

SUBMISSION ON PROPOSED PLAN CHANGE 1 TO THE NATURAL RESOURCES PLAN FOR THE WELLINGTON REGION UNDER CLAUSE 6 OF SCHEDULE 1 OF THE RESOURCE MANAGEMENT ACT 1991

TO: Greater Wellington Regional Council ("**Council**")
regionalplan@gw.govt.nz

SUBMITTER: Waste Management NZ Limited ("**Waste Management**")

SUBMISSION ON: Proposed Plan Change 1 to the Natural Resources Plan for the Wellington Region ("**PC1**")

Introduction

1. Waste Management welcomes the opportunity to provide feedback on PC1.
2. Waste Management is New Zealand's largest waste and environmental services company, with a long history in New Zealand dating back to 1935. The company is the market leader in the waste sector in New Zealand with an established national network of vertically integrated local waste and environmental management services.
3. Waste Management owns or has operational interest in several landfills, refuse transfer stations, materials recovery facilities and other waste services across New Zealand. It has a variety of interests in Lower Hutt in the Wellington Region, including a hazardous waste facility at 57 – 59 Port Road, the Seaview Refuse Transfer Station at 27 Seaview Road, and a proposed resource recovery park at 30 Benmore Crescent, Manor Park.
4. Waste Management relies on robust planning provisions to protect and enable the regionally significant essential infrastructure that we develop and operate. We are also strongly committed to ensuring our projects and operations contribute to positive outcomes for New Zealand's environment and communities.

Scope of submission

5. This submission relates to PC1 in its entirety. This submission is focussed on those aspects of PC1 that have the potential to impact Waste Management's existing and future operations of essential waste infrastructure in the region. The specific provisions of PC1 that this submission relates to are set out in **Attachment 1**. Some provisions addressed in **Attachment 1** are supported by Waste Management and others are opposed with amendments sought to address Waste Management's concerns. To the extent a provision of PC1 is not specifically addressed in **Attachment 1**, Waste Management supports that provision as notified.
6. Waste Management could not gain an advantage in trade competition through this submission.

Reasons for submission

7. For those provisions of PC1 that require amendment as sought by Waste Management below, those provisions will not (without amendments proposed by Waste Management):
- (a) promote the sustainable management of resources or achieve the purchase of the RMA and are contrary to Part 2 and other provisions of the RMA;
 - (b) enable the social and economic wellbeing of the community;
 - (c) meet the reasonably foreseeable needs of future generations;
 - (d) achieve integrated management of the effects of use, development or protection of land and resources in the Wellington Region;
 - (e) enable the efficient use and development of Waste Management's assets and operations, and of those resources; and
 - (f) appropriately achieve the objectives of the Regional Policy Statement, in terms of section 32 of the RMA.
8. Waste Management supports maintaining and improving water quality in the Wellington Region. However, it considers PC1 goes beyond the control of land for the purpose of maintaining the quantity and quality of water bodies and coastal waters, and steps into strategic planning and controlling the location of land use development. This has the effect of unduly constraining development of "greenfield sites" including the site proposed for the resource recovery park at 30 Benmore Crescent, Manor Park.

Specific reasons for submission

9. Without derogating from the generality of the above, the specific reasons for Waste Management's submission are set out in **Attachment 1** to this submission. **Attachment 1** is a table setting out the relevant PC1 provision; whether Waste Management supports or opposes the provision; the specific relief sought; and the reasons for that position.

Decision sought

10. Waste Management seeks the following decision in respect of PC1:
- (a) amendments to the provisions and maps to appropriately and adequately address the matters in this submission including, as a minimum the relief set out in **Attachment 1**;
 - (b) that subject to these amendments, the provisions and maps in PC1 are otherwise confirmed as notified; and
 - (c) any other relief or consequential amendments necessary to address the concerns set out in this submission.

11. Waste Management wishes to be heard in support of its submission.
12. If any other submitters make a similar submission, Waste Management will consider presenting a joint case with them at the hearing.

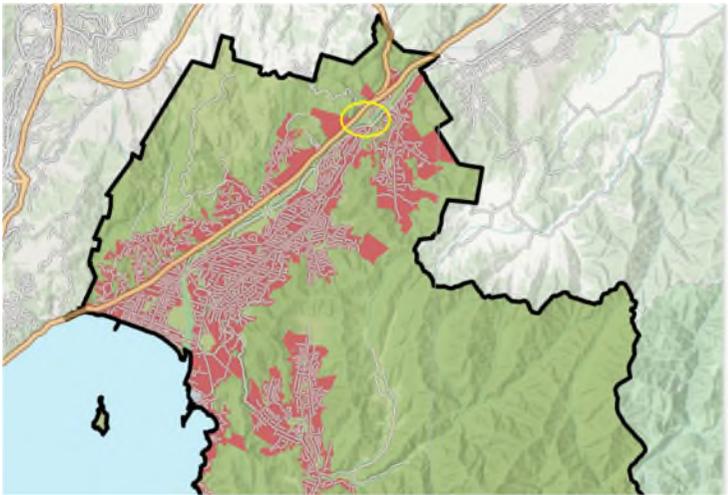
Name: **Jim Jefferis**
Head of Environment and Consents

