

Form 5

Submission on notified proposal for plan change

Clause 6 of Schedule 1, Resource Management Act 1991

To: Greater Wellington Regional Council

Name of submitters: R P Mansell; A J Mansell, & M R Mansell

Contact person for submission: Chris Hansen; RMA Planning Consultant

This is a submission on the following plan change proposed to the Operative Natural Resources Plan for the Wellington Region (the **proposal**):

- Proposed Plan Change 1 to the Natural Resources Plan (PC1)

The specific provisions of the proposal that the submission relates to are:

- Definition – ‘Unplanned greenfield development’
- Planning Maps 86, 87, 88 and 89
- Objectives WH.O6; P.O5
- Policies WH.P1; WH.P2; WH.P5; WH.P6; WH.P16; P.31; P.P1; P.P2; P.P5; P.P6; P.P15; P.P29
- Rules WH.R5; WH.R6; WH.R12; WH.R13; WH.R24; WH.R25; P.R5; P.R6; P.R11; P.R12; P.R23; P.R24;

The submitters seek the following decision from the Greater Wellington Regional Council:

- Refer to submission attached.

The submitters wish to be heard in support of their submission.

The submitters would consider presenting a joint case at the hearing with others who make a similar submission.

The submitters could not gain an advantage in trade competition through this submission.



Person authorised to sign
on behalf of submitters

Date: 15 December 2023

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Contact person: Chris Hansen, RMA Planning Consultant

Submission on notified Proposed Plan Change 1 (PC1) to the operative Natural Resources Plan (NRP)

Overview

The following submission is on behalf of R P, A J and M R Mansell (the submitters) to proposed Plan Change 1 (PC1) to the operative Natural Resources Plan (NRP). The submitters have a number of property interests in Kāpiti and Horowhenua. The submitters have been involved in the planning and consenting of greenfield developments in these areas, and have future development opportunities in the pipeline.

While the submitters acknowledge that PC1 to the operative Natural Resources Plan (NRP) only addresses matters directly relevant to the Whaitua Te Whanganui-a-Tara and Te Awarua-o-Porirua Whaitua in the Wellington Region, they note that the intention is for GWRC to introduce a plan change at a later date to cover the remaining Whaitua in the region, including the Kāpiti Coast that extends to just north of Otaki and anticipates that will take a similar approach to unplanned greenfield development.

The submitters are therefore concerned that the approaches to managing greenfield development, and associated point source and stormwater discharges and earthworks, will be worked through as part of PC1 and then brought into a future plan changes for other Whaitua making it difficult for the submitters to challenge any provisions if they have already been through a statutory process. There would also be a strong case for consistency across the different Whaitua which would also be difficult to contest.

It is within this context that the submitters make some general submission points regarding the approaches taken in the objectives, policies and rules to activities associated with greenfield development.

Submission Points

The submitters makes the following submission points on PPC1:

Submission Point #1 – Unplanned greenfield areas/development

PC1 defines ‘*Unplanned greenfield developments*’ as:

“Greenfield development within areas identified as ‘unplanned greenfield area’ on maps 86, 87, 88 and 89 which also require an underlying zone change (from rural/non-urban/open space to urban) though a District Plan change to enable the development.”

Note: Unplanned greenfield areas are those areas that do not have an urban or future urban zone at the time of Plan Change 1 notification, 30th October 2023.”

The submitters note PC1 distinguishes between a *'planned/existing urban area'* and *'unplanned greenfield areas'* on the planning maps, and places a number of restrictions (including a prohibited activity rule) to control some activities associated unplanned greenfield development.

PC1 requires a dual plan change process in order to change a greenfield development from unplanned to planned. Adopting a plan change process to change the activity should not be used as an alternative to the resource consenting process, but this appears to be the approach taken in PC1. There are restrictions on when private plan change requests can be made and Council has discretion as to whether they reject those requests or not, including not meeting priorities and whether the matter had been considered within the last 2 years. (clause 25, schedule 1 RMA). There is no certainty that a private plan change process is available.

The submitters strongly oppose this approach which presumes only planned/existing greenfield development should be provided for in PC1, and any unplanned greenfield development requires a dual plan change.

This is contrary to Objectives 2 and 6 and Policies 1(d) and 8 of the National Policy Statement – Urban Development (NPS-UD) and prohibiting some activities (as discussed below) is unnecessary and unjustified. It is at odds with the requirements in the NPS-UD for Councils to be responsive to unanticipated or out of sequence development.

There appears to be little evidential basis in the s32 evaluation report for implementing this policy and the costs and effect of it, have not been properly considered.

