

12 July 2022

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Tēnā koe,

Kapiti Coast District Council's Feedback on Draft RPS Change 1

Thank you for the opportunity to provide feedback on Draft RPS Change 1. The Kāpiti Coast District Council's (Council's) feedback below focuses only on the draft provisions that Council particularly supports or opposes. Where appropriate, amendments are requested.

Council's feedback falls into the following broad categories:

1. Draft provisions Council supports.
2. Draft provisions that appear to require Council to address resource management issues in its district plan that fall outside of its statutory functions, powers and duties under the RMA.
3. Draft provisions that do not appear to be supported by any existing legislation or higher-level strategic planning document such as a national policy statement.
4. Draft provisions that fall under point 3 above that seek to impose regulatory methods in district plans without evidence they would be more (or even equally) appropriate than non-regulatory methods.
5. The lack of use of regional rules to manage land use activities that fall under section 30 of the Act, despite this being provided for by section 9 of the Act.
6. Appropriate and lawful use of verbs within objectives and policies.

We acknowledge the placeholders and gaps in the draft that are yet to be filled and we look forward to having the opportunity to consider and provide feedback on those once draft provisions have been prepared and provided to Council.

As you will see, we have raised a number of significant concerns with a range of draft provisions. We are surprised by much of the suggested regulatory approaches aimed at city and district councils over other (potentially more appropriate) methods available under the Resource Management Act. Of

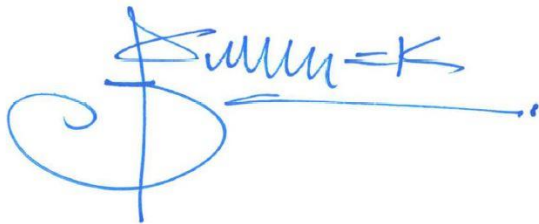
particular concern is the suggestion city and district councils will be required to carry out some of the functions of regional councils in the absence of the legal ability to do so.

We recognise district plans must give effect to a regional policy statement, and resource consent decision making must have regard to any relevant provisions of a regional policy statement or proposed regional policy statement. However, these requirements do not give regional councils an unlimited ability to devolve their section 30 functions to city and district councils in their regional policy statements.

We also request careful consideration be given to all the verbs used in objectives and policies to ensure their legal meaning under the Resource Management Act (RMA or the Act) fits with the requirements of the Act and all relevant higher-level statutory planning documents. We have identified a number of instances where this appears to be an issue, hence our recommendation to review the verbs used in all draft objectives and policies with a high degree of planning and legal scrutiny.

We would welcome the opportunity to discuss our feedback with you before formal notification of RPS Change 1. We note such an approach would be consistent with the Wellington Regional Triennial Agreement 2019-2022.

Ngā mihi

A handwritten signature in blue ink, appearing to read 'K. Gurunathan', with a large, stylized flourish on the left side and a horizontal line extending to the right.

K. Gurunathan JP, MA
MAYOR, KĀPITI COAST DISTRICT

Feedback on Draft RPS Change 1

Provision	Support / oppose	Reasons and discussion	Decision sought
<i>3. Overarching resource management issues for the Wellington Region (page 2).</i>	Oppose	We note clause 1 reads very negatively. It is unclear whether this statement is based on a state of the environment report, plan implementation monitoring or other evidence base, or whether it is an opinion.	Insert references to the evidence base that supports the statement about inappropriate and poorly managed land use of the environment. If this is an opinion, we seek it be deleted.
General RPS-wide issue regarding the use of the terms iwi/ iwi authorities/ mana whenua/ tangata whenua/ hapū/ whānau/ marae across the current and now proposed wording in the RPS.	Oppose and seek amendment	We seek care be applied in the use of these terms across the RPS (including but not limited to the amendments through Change 1). Unnecessary inconsistency in use of these terms not only causes issues for territorial authorities, but may also unhelpfully complicate matters for iwi authorities due to the changing requirements depending upon the topic being discussed. Incorrect use of these terms can also set up expectations of consultation/involvement where people/groups are not given that role by the RMA or relevant statutory planning document.	Review, and as necessary correct, all terms iwi/ iwi authorities/ mana whenua/ tangata whenua/ hapū/ whānau/ marae across the current proposed wording in the RPS to reduce any unwarranted variation, and to ensure the correct term is used consistent with the RMA and relevant higher-level statutory planning documents.
Climate Change			
<i>Objective CC.1 Immediate, rapid, and large-scale changes have transformed the</i>	Oppose	We consider the methods identified to achieve this objective are unlikely to be effective. From a transport perspective, the National Emissions Reduction Plan 2022-25 and associated emissions budgets (covering 2022 – 2035) identify a route map to 2035, but funding mechanisms do not respond quickly and are not necessarily aligned with growth strategies and timing.	Either amend Objectives CC.1 and CC.2 to ensure the targets are realistic and achievable within the timeframes, or amend the methods to provide a stronger