Date: 15 December 2023

Address for Service: C/O Jim Jefferis
Waste Management NZ Ltd
Private Bag 14919
Panmure
Auckland 1741

Email: jjeffers@wastemanagement.co.nz

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Provision	Support/Oppose	Relief	Reasons
Maps			
<p>Map 89 (Unplanned Greenfield Areas – Hutt City Council)</p>	<p>Oppose</p>	<p>Waste Management seeks that 30 Benmore Crescent (location illustrated by the yellow circle) be deleted from the 'unplanned greenfield development' overlay on Map 89.</p> 	<p>Waste Management opposes the inclusion of 30 Benmore Crescent within the 'unplanned greenfield development area' shown on Map 89.</p> <p>Planning for the site to be used for a resource recovery park is well advanced, with several expert assessments undertaken that demonstrate the use is suitable and environmental effects, including those associated with stormwater discharge, are able to be managed. As such, it should be considered part of the 'planned / existing urban area'.</p>
Definitions			
<p><i>Unplanned Greenfield Development</i></p>	<p>Oppose</p>	<p>Waste Management seeks the definition of 'Unplanned Greenfield Development' be amended as set out below:</p> <p><i>Greenfield-Development of sites within areas identified as 'unplanned greenfield area' on maps 86, 87, 88 and 89 which also require an underlying zone change (from</i></p>	<p>The definition is ambiguous and will unduly restrict development.</p> <p>Without limitation, the definition is uncertain because:</p>

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		<p>rural/non-urban/open space to urban) though a District Plan change to enable the development. that rely on the construction of public infrastructure. Public infrastructure is any wastewater, stormwater, water supply pipe or road that is not in private ownership.</p> <p><u>Unplanned greenfield development excludes:</u></p> <ul style="list-style-type: none"> • <u>sites where consents have been lodged with a Territorial Authority for urban activities prior to 30th October 2023.</u> • <u>Sites where land use consents have been granted for urban activities, including where those consents have not yet been implemented and have not lapsed.</u> • <u>Development that requires upgrades or modification of existing infrastructure, including road widening.</u> • <u>Development within any mapped unplanned development area that has an urban zone.</u> • <u>Waste management facilities, including resource recovery parks, refuse transfer and recycling facilities.</u> <p><u>Note: Unplanned greenfield areas are those areas shown on maps 86, 87, 88 and 89.</u></p> <p>those areas that do not have an urban or future urban zone at the time of Plan Change 1 notification, 30th October 2023.</p>	<ul style="list-style-type: none"> - It refers to “Greenfield Development”, which is not a defined term, and is inherently uncertain. - It refers to Greenfield Development which “requires an underlying zone change”. However, strictly, no activity “requires an underlying zone change” unless it is already identified as a prohibited activity, as consent can be sought in relation to all other activity statuses.

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Provision	Support/Oppose	Relief	Reasons
<i>Stormwater</i>	Support	That the definition be retained.	Support definition as it is consistent with the National Planning Standards.
<i>High risk industrial and trade premise</i>	Oppose	<p>Waste Management seeks the following amendment to the definition:</p> <p><u><i>High risk industrial and trade premise-areas</i></u></p> <p><u><i>Areas of a site where -industrial or trade activities are undertaken that drain to a stormwater network, or private stormwater management system that discharges to water or to land where there is potential for the discharge to enter water.</i></u></p> <p><u><i>Industrial and trade activities</i></u></p> <p><u><i>Industrial and trade activities in the high risk industrial and trade areas definition are those that store, use or generate contaminants or hazardous substances on-site that are exposed to rain and could become entrained in stormwater.</i></u></p>	<p>The definition is ambiguous. The definition should instead refer to 'high risk industrial and trade areas'.</p> <p>The definition of 'high risk industrial and trade areas' should also specifically exclude sites (or parts of a site) where industrial and trade activities are undertaken but there is no discharge from these activities to stormwater. For example, areas that are indoors or covered by a roof and bunded. Various consequential amendments may be required throughout PC1 to address this submission point.</p>
<i>Impervious Surfaces</i>	Support in Part	<p>Waste Management seek that the definition of 'Impervious Surfaces' be amended as follows:</p> <p><i>Surfaces that prevent or significantly impede the infiltration of stormwater into soil or the ground, includes:</i></p> <ul style="list-style-type: none"> • <i>roofs</i> 	<p>Waste Management supports the inclusion of a definition of impervious surfaces but seeks amendment to the list of surfaces excluded from the definition.</p> <p>The exclusion relating to 'roof areas with rainwater collection and reuse' requires clarification to note that 100% retention is not required. This would cover instances where</p>

