 states:

People and businesses understand ~~what the current and future effects of climate change and how this may impact them means for their future~~ and are actively involved in ~~planning and implementing~~ appropriate climate change mitigation and climate change adaptation responses.

5.16 A similar issue arises for Objective CC.8. The notified version of Objective CC.8 states:

Iwi and hapū are empowered to make decisions to achieve climate-resilience in their communities.

5.17 As recommended through the s42A report, Objective CC.8 is proposed to read:

~~Iwi and hapū~~ Mana whenua/tangata whenua are empowered to ~~make decisions to~~ achieve climate-resilience in their communities.

5.18 The PPFL submission does not raise any concerns with the content of this objective, but again suggests that this objective, along with Objective CC.7, can be combined with Objective CC.6.

5.19 Objective CC.6, as recommended through the s42A report, reads:

Resource management and adaptation planning increases the resilience of communities, infrastructure and the natural environment to the short, medium, and long-term effects of climate change.

5.20 Having considered this matter further, I consider that Objective 6 should not be further amended in an attempt to include the relevant elements of Objectives CC.7 and CC.8. While I consider there is merit in some rationalisation of these provisions, in attempting to craft a singular objective the additional elements of Objective CC.6 relating to infrastructure and the natural environment add complexity to a broader objective.

5.21 In this context, the utility of merging Objectives CC.7 and CC.8 into one is reduced and resultingly I have not suggested any further change to these objectives. I nevertheless consider that Objective CC.7 as drafted is impractical to achieve through an RMA plan, is therefore unnecessary and should be deleted.

Policy CC.1

5.22 As recommended by the s42A report, Policy CC.1 would read as follows:

Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods that optimise transport demand by requiring all new and altered transport infrastructure to be ~~is~~ designed, constructed, and operated in a way that contributes to an efficient transport network, maximises mode shift, and reduces greenhouse gas emissions by giving effect to a hierarchical approach (in order of priority), by:

~~(a) Optimising overall transport demand~~

~~(b) Maximising mode shift from private vehicles to public transport or active modes; and~~

~~(c) Supporting the move towards low and zero carbon modes.~~

(a) Providing for, and concentrating, development in locations to minimise travel distances between residential, employment and the location of other essential services in combination with the delivery of multi-modal transport networks and infrastructure to serve developments; then

(b) Providing for and concentrating development within walkable catchments of public transport routes where practicable, and utilising existing space to remove barriers for access to walking, cycling and public transport; then

(c) Providing new infrastructure or capacity upgrades on the transport network to prioritise walking, cycling and public transport, such as improved or new bus and cycle lanes and measures to prioritise the need of pedestrians, cyclists and public transport above the car.

Explanation

This policy requires transport infrastructure planning (including design, construction and operation) to consider and choose solutions that will contribute to reducing greenhouse gas emissions by applying a hierarchy to all new or altered transport infrastructure that supports an efficient transport network, influences travel demand through ensuring development occurs in locations that can be best served by public transport and other low and zero-carbon transport modes. The hierarchy supports behaviour change through mode shift from private vehicles to public transport or active modes. This policy does not apply to aircraft.

5.23 Optimising travel demand is proposed to be defined as:

(a) Influencing demand spatially and reducing trip length; then

(b) Creating choices to travel via sustainable modes and reduce emissions; then

(c) Design and deliver development in a way that supports sustainable modes and an efficient transport network.

5.24 The hierarchical approach proposed for this policy is problematic. Policy CC.1 is included by reference as part of Policy 55 which, as set out at paragraph 4.5, addresses urban expansion. A policy providing for urban expansion is therefore internally restricted by a policy that purports to concentrate development in walkable catchments of public transport routes.

5.25 The provision of greater density is directed through the NPS-UD and the MDRS. Matters (a) and (b) seemingly duplicate these efforts, do not recognise that significant upzoning has occurred in accordance with the NPS-UD, and do not recognise the ongoing role of greenfield development in providing for development capacity requirements, housing choice, resilience and well-functioning urban environments. The approach proposed appears to relegate consideration of greenfield development through the application of the proposed hierarchy.