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<p><i>Wellington Region into a low emission and climate-resilient region. Climate change mitigation and adaptation are an integral part of sustainable land and water management, well-functioning urban and rural environments, and built and natural infrastructure. The way in which we transition ensures that the costs are shared fairly and equitably across local and central government, businesses, and our communities.</i></p>		<p>As an example, funding has not been successfully obtained in Kāpiti to provide the infrastructure to support mode shift. Our Council received no walking and cycling funding in the 2021-2024 National Land Transport Programme funding round. This leaves Council in a situation where it either does not provide this infrastructure, or is in the position of having to fully fund this infrastructure in the context of other competing and necessary infrastructure requirements.</p> <p>Funding and support at the regional and national level for equitable access to public transportation across our district has not been forthcoming to date. Our Ōtaki community in particular is not well served in this respect, and without such support any meaningful mode shift will be unable to occur.</p> <p>Successful implementation of this objective will require a supporting leadership role for the regional council in the RPS, rather than a directive role for territorial authorities that is unlikely to be successful.</p>	<p>advocacy role to secure appropriate funding for delivering infrastructure that supports mode shift.</p> <p>Ensure the methods intended to achieve this objective are within the legal remit of city and district councils under the RMA.</p>
<p><i>Objective CC.2 – Net greenhouse gas emissions in the Wellington Region are reduced by 50% from 2017 levels by</i></p>	<p>Oppose</p>	<p>We consider the policy and methods identified to achieve this objective are unlikely to be effective. The development of emissions offsetting guidance, and non-regulatory incentives and advocacy in themselves are unlikely to result in this objective being achieved.</p>	<p>Include reference to the evidence base that demonstrates this objective is achievable using the proposed methods.</p>

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<i>2030 as a minimum (page 6).</i>		It is also unclear how district plans would be able to reasonably give effect to this objective when it is required to deliver on other competing interests that are required to be given effect to, such as providing sufficient development capacity for housing and business land over a 30 year period.	Demonstrate the proposed methods lawfully fall under the jurisdiction of city and district councils under the RMA.
<p><i>Objective CC.3 – Nature-based solutions.</i></p> <p><i>Policy CC.7: Identifying nature-based solutions in district plans (page 78).</i></p> <p><i>Protecting, restoring and enhancing ecosystems that provide nature-based solutions in district plans (e.g. page 8).</i></p> <p><i>Policy CC.8 Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate</i></p>	Oppose	<p>Council has a number of issues with the regulatory approach proposed in this package of provisions, even more so given it is proposed to be achieved through district plan changes.</p> <p>We consider the nature-based approach does not fall under sections 30 or 31 of the RMA as it goes beyond the maintenance of indigenous biodiversity.</p> <p>More fundamentally, we are unaware of any evidence that the issue exists, or if it does, that a regulatory method would be the most appropriate method to address it when compared to other reasonably practicable methods available. We also note such an approach does not appear to be required by the Act or any higher level statutory planning document.</p> <p>The objective also identified that priority will given to solutions that provide multiple benefits for people and nature, but it is unclear how these benefits would be identified, measured and balanced against each other. The policies also do not appear to include measures that would support the objective.</p> <p>Overall, we consider the suggested requirement for district plans to identify and require the protection, restoration and enhancement of ecosystems that provide nature-based solutions to climate change cannot be justified under section 32 of the RMA.</p>	<p>Delete these provisions entirely.</p> <p>Alternatively, amend the provisions to non-regulatory methods that are to be carried out by the Regional Council only.</p>

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<p><i>change – city and district plans (e.g. pages 59, 79).</i></p> <p><i>Policy CC.14 Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate change.</i></p>			
<p><i>Objective CC.4 Land use planning recognises and provides for the short, medium, and long-term effects of climate change and sea level rise.</i></p> <p><i>Method 22: Information about areas at risk from Natural Hazards e.g. (page 9).</i></p>	Oppose in part	<p>We consider the method of providing information about areas at risk from natural hazards is insufficient to meet GWRC’s obligations under the RMA, particularly with respect to coastal hazards. We consider the RPS needs to provide leadership in the management of inappropriate subdivision, use and development within areas affected by identified coastal hazards by requiring rules in its regional plans to manage these activities. We note such an approach would be consistent with how a number of other regional councils in New Zealand meet their functions under section 30 of the Act such as BOP and Hawkes Bay Regional Councils.</p> <p>We also note the regional council is in a stronger position to be able to manage the potential increase in risk posed by additional development due to rules in regional plans not being subject to the limitations of section 10 of the RMA. Notwithstanding this advantage, there appears to be preference for GWRC to leave it to city and district councils to address development within areas subject to significant risks posed by natural hazards.</p>	Amend the provisions to more specifically require regional plans to include rules and standards for subdivision, use and development within areas identified as being vulnerable to natural hazards.

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Energy, Infrastructure and Waste			
3.3 Energy, infrastructure and waste (pages 10 – 16).	Support	We support these minor amendments.	Retain amendments.
Freshwater			
<p><i>Policy FW.1 – Urban development effects on freshwater – district plans.</i></p> <p><i>Method 1: District plan implementation (page 66 etc).</i></p> <p><i>Method FW.1 Joint processing of urban development consents (pages 21, 44 etc).</i></p>	Oppose	<p>Freshwater responsibilities</p> <p>Council is concerned that the draft RPS is attempting to devolve the management of activities as they relate to freshwater to city and district councils, despite having no authority to do so under the RMA. While city and district councils have implied obligations under Section 31 to control the use of land to protect the natural and physical environment, these obligations are not as specific as those on regional councils to control the use of land under Section 30(1)(c) and Section 30(1)(f). Responsibilities for the management of land use and discharges as they relate to freshwater under the RMA sit firmly with regional councils.</p> <p>We are also concerned that any intention to hold city and district councils accountable for discharges of contaminants into, or from, our stormwater networks by third parties, or the improvement of waterbodies as a result of third parties discharge of contaminants is not lawful. Under section 338, liability for an offence sits with the person “<i>who contravenes, or permits a contravention</i>” of the Act. City and district councils do not permit the discharge of contaminants to the environment under Section 15 of the RMA and therefore should not be held criminally liable for it if others breach contaminant discharge requirements.</p> <p>Joint processing</p> <p>We consider it inappropriate for the RPS to <u>require</u> “joint processing” of resource consents. We prefer a case-by-case approach akin to the approach to joint hearings under section 102 of the RMA.</p>	<p>Delete all draft and existing freshwater management requirements for district plans throughout Draft RPS Change 1.</p> <p>Delete methods specifying joint processing of resource consents.</p> <p>Establish relationships between regional, city and district council resource consents departments via non-regulatory methods outside of the RPS.</p>