Decision Sought

The submitters seek the following:

- i. All greenfield development to be considered on their merits, regardless of whether they are located within planned or future planned urban areas, and for the GWRC to rely on provisions in the NRP and district plan zoning/provisions to manage the adverse effects of greenfield development in order to implement Objectives 2 and 6 and Policies 1(d) and 8 of the NPS-UD;
- ii. The deletion of all provisions in PC1 referencing *'unplanned greenfield development/areas'* including:
 - a. the definition (page 10 of PC1);
 - b. the *'unplanned greenfield areas'* notation included on the planning maps 86, 87, 88 and 89;
 - c. Policies WH.P2; WH.P16; P.P2; P.P15;
 - d. Rules WH.R5; WH.R6; WH.R13; P.R5; P.R6; P.R12.

Submission Point #2 – Use of prohibited activity status

Following on from above, the submitters note PC1 has included in the policies avoidance (i.e. Policies WH.P5 & P.P5; WH.P6 & P.P6; WH.P16 & P.P15) or prohibiting (i.e. Policies WH.P2 & P.P2) of certain activities leading to prohibited activity status rules (i.e. Rules WH.R1 & P.R1; WH.R13 & P.R12) for stormwater discharges associated with unplanned

greenfield development. As discussed above, PC1 relies on a dual plan change process to change an unplanned greenfield area to a planned greenfield area that would allow for new greenfield development.

Prohibiting unplanned greenfield development and requiring the resource user to go through two plan changes to change both the district and regional plans is a misuse of the prohibited activity category which is intended to be used with care and where the effects are easily identifiable and discrete - in this case the effects of the prohibited activity are not specified for any particular area, and the extent of the area does not warrant a blanket approach

The submitters oppose this approach which is onerous and will result in costs and delays to resource users and would not result in the implementation of the NPS-UD. The submitters consider the current rules of the NRP and proposed rules in PC1 for new greenfield development in planned/existing urban areas are able to manage any adverse effects associated with unplanned greenfield development (which are no different to any new greenfield development) and the provisions avoiding or prohibiting activities associated with unplanned greenfield development should be deleted.

Decision Sought

The submitters seek the amendment of the policies to provide for the *'avoidance or minimising'* of adverse effects associated unplanned greenfield developments (Policies WH.P5 & P.P5; WH.P6 & P.P6; WH.P16 & P.P15), and the deletion or recategorising of the prohibited activity status for stormwater discharge activities associated with 'unplanned greenfield development' (Policies WH.P2 & P.P2; Rules WH.R13; P.R12).

Submission Point #4 – Inclusion of 'protect' provisions

The submitters note Objectives WH.O6 & P.O5 intend to 'protect' groundwater dependent ecosystems and ecosystems in connected surface water bodies, and 'avoid' aquifer consolidation (Objective WH.O6). The submitters oppose these approaches as they lead to restrictive and unnecessary restrictions in policies and rules to appropriately implement the objective. The submitters consider an effects management approach is more appropriate and provides a balanced response.

Decision Sought

The submitters seek the objectives be amended to delete the 'protect' requirement and replace it with 'ensure that' approach, and add to 'avoid' the requirement to 'avoid or minimise'.

The following is an example of how Objective WH.O6 could be amended:

- i. Clause (b) be amended to read: "~~protect~~ ensure that groundwater dependent ecosystems are maintained or improved where degraded"
- ii. Clause (c) be amended to read: "~~protect~~ ensure that ecosystems in connected surface water bodies are maintained or improved where degraded, and"
- iii. Clause (f) be amended to read: "avoid or minimise aquifer consolidation"

The following is an example of how Objective P.O5 could be amended:

“Groundwater flows and levels, and water quality, are maintained at levels that ~~protect~~ ensure that:

*(a) groundwater dependent ecosystems are maintained or improved where degraded, and
(b) the values of connected surface water bodies in places where groundwater flows to surface water are maintained or improved where degraded.”*

Submission Point #5 – Improvement of aquatic ecosystem health

The submitters note that Policies WH.P1 & P.P1 do not accurately reflect the objectives being to maintain the aquatic ecosystem health where TAS are met, and improving them where TAS is not currently met. The submitters consider the objectives provide more flexibility than only ‘improve’ approach in the policy.

Decision Sought

The submitters seek the following amendments to Policies WH.P1 and P.P1 to better reflect and implement the objectives (or similar wording):

“Improvement of aquatic ecosystem health

Aquatic ecosystem health will be maintained or improved where relevant target attribute state is not met by:

- (a) progressively reducing the load or concentration of contaminants, particularly sediment, nutrients, pathogens and metals, entering water where relevant target attribute state is not met, and*
- (b) maintaining or restoring habitats where relevant target attribute state is not met, and*
- (c) maintaining or enhancing the natural flow regime of rivers and managing water flows and levels where relevant target attribute state is not met, including where there is interaction of flows between surface water and groundwater, and*
- (d) co-ordinating and prioritising work programmes in catchments that require changes to land use activities that impact on water.”*

Submission Point #6 – Managing stormwater discharges

The submitters generally support the effects management approach relating to contaminants in stormwater discharges, except for the non-complying activity status (Rules WH.R12 & P.R11) for activities that are not permitted, controlled, restricted discretionary or discretionary in the relevant rules which the submitters consider is onerous and unnecessary. The submitters consider a discretionary activity status is appropriate for non-compliance with one or more of the various conditions and matters of discretion in the relevant rules as the adverse effects of that part of the activity that cannot comply can be identified and assessed, and the application can be declined if the adverse effects are inappropriate and cannot be mitigated. The submitters also oppose the prohibiting activity status of stormwater discharges from unplanned greenfield development as discussed in Submission Point #2 above.