5.26 I resultingly suggest the following amendment to Policy CC.1 from that recommended through the s42A report:

Policy CC.1: Reducing greenhouse gas emissions associated with transport demand and infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods that optimise transport demand by requiring all new and altered transport infrastructure to be designed, constructed, and operated in a way that contributes to an efficient transport network, maximises mode shift, and reduces greenhouse gas emissions, ~~by giving effect to a hierarchical approach (in order of priority), by:~~

~~(a) Providing for, and concentrating, development in locations to minimise travel distances between residential, employment and the location of other essential services in combination with the delivery of multi-modal transport networks and infrastructure to serve developments; then~~

~~(b) Providing for and concentrating development within walkable catchments of public transport routes where practicable, and utilising existing space to remove barriers for access to walking, cycling and public transport; then~~

~~(c) Providing new infrastructure or capacity upgrades on the transport network to prioritise walking, cycling and public~~

~~transport, such as improved or new bus and cycle lanes and measures to prioritise the need of pedestrians, cyclists and public transport above the car.~~

Explanation

~~This policy requires transport infrastructure planning (including design, construction and operation) to consider and choose solutions that will contribute to reducing greenhouse gas emissions. by applying a hierarchy to all new or altered transport infrastructure that supports an efficient transport network, influences travel demand through ensuring development occurs in locations that can be best served by public transport and other low and zero-carbon transport modes. The hierarchy supports behaviour change through mode shift from private vehicles to public transport or active modes. This policy does not apply to aircraft.~~

Policy CC.2

5.27 Policy CC.2 as recommended by the relevant s42A report states:

~~Policy CC.2: Travel choice assessment ~~demand management plans~~- district plans~~

~~By 30 June 2025, district plans shall include objectives, policies and rules that require subdivision, use and development to contribute to the reduction of greenhouse gas emissions by requiring consent applicants to provide a travel ~~demand management plans to minimise reliance on private vehicles and maximise use of public transport and active modes for~~ choice assessment that:~~

~~(a) demonstrates how the use of public transport and active modes will be maximised;~~

~~(b) demonstrates how the use of private vehicles will be minimised; and~~

~~(c) includes measures within the design of subdivision, use and development which achieves parts (a) and (b) above.~~

~~The requirement for a travel choice assessment must apply to all new subdivision, use and development over a specified travel choice development threshold where there is a potential for a more than minor increase in private vehicles and/or freight travel movements and associated increase in greenhouse gas emissions. As a minimum, city and district councils must use the regional thresholds set out in Table 1 as the basis for developing their own local thresholds. The regional thresholds in Table 1 will cease to apply when Policy CC.2 is given effect through a district plan. To contribute to reducing greenhouse~~

gas emissions city and district councils must develop their own travel choice thresholds that are locally specific.

Table 1: Regional Thresholds

Activity and Threshold per application

- 100 residential units located within a walkable catchment.
- Commercial development of 2,500m² gross floor area
- Greenfield subdivision over 100 residential units

5.28 Travel choice assessment is defined as:

A travel choice assessment demonstrates how the subdivision, use and development has considered and incorporated accessibility and connectivity to active transport, sustainable transport modes and supports redistribution of demand from private car use to active and sustainable transport modes.

5.29 The changes proposed to the policy remove some of the concerns expressed in the PPFL submission. Previously the policy included terminology relating to a potential 'more than minor' increase in private vehicles, and otherwise requiring a minimisation of reliance on private vehicles.

5.30 One issue that has not been addressed that was raised in the PPFL submission is the enforceability of the policy requirements. While a Travel Choice Assessment can address the matters raised in (a) and (b) of the policy, it is much more difficult to enforce the take up of those options as that depends largely on personal choice.

5.31 To that end, I recommend the following changes to the policy:

Policy CC.2: Travel choice assessment - district plans

By 30 June 2025, district plans shall include objectives, policies and rules that require subdivision, use and development to contribute to the reduction of greenhouse gas emissions by requiring consent applicants to provide a travel choice assessment that:

(a) demonstrates how the use of public transport and active modes ~~will~~ can be maximised;

(b) demonstrates how the use of private vehicles ~~will~~ can be minimised; and

(c) includes measures within the design of subdivision, use and development which achieves parts (a) and (b) above.

Policy CC.4

- 5.32 The PPFL submission sought the following amendment to Policy CC.4:

Policy CC.4 Climate resilient urban areas – district and regional plans

District and regional plans shall include policies, rules and/or methods to provide for climate resilient urban areas by providing for actions and initiatives described in Policy CC.14 ~~which support delivering the characteristics and qualities of well functioning urban environments.~~

- 5.33 This amendment was sought because, and as will be covered in more detail in the next hearing stream, PPFL is concerned that PC1 is creating an overly onerous definition of a well-functioning urban environment. PPFL was not concerned with the broader direction of this policy in seeking to achieve climate resilience in urban areas.

- 5.34 Both Policies CC.4 and CC.14 to which it refers have been restructured as recommended by the relevant s42A report. Those changes nonetheless maintain the original intent of those policies with which PPFL was comfortable. Of relevance to the PPFL submission, the linkage to well-functioning urban environments has been removed and this is supported.