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		<p>It is also unclear how the practicalities of ‘joint processing’ would occur when applications for the same development are seeking resource consent under a district plan and a regional plan, but for different purposes with different information requirements.</p> <p>In summary, we support greater collaboration and dialogue with the regional council during resource consent processing, and consideration of holding joint hearings on a case-by-case basis, rather than the one-size-fits all approach of forcing joint processing of all notified consents for urban development and regionally significant infrastructure via the RPS.</p>	
<p><i>Policy FW.2 Financial contributions for urban development to address water quality and quantity (pages 21,45, 66, etc).</i></p>	<p>Oppose</p>	<p>Financial contributions for urban development, for the purposes of the functions, powers and duties of city and district councils are not a matter for an RPS to specify. We consider an RPS cannot require a district plan to include a rule in its district plan to impose financial contributions for the purposes of addressing water quality and quantity, including contaminants in water. These matters fall firmly under the legal jurisdiction of regional councils.</p> <p>We note section 77E of the RMA enables GWRC to make rules requiring a financial contribution for the purposes it is seeking district plans to address. We recommend a rule requiring financial contributions in the regional plan is the most appropriate and lawful approach.</p>	<p>Delete all requirements for district plans to include financial contribution provisions for the management of activities and adverse effects that fall under the jurisdiction of regional councils.</p> <p>We recommend GWRC considers the use of section 77E for its own purposes via its regional plan as provided for by the RMA.</p>
<p><i>Policy 40 Protecting and enhancing the health and well-being of water bodies and freshwater ecosystems.</i></p>	<p>Oppose</p>	<p>We oppose the requirement for city and district councils to consider these policies in its decision making on the specified matters on the basis the health and wellbeing of waterbodies and freshwater ecosystems are not a matter that falls under the jurisdiction of city and district councils. This is an existing issue in the RPS that we request be fixed as part of RPS Change 1.</p>	<p>Delete requirements throughout the RPS for city and district councils to consider or manage activities for the purposes of freshwater management.</p>

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<p><i>Policy 41 Controlling the effects of earthworks and vegetation disturbance.</i></p> <p><i>Policy 42 Minimising contamination in stormwater from development.</i></p> <p><i>Policy 43 Protecting ecological function of water bodies.</i></p> <p><i>Policy FW.3 Implementing Te Mana o Te Wai in Urban Development.</i></p> <p><i>Method 4: Resource consents, notices of requirement and when changing, varying or reviewing</i></p>		<p>The RPS and regional plans are the appropriate methods to address freshwater management. We do not consider it appropriate to attempt to place regional council functions, powers, duties and responsibilities on city and district councils unless a formal transfer of powers is made under section 33 of the RMA. Regional councils have at their disposal the legal ability to impose regional land use methods to address these matters, including via rules and standards in its regional plans.</p> <p>We note when considering applications for resource consents, city and district councils are already required to <i>have regard</i> to regional policy statements or proposed regional policy statements under section 104(1)(b)(v) of the RMA. We also note city and district councils are already required to <i>have particular regard</i> to a regional policy statement or proposed regional policy statement when making recommendations on notices of requirements under section 171(1)(a)(iii). We do not consider it appropriate or good resource management practice for an RPS to duplicate requirements that are already set out under the Act.</p>	

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<i>plans – city and district councils.</i>			
<i>Policy FW.7 Allocation of responsibilities for land use and development controls for freshwater (page 27).</i>	Oppose	City and district councils have no functions, powers or duties to manage freshwater quality, or discharges to freshwater that may adversely affect water quality. The RMA places responsibility for the management of freshwater firmly with regional councils. On our reading, the existing RPS and draft RPS require and propose to require city and district councils manage activities for freshwater purposes, despite city and district councils having no lawful authority to do so under the RMA. This lack of authority is clear under section 338 of the RMA, meaning the Council would have no authority to enforce any provisions for the purposes of managing freshwater via discharges in contravention of section 15 of the Act, but would be criminally liable for the discharge of contaminants into stormwater by others. This is not an acceptable proposition to us.	Delete Policy FW.7 and all other freshwater responsibilities proposed for city and district councils throughout Draft RPS Change 1. Take the opportunity through Change 1 to amend any existing RPS provisions that erroneously allocate freshwater responsibilities to city and district councils throughout the RPS. Progress non-regulatory methods by working with city and district councils to help raise awareness within communities of freshwater issues, including discharges.
Indigenous Biodiversity			
<i>Indigenous ecosystems.</i> <i>Issue 1 – The region’s indigenous ecosystems are reduced in extent (page 29).</i>	Neutral	It is unclear whether the additional text proposed here is opinion or based on an evidence base.	Insert references to evidence base/ monitoring findings to support these statements.