Decision Sought

The submitters seek the retention of the effects management approach relating to contaminants in stormwater discharges, the recategorizing of the non-complying activity status of Rules WH.R12 & P.R11 to discretionary activity, and deleting the prohibited activity status of stormwater discharges from unplanned greenfield development as discussed in Submission Point #2 above.

Submission Point #8 – Managing stormwater from impervious surfaces

The submitters note Rules WH.R5 and P.R5 permit stormwater discharges from new and redeveloped impervious surfaces less than 1,000m²; Rules WH.R6 and P.R6 control stormwater discharges from new and redeveloped impervious surfaces greater than 1,000m² but less than 3,000m²; and Rules WH.R11 and P.R10 provide as discretionary activity stormwater discharges from new and redeveloped impervious surfaces that are not permitted or controlled.

While the submitters generally support the activity status of these rules for stormwater discharges, they have following concerns:

- i. The submitters oppose the exclusion of ‘unplanned greenfield development’ included in the Rules WH.5 and P.R5. Reference to unplanned greenfield development is unnecessary and inappropriate as the rule is clearly focused on new or redevelopment of existing impervious surfaces, which is reasonable and pragmatic
- ii. The submitters are concerned that Clause (a) seems to restrict all impervious area to less than 1000m³ (Rules WH.R5 & P.R5), between 1000m² and 3,000m² (Rules WH.R6 & P.R6) for the entire site for all time which is considered onerous and overly limiting. Such an approach does not account for a large site being subdivided into lots, or if the impervious surfaces are historical;
- iii. The submitters oppose the reference to the prohibited activity Rules WH.R13 P.R12 relating to ‘unplanned greenfield development’ which they are seeking deletion in Submission Point #2 above.

Decision sought:

The submitters seek the following:

- i. Retention of the permitted, controlled and discretionary activity status of Rules WH.R5; P.R5; WH.R6; P.R6; WH.R11 and P.R10;
- ii. The following amendment to Clause (a) of Rules WH.R5; P.R5; WH.R6; and P.R6: *“the proposal involves the creation of new, or redevelopment of existing impervious areas of less than 1,000m² on an existing lot or future subdivided lot over a 12 month period (baseline property existing impervious area as at 30 October 2023) and...”*;
- iii. The deletion of the reference to Rule WH.R13 in Rule WH.R11 and P.R12 in P.R10.

Submission Point #9 – Managing earthworks

The submitters generally support the effects management approach relating sediment discharges from earthworks, except for the non-complying activity status (Rules WH.R25 & P.R24) for activities that are not permitted or restricted discretionary activity in the relevant

rules which the submitters consider is onerous and unnecessary. The submitters consider a discretionary activity status is appropriate for non-compliance with one or more of the various conditions and matters of discretion in the relevant rules as the adverse effects of that part of the activity that cannot comply can be identified and assessed, and the application can be declined if the adverse effects are inappropriate and cannot be mitigated. The submitters also oppose the shut down period for earthworks included in Policies WH.P31 & P.P29 and Rules WH.R24 & P.R23 as the requirements are onerous and will delay developments, and are not required with the standards/conditions set in the policies and rules

Decision Sought

The submitters seek the retention of the effects management approach relating to sediment discharges from earthworks, the recategorizing of the non-complying activity status of Rules WH.R25 & P.R24 to discretionary activity, and the deletion of the shut down requirements included in Policies WH.P31 & P.P29 and Rules WH.R24 & P.R23

Submission Point #10 – Quality of mapping

The submitters note PC1 is accompanied by a series of maps that show (amongst other things) unplanned greenfield areas and highest erosion risk areas (land for pasture, woody vegetation, and plantation forestry). The submitters are concerned that the quality of mapping is poor, and when zooming in on a particular site the pixelation that occurs means it is sometimes difficult to determine where a notation starts and finishes on a site. The submitters are concerned a similar mapping quality will be provided with subsequent plan changes for the remaining Whaitua.

Decision Sought: the submitters seek the mapping for future plan changes be improved to a higher quality so that when zooming in on a site on the map a resource user can easily determine where the relevant areas are located on a site.