Policy CC.8

- 5.35 As notified, the PPFL submission opposed Policy CC.8 and sought its deletion. The PPFL submission considered the matters traversed by the policy were best addressed at a national level. As now recommended through the relevant s42A report, Policy CC.8 states:

Policy CC.8: ~~Prioritising the reduction of greenhouse gas emissions reduction over offsetting~~ – district and regional plans

~~District and regional plans shall include objectives, policies, rules and/or methods to prioritise reducing greenhouse gas emissions in the first instance rather than applying offsetting, and to identify the type and scale of the activities to which this policy should apply.~~ prioritise reducing greenhouse gas emissions by applying the following hierarchy in order:

a) in the first instance, gross greenhouse gas emissions are avoided or reduced where practicable; and

b) where gross greenhouse gas emissions cannot be avoided or reduced, a net reduction in greenhouse gas emissions is

achieved where practicable, with any offsetting undertaken as close to the source of the greenhouse gas emissions as possible; and

c) increases in net greenhouse gas emissions are avoided to the extent practicable.

- 5.36 The policy has been substantially re-written from the notified version.
- 5.37 At paragraph 271 of the s42A report, the following comment is made (emphasis added):

The direction to avoid or reduce gross GHG emissions in clause a) means that the policy can be directed at new activities (avoid) and existing activities (reduce) respectively.

- 5.38 The policy is directive to district plans. As I read the policy, and the officer comment, greenhouse gas emissions from new activities are to be avoided in the first instance. The meaning of 'avoid' in RMA terms is well understood – to now allow. It is a policy direction that is capable of becoming a 'bottom line' directive in the *King Salmon* sense. This speaks to my earlier comment at 4.5 relating to the need to read the climate change provisions in tandem with other provisions relating to urban development for example.
- 5.39 As drafted, Policy CC.8 can be read as an effective prohibition on greenfield development where such an activity would be responsible for an increase to gross greenhouse gas emissions.
- 5.40 Again at paragraph 271, the s42A report then notes:

The use of the words 'where practicable' is intended ensure that there is some flexibility as to how the hierarchy is implemented. While use of these qualifiers is often criticised as making policy direction weak, in my view it is important to allow cost-considerations and other factors to be taken into account, to recognise that GHG emissions from some activities are unavoidable, and to ensure that the policy is not overly onerous for different sectors in the region.

- 5.41 This sets up a situation whereby the practicability of avoiding emissions will be fiercely debated on a case-by-case basis. Considering greenfield development again, it will always be argued that greenhouse gas emissions can be avoided by not providing for greenfield development in the first instance. Such a position is inconsistent with the requirements of the NPS-UD, other provisions of PC1 that do provide for urban expansion, and in a Kāpiti context the recent observation of the Plan Change 2 Hearing Panel that

greenfield development will need to play an ongoing role in meeting growth requirements in Kāpiti.

5.42 In my view, the policy as now proposed creates uncertainty, oversteps the role of an RMA planning document by addressing matters already (and more appropriately) addressed by way of the ETS and does not appropriately balance a range of other competing factors, in particular those found in the NPS-UD.

5.43 That uncertainty is exhibited in the following statement in the proposed explanation to the policy:

The intent is that Wellington Regional Council will work with city and district councils to provide coordination and guidance as to how to implement this policy, to ensure regional and district plan provisions to reduce greenhouse gas emissions from key emitting sectors in the region are co-ordinated and also complement national policy and initiatives. This work will consider issues such as scale, equity, and the type of activities to which offsetting should apply.

5.44 I therefore agree with the PPFL submission that the policy should be deleted. In the form of the policy recommended by the s42A report, it will in my view create significant uncertainty and will inhibit the competitive operation of land and development markets.

5.45 Should the Panel consider that the broader direction of the policy should be retained i.e. policy support for the reduction of greenhouse gas emissions, then I suggest the following alternative wording to Policy CC.8. This will in my opinion provide Councils with more appropriately balanced direction on this matter:

Policy CC.8: Encouraging the reduction of greenhouse gas emissions – district and regional plans

District and regional plans shall include objectives, policies, rules and/or methods to encourage the reduction of greenhouse gas emissions.

Policy CC.9

5.46 Policy CC.9 is a consideration policy and as notified states:

Policy CC.9: Reducing greenhouse gas emissions associated with transport infrastructure – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or

district plan, particular regard shall be given to whether the subdivision, use and development have been planned to optimise overall transport demand, maximising mode shift from private vehicles to public transport or active modes, in a way that contributes to reducing greenhouse gas emissions.