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<i>Objective 16 (page 30)</i>	Oppose	The suggested protection of ecosystems that make a significant contribution to climate change and mitigation and/or adaptation is not supported by the Act or any existing higher-level statutory planning document. We consider that non-regulatory methods are the only avenue under the existing planning regime, and that GWRC should focus on incentives to achieve the objective rather than regulation.	Delete proposed change to Objective 16 and rely on Objective 16A, Policy IE.4 and method IE.2 of deliver the non-statutory approach to achieving the desired outcomes.
<i>Method 53: Support community restoration initiatives for indigenous ecosystems (page 31).</i>	Support	We support the shift in focus of this method to include all indigenous ecosystem types rather than only those that are within the coastal environment, rivers, lakes and streams.	Retain draft wording.
<i>Objective 16A;</i> <i>Policy IE.4</i> <i>Method IE.2 (page 32).</i>	Support in part	<p>We note the methods to achieve Objective 16A appear to be non-regulatory for city and district councils. We support the non-regulatory approach. We note the RMA and higher-level statutory planning documents do not enable a regulatory approach within a district plan that requires ecological restoration. We note the potential use of restoration as a method to avoid, remedy or mitigate adverse effects is already provided for on a case-by-basis for resource consents under section 108(2)(c) of the Act.</p> <p>We note any methods to give effect to mana whenua roles and values in managing indigenous biodiversity will need to be established via formal agreements clearly specifying roles, responsibilities, processes, and delegated powers to avoid situations where third party agreement is required in the resource consent process.</p>	<p>Retain non-regulatory approach to achieving the proposed objective.</p> <p>Provide policy guidance that city and district councils are required to <i>have particular regard to</i> when considering relevant resource consents to provide guidance on when it would be appropriate to place conditions on resource consent under section 108(2)(c) of the Act (on the assumption the purpose of the condition falls under section 31 of the Act).</p>

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<i>Objective 16C</i> <i>Policy 1E.5 (page 33).</i>	Support	We support greater recognition of the stewardship role landowners and the community play in relation to the maintenance and restoration for indigenous biodiversity.	Retain the non-regulatory methods to support and recognise the stewardship role provided by the community and landowners.
<i>Policy IE.1 – limits and outcomes for biodiversity offsetting compensation.</i> <i>Policy IE.2 (and IE.3) Giving effect to mana whenua roles and values when managing indigenous biodiversity.</i> <i>Policy 1E.3</i>	Oppose	<p>Although these approaches are included in the latest exposure draft of the National Policy Statement for Indigenous Biodiversity, it is unknown whether they will be included in the final NPS, or if and when the NPS will be gazetted.</p> <p>We note including such provisions in the RPS before the existence of the necessary higher-level statutory planning direction will be difficult to justify under section 32 of the Act, particularly as the policies are suggesting regulatory methods.</p> <p>We suggest it would be more appropriate and efficient to await gazettal of the national policy statement on indigenous biodiversity before progressing amendments of this nature.</p>	<p>Delete Policies IE.1, IE.2, and IE.3 and (where necessary) progress RPS amendments relating to indigenous biodiversity through a future Change process.</p> <p>Alternatively, amend the policies to focus only on non-regulatory methods with a focus on encouragement and support.</p>
<i>Policy 47 Additions of clauses (i) and (j) (page 88)</i>	Oppose	<p>Although these approaches are included in the latest exposure draft of the National Policy Statement for Indigenous Biodiversity, it is unknown whether they will be included in the final NPS, or if and when the NPS will be gazetted.</p> <p>We note including such provisions in the RPS before the existence of the necessary higher-level statutory planning direction will be difficult to justify under section 32 of the Act, particularly as the policies are suggesting regulatory methods.</p>	Delete draft clauses (i) and (j) and (where necessary) progress RPS amendments relating to indigenous biodiversity through a future Change process., or alternatively make these non-regulatory to be provided for via encouragement.

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		We suggest it would be more appropriate and efficient to await gazettal of the national policy statement on indigenous biodiversity before progressing amendments of this nature.	
Natural Hazards (page 34)			
Amendments within this chapter that shift the focus from high-risk from natural hazards to risk from natural hazards.	Support	We note the intended shift to all risks from natural hazards rather than focusing on only high risk natural hazards aligns with GWRC's functions under section 30 of the Act.	Retain the shift in focus to address all risks from natural hazards. Insert a greater requirement for regional plans to include rules that manage natural hazard risks affecting new development and land uses.
<i>Objective 20 (page 37)</i>	Oppose in part.	We note natural hazard and climate change mitigation and adaptation activities may result in some adverse impacts on natural processes, ecosystems and biodiversity. We consider it is unrealistic for an objective to state that no adverse impacts will result from these activities. This would require an avoidance of these effects within the relevant policies, which is not what those policies require.	Amend wording of Objective 20 to be consistent with the relevant policies i.e. to minimise adverse effects of hazard mitigation measures.
<i>Policy 51 – Reducing the risks and consequences of natural hazards – consideration (page 93).</i> <i>Policy 52 – Minimising adverse effects of hazard mitigation measures (page 95).</i>	Support	We consider the amendments to these policies appropriately elevate the consideration of all aspects of natural hazard planning.	Retain the proposed amendments to Policies 51 and 52.