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		<ul style="list-style-type: none"> • <i>paved areas (including sealed/compacted metal) such as roads, driveways,</i> ▪ <i>parking areas, sidewalks/foot paths or patios,</i> <p><i>and excludes:</i></p> <ul style="list-style-type: none"> • <i>grassed areas, gardens and other vegetated areas</i> • <i>porous or permeable paving or concrete (including driveways, roads and parking areas)</i> • <i>slatted decks which allow water to drain through to a permeable surface</i> • <i>porous or permeable paving and living roofs</i> • <i>roof areas with rainwater collection and reuse</i> • <i>any impervious surfaces directed to a rain tank utilised for grey water reuse (permanently plumbed, and excluding any overflows)</i> • <i>any impervious surfaces where water is directed to living walls</i> 	<p>there are overflows from retention tanks, which are generally unavoidable in more intense rainfall events.</p>
<i>Stormwater Network</i>	Support in Part	<p>Amendment to the definition of ‘Stormwater Network’ as set out below:</p> <p><i>The network of devices designed to capture, detain, treat, transport and/or discharge stormwater, including but not</i></p>	<p>A stormwater network is commonly understood to be that controlled by a network utility operator and not assets (such as ponds) which remain in private ownership. Amendment is sought to this effect.</p>

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		<p><i>limited to stormwater treatment systems, kerbs, intake structures, pipes, soak pits, sumps, swales and constructed ponds and wetlands, and that serves a road or more than one property.</i></p> <p><u><i>Stormwater assets which have not been vested and remain in private ownership do not form part of the stormwater network for the purposes of this definition.</i></u></p>	
Policies			
Policy WH.P2(a)	Oppose	<p>Amend Policy WH.P2(a) as set out below:</p> <p><i>Target attribute states and coastal water objectives will be achieved by regulating discharges and land use activities in the Plan, and non-regulatory methods, including Freshwater Action Plans, by:</i></p> <p><i>(a) restricting avoiding—discharges from unplanned greenfield development and for other greenfield developments minimising the contaminants and requiring financial contributions as to offset adverse effects from residual stormwater contaminants, and</i></p>	<p>Waste Management opposes the policy direction to prohibit unplanned greenfield development. There may be situations where discharges from unplanned greenfield development are able to be managed and have an acceptable effect. Not all discharges from unplanned greenfield development areas need to be avoided to achieve target attribute states. Each proposal requires assessment on a case-by-case basis.</p> <p>Clause (a) would better achieve the intent of higher order documents if it referred to ‘restricting’ discharges from unplanned greenfield development.</p>
Policy WH.P11	Support in Part	Consequential amendment to refer to ‘high risk industrial and trade area’.	Consequential amendment to refer to ‘high risk industrial and trade area’ in line with relief sought above.

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Provision	Support/Oppose	Relief	Reasons
Policy WH.P16	Oppose	<p>Amend Policy WH.P16 as follows:</p> <p><i>Avoid–<u>Minimise</u> all new stormwater discharges from unplanned greenfield development where the discharge will enter a surface water body or coastal water, including through an existing local authority stormwater network.</i></p>	<p>As set out above, the definition of ‘unplanned greenfield development’ is ambiguous. As it could be broadly interpreted, avoiding all stormwater discharges is not practicable. Even with retention and detention there is still likely to be a discharge in higher intensity rainfall events.</p> <p>As such, the policy may have the consequence of restricting or preventing individual land use developments in the rural zone.</p> <p>Waste Management seek that ‘avoid’ is deleted from the policy and replaced with ‘managed.’</p>
Rules			
Rule WH.R13	Oppose	Deletion of Rule WH.R13 in its entirety.	<p>Prohibited activity status is the most draconian form of control available under the RMA. Use of prohibited activity status must be subject of a robust section 32 analysis demonstrating that it is the most appropriate of the options available. Examples of where prohibited activity status might be considered appropriate are where it can be demonstrated that the relevant activity can, from an effects-perspective, in no circumstances ever be allowed within the relevant area, for the lifetime of the relevant plan, or where the local authority has insufficient information available to it to determine whether prohibited activity status is the most appropriate activity status or not (<i>Coromandel Watchdog of Hauraki Inc v Ministry of Economic Development</i> [2007])</p>

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			<p>NZCA 473). Waste Management says those circumstances do not arise in the present case.</p> <p>There is no evidence that the discharge of stormwater from impervious surfaces from unplanned greenfield development will have an unacceptable effect in all cases. Further, it is clear that any inappropriate adverse effects associated with the establishment of new impervious surfaces can be appropriately identified and managed through the resource consent process, including through the decline of resource consent in instances where those adverse effects cannot be appropriately avoided, remedied or mitigated.</p> <p>In addition, the proposed rule is ambiguous insofar as it will not always be clear that new impervious surfaces are associated with ‘unplanned greenfield development’ given the ambiguity of that defined term. Accordingly, the rule has the potential to unduly restrict land use activities that can appropriately be undertaken in the rural zone, with resource consent or as a permitted activity.</p> <p>Waste Management seeks that rule WH.R13 is deleted. If such a rule is to remain the activity status should be discretionary or non-complying and the definitions and intent of the rule must be revised for clarity of intent and application.</p>

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Provision	Support/Oppose	Relief	Reasons
Rule R35	Support	Retain Rule.	Rule is supported.
General			
Other stormwater provisions eg WH.R4, WH.R11	Oppose	Amendments to provide for industrial and trade activities.	Waste Management is concerned the stormwater provisions do not appropriately provide for industrial and trade activities.