5.47 PPFL's submission considered that the policy lacked clarity to enable its implementation.

5.48 The s42A report has recommended a number of amendments:

Policy CC.9: Reducing greenhouse gas emissions associated with ~~transport infrastructure~~ subdivision, use or development – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to whether the subdivision, use ~~and~~ or development ~~have~~ has been planned in a way that contributes to reducing greenhouse gas emissions by to optimise optimising overall transport demand by giving effect to the hierarchical approach in order of priority within Policy CC.1 (a)-(c), maximising mode shift from private vehicles to public transport or active modes, and supporting the move towards low and zero-carbon modes ~~in a way that contributes to reducing greenhouse gas emissions.~~

Explanation

This policy requires regional and district councils to consider whether subdivision, use and development proposals have fully considered all options to reduce greenhouse gas emissions as far as practicable. For example, EV charging infrastructure, car share infrastructure, provision for bus stops and a transport network designed to support public transport or active modes.

5.49 As noted at 5.23 above, optimising travel demand is proposed to be defined as:

(a) Influencing demand spatially and reducing trip length; then

(b) Creating choices to travel via sustainable modes and reduce emissions; then

(c) Design and deliver development in a way that supports sustainable modes and an efficient transport network.

5.50 The policy then however goes one step further by linking through to the hierarchical approach proposed by Policy CC.1. As discussed in considering that policy, in my view that approach overly focusses on increasing density in existing urban areas as already directed by the NPS-UD and MDRS and

ignores the ongoing role of greenfield development in providing for future development capacity and contributing to well functioning urban environments.

5.51 I support however, the addition proposed to the explanation to this policy as to approaches that can be implemented to reduce greenhouse gas emissions, including as part of greenfield development.

5.52 Resultingly, I suggest the following wording for this policy:

Policy CC.9: Reducing greenhouse gas emissions associated with ~~transport infrastructure~~ subdivision, use or development – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to whether the subdivision, use ~~and or~~ development ~~have~~ has been planned in a way that contributes to reducing greenhouse gas emissions ~~by to optimise~~ optimising overall transport demand ~~by giving effect to the hierarchical approach in order of priority within Policy CC.1 (a)-(c), maximising mode shift from private vehicles to public transport or active modes, and supporting the move towards low and zero carbon modes in a way that contributes to reducing greenhouse gas emissions.~~

Explanation

This policy requires regional and district councils to consider whether subdivision, use and development proposals have fully considered all options to reduce greenhouse gas emissions as far as practicable. For example, EV charging infrastructure, car share infrastructure, provision for bus stops and a transport network designed to support public transport or active modes.

Policy CC.11

5.53 Policy CC.11 is also a consideration policy that seeks to encourage whole of life carbon emissions assessments for new and altered transport infrastructure.

5.54 PPFL's submission highlighted that it was unclear what the threshold for engagement of the policy may be, and given that the policy seeks to encourage the preparation of such an assessment, it could result in disputes as to when such an assessment is to be provided⁴.

⁴ For instance, could an application for resource consent be rejected under s88 if an assessment was not provided?

- 5.55 The s42A recommended of the version of the policy has not provided any amendments to address these points, with the policy being left fundamentally unchanged. What is proposed is the inclusion of a new method (Method CC.3A) that seeks to develop guidance on whole of life carbon emissions assessments.
- 5.56 What remains unclear is the threshold at which the policy should apply. The s42A report notes at paragraph 367 in discussing whether the policy should be framed in 'require' terms that the policy shouldn't be more directive as it would be required with every application and that this would be an unnecessary burden.
- 5.57 The inference is therefore that as currently worded it should not be required in all instances. But it is unclear when it would be engaged. Therefore it is left open to application and will likely result in different interpretations across various local authorities and lead to disputes as to the need to provide such assessment.
- 5.58 I recognise that the chapeau of the policy is to 'encourage' and that it is framed as a consideration policy. However in my view there is significant uncertainty associated with the policy as presently drafted. I agree with the s42A author that framing it in 'require' terms would be overly onerous. But I consider for the policy to be effective some better guidance is required as to its application. In the absence of that detail, I consider the policy should be removed.

6. CONCLUSION

- 6.1 I consider that the amendments recommended in my evidence will more appropriately balance the need to reduce greenhouse gas emissions (and the role of planning instruments in achieving such reductions) with the need to give effect to the NPS-UD and ultimately the purpose of the Resource Management Act 1991 through not overly restricting land supply and providing for the competitive operation of land and development markets.



Mitch Lewandowski

12 June 2023