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Regional form, design and function			
General comments on proposed amendments to chapter.	Oppose in part.	<p>We consider the commentary within this chapter needs to be amended to reflect the fact that medium density housing must be provided for across all relevant residential zones within Tier 1 city and district councils (from 20 August 2022 at the latest).</p> <p>The current and proposed wording of this chapter appears to overlook the fact that medium density housing must be enabled across all residential zones, not just in appropriate areas in and around centres and rapid transit stops. This level of unplanned residential intensification across all residential areas presents a risk to achieving the draft RPS change’s aspirational zero and low-carbon emission goals. These challenges should be acknowledged in the RPS.</p>	Amend this chapter to acknowledge the intensification of housing enabled by the MDRS within Tier 1 local authorities beyond walkable catchments of centres and rapid transit stops.
References to the Wellington Regional Growth Framework, and the suggestion it should be considered an interim Future Development Strategy.	Oppose	<p>We strongly oppose references to the WRGF within the RPS, and in particular the suggestion it forms the interim strategic growth direction for the region prior to the development of a Future Development Strategy (FDS) under the NPS-UD.</p> <p>While a highly useful exercise and useful preparation in advance of a proper FDS, the evidence base and investigation that underpinned the development of the WRGF (and consultation) was not sufficiently robust to suggest it should be used in this way. The development of the WRGF also did not follow the special consultative procedure required for a plan or strategy under the Local Government Act, and it therefore lacks any statutory weight under the RMA as a document prepared under other legislation.</p> <p>References to the WRGF, and the interim legal status the draft RPS Change 1 attempts to give it, undermines and fails to acknowledge existing growth strategies prepared by city and district councils under the LGA. These growth strategies are informed by an evidence base, have been appropriately and competently prepared, widely consulted on and formally adopted. They</p>	<p>Delete all references to the WRGF throughout the RPS.</p> <p>References to the direction of the future growth of the Region should be made to the Future Development Strategy under the NPS-UD, and city and district councils growth strategies prepared under the LGA as an interim.</p>

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		accordingly carry weight under the RMA when preparing and changing plans (s.74(2)(b)(i)).	
<p><i>Policy 55 – Establishing and maintaining well-functioning urban environments (page 96).</i></p> <p><i>Policy 56 – Managing development in rural areas.</i></p> <p><i>Policy 67 – Establishing and maintaining well-functioning urban environments.</i></p>	Oppose in part.	<p>We oppose the list of matters included in clause (a)(ii) of Policy 55 as on our reading they attempt to direct city and district councils on the application of qualifying matters. Determinations on qualifying matters within district plans are not decisions for regional councils. The term <i>avoid</i> needs to be carefully considered. We note section 6 matters do not all require avoidance as their main method of management, as the term <i>inappropriate</i> is also often used to signal not all development and adverse effects are to be avoided in recognising and providing for the matters of national importance specified within section 6 of the RMA.</p> <p>We oppose the amendments drafted to clause (b) of Policy 55, clause (d) of Policy 65, and clause (e) of Policy 67. These provisions attempt to give legal status to a document that has no statutory weight under the Act (the WRGF). We explain our reasons for opposing any references to the WRGF within the RPS above, and our reasoning equally applies to the amendments suggested to clause (b) of Policy 55 and clause (d) of Policy 56. Interim strategies and development frameworks in the absence of a Future Development Strategy should be city and district council growth strategies prepared and adopted under the LGA.</p> <p>We also oppose the wording of draft clause (d) as it fails to include the other important considerations identified for responsive planning under Subpart 2, clause 3.8 of the NPS-UD. Significant capacity is not the only consideration when considering out-of-sequence developments. We also note the requirements of the NPS-UD for considering out-of-sequence developments only applies to plan changes, yet the draft changes to the RPS attempt to require this be applied to the consideration of resource consents. This falls beyond the legal remit of the NPS-UD.</p>	<p>Delete references to resource consents from Policy 55, or remove the parts of Policy 55 that are intended to give effect to NPS-UD Clause 3.8 and include them in draft Policy UD.4 so it becomes a comprehensive policy that gives effect to clause 3.8 of the NPS-UD – <i>unanticipated or out of sequence developments</i>.</p> <p>Delete the list of matters that are to be avoided under Policy 55 clause (a)(ii), or amend the term <i>avoid</i> reflecting the requirements of the RMA and higher-level statutory planning documents through adding the term <i>inappropriate</i>.</p> <p>Delete all references from clause (b) of Policy 55, clause (d) of Policy 56, and clause (e) of Policy 67 to a regional council strategic growth and/or development framework or strategy for the region in the absence of a Future Development</p>

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		<p>We recommend the other draft clauses of the policy are considered alongside the requirements of the Act and relevant higher-level statutory planning documents to ensure the verbs used align with these requirements (i.e. the requirement to <i>avoid</i>, without the context of <i>inappropriate</i> being included).</p> <p>With respect to clause (c) of Policy 55, we request the reference to a structure plan is clarified so it is clear who has prepared the structure plan and its legal status i.e. the structure plan has been prepared for inclusion in the district plan.</p>	<p>Strategy. These references should be to city and district council growth strategies in the absence of a regional Future Development Strategy, not attempting to give legal weight to the WRGF.</p> <p>Clarify structure plan requirements as described in our reasons and discussion.</p> <p>Review use of all verbs in objectives and policies to ensure their legal meaning aligns with the RMA, and they are appropriate with regard to the functions, power and duties of city and district councils.</p>
<p><i>Policy 57 Integrating land use and transportation - consideration</i></p>	<p>Oppose</p>	<p>The proposed shift in the verb used in this policy from <i>having particular regard</i> to the listed matters, to <i>ensuring</i> the listed matters are delivered through resource consents, notices of requirement and plan changes is not possible. Many of the matters listed do not fall within the control of city and district councils. We recommend retaining the existing wording of <i>having particular regard</i> to enable the appropriate case-by-case consideration of these matters by decision makers.</p>	<p>Retain existing directive to <i>have particular regard</i>. Delete requirement to <i>ensure</i>.</p>
<p><i>Policy 58 Co-ordinating land use with development and</i></p>	<p>Oppose</p>	<p>We note it is not possible for city and district councils to <i>ensure</i> the matters listed in the policy are delivered as part of an application for resource consent, notice of requirement or a plan change. For example, city and district councils do not have any functions, powers or duties under the RMA to <i>ensure</i> development,</p>	<p>Delete Policy 58, or amend the verb used to align with what is technically and legally possible for city and district councils to address through their district plan.</p>

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<i>operation of infrastructure.</i>		<p>funding and implementation and operation of low or zero carbon transport and some types of infrastructure is provided for in an area.</p> <p>We recommend the use of all verbs in objectives and policies are carefully checked for their legal meanings under the RMA. We also request every verb chosen does not conflict with the functions, powers and duties of city and district councils under the RMA.</p>	Consider alternative methods to achieve policy content.
<i>B. Inappropriate development - Inappropriate and poorly managed urban land use and activities in the Wellington region have damaged, and continue to jeopardise, the natural environment, degrade ecosystems, particularly aquatic ecosystems, and increase the exposure of communities to the impacts of climate change. (page 41).</i>	Oppose	This statement is not clearly linked to an evidence base that supports it.	<p>Insert reference to the evidence base that supports this statement, or in the absence of such an evidence base we request the following wording:</p> <p><i>Inappropriate and poorly managed urban land use and activities in the Wellington region have can damaged, and continue to jeopardise, the natural environment, degrade ecosystems, particularly aquatic ecosystems, and increase the exposure of communities to the impacts of climate change.</i></p>
<i>Policy UD.4 – Responsive Planning - consideration</i>	Oppose in part	We oppose clause (a)(iii) as it goes beyond the requirements of the NPS-UD and the RMA by preventing city and district councils from applying urban zones other than those where the Medium Density Residential Standards would be applied. It	Delete clause (a)(iii).

Provision	Support / oppose	Reasons and discussion	Decision sought
		<p>is not the role of the RPS to determine whether significant development capacity could be realised through other zoning, such as mixed-use zones and other centre zones.</p> <p>City and district councils do not require this degree of direction, and the suggested limitation on how housing may be provided for via zoning is not appropriate or useful for an RPS to specify.</p> <p>We recommend clause (d) is reworded in consultation with city and district councils to ensure it is fit for purpose and provides the necessary degree of discretion and direction for decision makers.</p>	
Objective 22A	Oppose in part	<p>We note the housing bottom lines are not required to be met in terms of housing that is to be built. The wording used in draft Objective 22A could be misread to refer to housing delivery rather than the amount of housing provided for in district plans.</p> <p>To address this we request the wording of this draft objective be amended as follows:</p> <p><i>In order to achieve sufficient development capacity to meet expected housing demand <u>in the short-medium and long term in the Wellington Tier 1 urban environment</u>, the following housing bottom lines in Table 9a are to be <u>provided for met or exceeded in the short-medium and long term in the Wellington Tier 1 urban environment</u>.</i></p>	<p>Amend draft Objective 22A as follows:</p> <p><i>In order to achieve sufficient development capacity to meet expected housing demand <u>in the short-medium and long term in the Wellington Tier 1 urban environment</u>, the following housing bottom lines in Table 9a are to be <u>provided for met or exceeded in the short-medium and long term in the Wellington Tier 1 urban environment</u>.</i></p>
<i>Objective 22B Development in the</i>	Oppose in part	It is unclear what is intended by rural areas being ‘strategically planned’. Significant values and features that fall under section 6 of the RMA are already required to be protected and managed under district plans. More explanation is	Amend Objective 22B to describe what is meant by strategically planning for rural areas.

Provision	Support / oppose	Reasons and discussion	Decision sought
<i>Wellington Region's rural area is strategically planned and impacts on significant values and features identified in this RPS are effectively managed</i>		required. The wording of Policy 56 provides no additional insights into what is required to achieve this objective.	<p>Amend Objective 22B to clearly identify the <i>significant values and features</i> identified in the RPS that are to be effectively managed. Explain what <i>effectively managed</i> means for district plans.</p> <p>Amend Policy 56 so the intended method(s) to achieve Objective 22B is described.</p>
<i>Table 9A: Housing bottom lines in the Wellington Tier 1 urban environment (page 50)</i>	Oppose in part	We note the long-term figure for the Kāpiti Coast District Council does not align with the figure from the latest HBA update.	We request the figures in this table are checked for consistency with the figures from the latest HBA updates for all Tier 1 city and district councils in the region.
<i>Policies 31 and UD.1 (pages 75 and 76).</i>	Oppose	<p>The wording of these policies does not acknowledge the requirements and impacts of implementing the Medium Density Residential Standards across all relevant residential zones by Tier 1 local authorities.</p> <p>We consider the concept of well-functioning urban environments under the NPS-UD cannot be described in the absence of describing the potential impacts on intensification and urban form that the implementation of the MDRS may result in. As currently worded, the policies only acknowledge part of the realities of planning for urban intensification and development via district plans.</p>	Amend this policy to ensure the requirements of the MDRS for Tier 1 local authorities, and the potential urban development outcomes resulting from the implementation of the MDRS are included.
<i>Policy CC.1 (page 77). Transport infrastructure</i>	Oppose	It is unclear to us what the policy would expect city and district councils to do through their district plans. Considering city and district councils have no responsibilities for discharges to air, and regional councils are responsible for	Delete Policy CC.1. or apply it only to regional councils.

Provision	Support / oppose	Reasons and discussion	Decision sought
		<p>public transport services, we find the policy confusing and without a legislative basis on which to base it on.</p> <p>We also note the suggested targets are greater than the targets set by the Government for domestic greenhouse gas emissions, and we are therefore wondering what the justification and evidence base for the draft targets is.</p>	
<p><i>Policy CC.2 Travel demand management plans – district plans.</i></p>	<p>Oppose</p>	<p>We strongly oppose this policy and consider a non-regulatory method appropriate for encouragement of the desired outcomes.</p> <p>We consider it inappropriate to require city and district councils to develop threshold targets. Traffic volumes and decisions by individuals on whether or not to use a private vehicle, buy an electric vehicle, or use public transport are not matters that can be addressed or required via regulatory methods in a district plan. Council already requires transport assessments on developments where it is considered to be appropriate, and this often includes travel plans to address transport effects where specific transport concerns are identified.</p> <p>We also strongly oppose the suggested requirement for a formal plan change to give effect to this policy by June 2025. We recommend deleting policy or amending it to provide for non-regulatory methods to encourage the desired changes in travel mode.</p>	<p>Delete policy CC.2 or amend it to require non-regulatory methods that will be explored by Greater Wellington Regional Council and city and district councils in partnership.</p>
<p><i>Policy CC.3 Environmental integration in urban development – district plans.</i></p>	<p>Oppose</p>	<p>This policy appears to have been drafted in the absence of the consideration of the impacts of the increased intensification and as-of-right intensification that can occur under the MDRS once incorporated into district plans from no later than 20 August 2022.</p> <p>We request this policy, if it is to be retained, should take a non-regulatory approach or be in the form of encouragement and support rather than directing regulatory methods to be included in district plans.</p>	<p>Delete policy CC.3, or amend to remove regulatory methods.</p>

Provision	Support / oppose	Reasons and discussion	Decision sought
<p><i>Policy CC.4 Enabling a shift to low and zero carbon emission transport – district plans.</i></p>	<p>Oppose</p>	<p>A recurring theme in the Draft RPS Change 1 is the focus on regulatory methods in the absence of demonstrated legislative support or evidence that a non-regulatory method would not be more appropriate. We do not consider a district plan (or a RPS for that matter) to be the most efficient or effective method to achieve the intent of this policy. We also note the policy appears to overlook the fact it is unlawful for district plans to include provisions that have the effect of requiring a minimum number of car parks (unless they are accessible car parks). This prohibition would extend to requiring specific electric vehicle charging spaces.</p> <p>District plans cannot not include rules or standards that manage or require the installation of EV charging stations. EV charging stations generally require at least one car park associated with them, and district plans cannot lawfully include provisions that have the effect of requiring a minimum number of car parks be provided. If EV charging stations fall within private property, they are at the discretion of the landowner. If they are within public land they are at the discretion of the Council as asset owner. We recommend Greater Wellington Regional Council consider the use of incentives rather than attempting to force regulation via district plans to achieve the aims of the policy and relevant objective.</p>	<p>Delete Policy CC.4 and consider other methods to achieve the desired outcomes.</p>
<p><i>Policy 67 – Establishing and maintaining well-functioning urban environments.</i></p>	<p>Support in part.</p>	<p>We note the MDRS significantly limits the scope of urban design influence for medium density residential development, and we consider the RPS needs to be updated to reflect this reality.</p> <p>We request this policy be strengthened by more specifically identifying design guides within district plans to apply to medium and high density residential development. This would assist city and district councils to include design guides to help give effect to NPS-UD Policy 1, and Objective 1, and Policy 3 of the MDRS (RMA Schedule 3A, Clause 6(2)(c)) with respect to encouraging development to</p>	<p>Amend Policy 67 to highlight the importance of the use of design guides in district plans to establish and maintain well-functioning urban environments.</p>

Provision	Support / oppose	Reasons and discussion	Decision sought
		achieve attractive and safe streets and public open spaces, including by providing for passive surveillance.	
4.1 Regulatory Policies – direction to district and regional plans and the Regional Land Transport Plan			
<p><i>Energy, infrastructure and waste</i></p> <p><i>Policy 11 – Promoting and enabling energy efficient design and small scale renewable energy generation – district plans (pages 57, 64 etc).</i></p>	Oppose in part	<p>The change to this policy is to require district plans to promote <i>and enable</i> energy efficient design and small scale energy generation. If district plans are required to enable small scale energy generation, we consider a definition for what the RPS considers <i>small scale energy generation</i> to include must be provided so city and district councils can consider what the potential implications and effects of these activities may be.</p> <p>It is also unclear what the rationale is for deleting clauses (c) and (d) of this policy.</p>	The draft RPS Change 1 includes a definition for <i>small scale energy generation</i> to enable councils to consider the implications of enabling such activities through the district plan.
Natural Hazards			
<p><i>Policy 29 Avoiding inappropriate subdivision, use and development in areas at risk from natural hazards (page 72).</i></p>	Support in part.	<p>We support the amendments that will require regional plans to take a greater role in the management of subdivision, use and development in areas at risk from natural hazards. The focus on all levels of natural hazard risk is particularly supported as this would reflect the requirements of section 30 of the Act.</p> <p>We do not support proposed clause (c), as it is unclear what a <i>low, tolerable or intolerable</i> risk is. We do not see any additional benefit from this clause over what the New Zealand Coastal Policy Statement, and the existing wording of RPS Policy 29 already provide – i.e. the avoidance of <i>inappropriate</i> subdivision, use and development in hazard-prone areas. We note resource management case law exists on what is considered <i>inappropriate</i> subdivision, use and development</p>	<p>Retain the shift in focus to all natural hazard risks.</p> <p>Delete draft clause (c) and retain the use of <i>inappropriate</i>.</p>

Provision	Support / oppose	Reasons and discussion	Decision sought
		with respect to natural hazard risks, but we are not aware of any case law that refers to <i>low, tolerable</i> or <i>intolerable</i> levels of risk.	
Transport and Infrastructure			
Policy 58	Oppose in part.	<p>We consider it is unrealistic to <i>ensure</i> all infrastructure necessary to support new development as part of a plan change (rezoning) or a resource consent is available, consented, designated, or programmed to be available prior to development occurring. This goes beyond the requirements of clause 3.4 of the NPS-UD.</p> <p>For plan changes in particular, rezoning for the purposes of identifying future urban zones does not require the planning and scheduled delivery of the necessary infrastructure to this degree of detail.</p> <p>We also note public transport necessary to support new development falls beyond the control of city and district councils, so it is entirely inappropriate to require this to be available, consented, designated or programmed prior to development occurring under a district plan. We note in Kāpiti the availability and frequency of public transport to some areas already zoned for additional development such as passenger rail services to Otaki is low. If it was a requirement for city and district councils to <i>ensure</i> public transport is available to serve new development before new development occurs, new development would simply not occur in some parts of the district.</p>	Delete draft clause (b) of policy 58.
<i>Policy CC.9</i>	Oppose	We consider this draft policy attempts to direct how city and district councils will give effect to Section 8 of the RMA. These decisions are for the individual city and district councils within the region to make in partnership with tangata whenua. It is not the role of an RPS to direct how these partnerships work, or set out the matters a district plan must deliver to take into account the principles of the Treaty of Waitangi. This is not a power given to regional councils under the RMA.	Delete Policy CC.9. Alternatively, amend Policy CC.9 so it applies only to the planning decisions of the regional council.

Provision	Support / oppose	Reasons and discussion	Decision sought
<i>Policy CC.11 Freight.</i>	Support	We support the direction on the matters that should be considered when considering proposals for freight distribution centres.	Retain Policy CC.11.
<i>Policy CC.12</i>	Oppose in part	We oppose this policy on the grounds it applies to district and city councils. Emissions do not fall under the jurisdiction of city and district councils.	Delete requirement for city and district councils under Policy CC.12. Ensure this is a regional council matter only.
<p><i>Policy CC.13 – Prioritising carbon emissions reduction over offsetting.</i></p> <p><i>Policy CC.14 - Protecting, restoring, and enhancing ecosystems and habitats that provide nature-based solutions to climate change.</i></p> <p><i>Policy CC.15 – Reducing agricultural gross biogenic methane emissions.</i></p> <p><i>Policy CC.16 – Increasing regional forest extent.</i></p>	Oppose	<p>There is no statutory basis under the RMA or higher-level statutory planning documents to <i>require</i> particular regard be given to most of the matters raised by these draft policies when considering an application for resource consent, a notice of requirement, or a change to a district plan.</p> <p>Given the lack of a statutory basis for these matters, it is unclear how district plans could reasonably give particular regard to any of them in its decision making under the RMA. The only draft provision that city and district councils could reasonably have particular regard to when considering a resource consent or notice of requirements would be activities that fall under section 108(2)(c) of the Act as follows:</p> <p><i>(1) Except as expressly provided in this section and subject to section 108AA and any regulations, a resource consent may be granted on any condition that the consent authority considers appropriate, including any condition of a kind referred to in subsection (2).</i></p> <p><i>(2) A resource consent may include any 1 or more of the following conditions:</i></p> <p><i>(c) a condition requiring that services or works, including (but without limitation) the protection, planting, or replanting of any tree or other vegetation or the protection, restoration, or enhancement of any natural or physical resource, be provided:</i></p>	<p>Delete Policy CC.13, or apply it only to regional consents and changes to a regional plan.</p> <p>Alternatively, consider non-regulatory methods to encourage these activities.</p>

Provision	Support / oppose	Reasons and discussion	Decision sought
<p><i>Policy CC.17 Climate resilient urban environments.</i></p> <p><i>Policy IM.1 Integrated Management – ki uta ki tai.</i></p>			