

**Before Independent Hearing Commissioners In Ngāruawāhia**

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Under the Resource Management Act 1991 (the Act)

In the matter of The Proposed Waikato District Plan – Hearing 27: Natural Hazards and Climate Change

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**Summary Statement of Evidence of**

**James Gary Beban and Sarah Nerine Gunnell for Waikato Regional Council**

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## **1. Introduction**

- 1.1. WRC is overall supportive of the risk-based approach taken by the PWDP, including the need for mitigation and adaptation in areas subject to natural hazards that have already been developed, in order to reduce existing risk. Overall, WRC seeks amendments to better ensure that development is avoided in areas of high risk and is managed in areas of lower risk. The amendments sought also provide for better recognition of high consequence, low probability natural hazards (e.g. tsunami, liquefaction), residual risk and climate change.
- 1.2. Other focuses and key outcomes of WRC's evidence include:
  - Ensuring a consistent approach to various use and development outcomes through addressing gaps in the policy and rule framework
  - The inclusion of 'natural hazard sensitive land uses' to better enable assessment of changes in risk profile associated with changes in land use;
  - Adequate consideration of residual risk in Defended Areas in policy and decision-making;
  - Providing for risk to be assessed in areas not identified in the District Plan or maps, but where it is known that risk exists.
  - Strengthening consideration of the effects of climate change.
- 1.3. To support our evidence the WRPS Implementation Practice note on Natural Hazards was attached and referred to where necessary to help interpret and assist in the implementation of the WRPS provisions on natural hazards, integrated management and development in the coastal environment.
- 1.4. Note this summary largely does not cover matters of WRC's submission that have been accepted or sufficiently addressed by the Reporting Officer. Submission points are addressed in relation to the s42A report that the recommendations have been predominantly discussed under. This summary retains this format.

## **2. Hearing 27B – Objectives, Policies and General Submissions**

- 2.1. WRC sought amendments that introduced the term 'primary hazard zones' into the PWDP, and clarified the relationship between the high hazard areas as identified in the PWDP and primary hazard zones as defined in WRPS.
- 2.2. WRC accepts the rebuttal evidence of Yvonne Legarth that any 'primary hazard zones' identified in the future can be incorporated into the District Plan through a Schedule 1 process.
- 2.3. Amendments are sought to ensure that activities in all areas at potential high risk from hazards are able to be adequately assessed, not just in those areas that are currently identified and mapped by the PWDP. It is important to indicate to plan users that areas may still be subject to risk and assessment may be required. This approach has been applied to liquefaction and land instability; where scientific information on those areas is lacking.
- 2.4. WRC seeks the relief that the proposed amendments to Policies 15.2.1.1, 15.2.1.2 and 15.2.1.6 be accepted.

- 2.5. WRC seeks that the amendments relating to residual risk in Section 1.4.2.3 are accepted to ensure natural hazard risk is not increased to unacceptable or intolerable levels and that it is acknowledged that residual risk is a separate component of natural hazard risk.
- 2.6. WRC maintains that the stronger directive of 'consideration of' community response plans is appropriate in Policy 15.2.2.2 as they can provide valuable information on evacuation routes, congregation points and designated civil defence centres.

### **3. Hearing 27D – Coastal Hazards**

3.1. Natural hazard sensitive land uses - WRC maintains the position that natural hazard sensitive land uses should be recognised and addressed in plan policies as set out below:

- There are no rules that explicitly give effect to Policy 15.2.1.2 to require the consideration of effects of a change in land use to an activity that is more sensitive to natural hazards. Such a rule would better enable a resilient, effective and efficient response and recovery from natural hazard events.
- The relief sought is that new Policies 15.2.1.2A and 15.2.1.2B and new non-complying rules (NC4) at 15.9.3 and 15.10.3 (and 15.5.4 in relation to the High Risk Flood Area) are accepted. The definition for 'natural hazard sensitive land use' could be amended to remove residential activities.

3.2. Infrastructure and Utilities - WRC considers that a restricted discretionary activity status is more appropriate for new utilities in the Coastal Sensitivity Areas and a new rule should address this.

3.3. Beach nourishment and dune stabilisation - WRC seeks appropriate matters of control are drafted to support beach nourishment and dune stabilisation as controlled activities in alignment with the suggestions of the Reporting Officer.

3.4. Further submissions - WRC largely agrees with the Reporting Officer's rejection of submissions opposed in WRC's further submission, but makes the following other comments:

- WRC strongly opposes the recommendation that construction of new buildings or additions to existing buildings within the High Hazard Coastal Hazard (Inundation) Area can be effectively regulated as a discretionary activity. A non-complying status is more appropriate to signal that new subdivision, use and development in these areas is not anticipated and is consistent with the 'avoid' directive of Policy 15.2.1.1.
- WRC strongly reiterates development should be avoided in high risk areas, as it does not meet the sustainable development purpose of the RMA or provide for s6(h) matters. Rule 15.10.3 and 15.7.2 should be retained as notified.

### **4. Hearing 27C – Flood Hazards**

4.1. Objectives and Policies – Within the rebuttal evidence the Reporting Officer identifies that policy 15.2.1.6 applies to subdivision in the 1% AEP Floodplains. This is a very general policy and is more designed as a catchall policy. It is WRC preference that Policy 15.2.1.12 is amended to include the

consideration of subdivision which may be located within the 1% AEP Floodplains to give effects to method 13.2.6 of the WRPS. From a practical implementation perspective, it is often more appropriate to integrate flood mitigation measures at the subdivision stage as opposed to the development stage. Also sought is inclusion of natural hazard sensitive land uses to the policy to provide for the consideration of the change in use of existing buildings.

4.2. Flood plain management and flood ponding areas – WRC seeks the following changes:

- Removal of Rule P7 from 15.4.1. The rule as it stands is open to interpretation and does not follow the policy direction to control filling of land within flood plain and ponding areas to mitigate effects on infrastructure. Earthworks within the flood plain and ponding areas should be controlled by limits prescribed in Rule P8. Within the rebuttal evidence, it is acknowledged by the Reporting Officer that there is a definition of building platform. However, the definition does not resolve the concerns of WRC, as it would still allow for significant filling within the floodplain, which could have offsite and storage impacts.
- Addition of two new discretionary activities under Rule 15.4.3 pertaining to ‘emergency service facilities’ and ‘natural hazard sensitive land uses’ to allow consideration beyond minimum floor level and include evacuation, access post-disaster and health and wellbeing of occupants. This would allow for a more robust consideration around the risk and appropriateness of these activities being established within the 1 % AEP floodplain and flood ponding areas and is aligned to the policy direction of the WRPS. The Reporting Officer considers that this adds added complexity to the planning framework and there can be a reliance on emergency management and forecasting. WRC disagrees that it adds an unnecessary layer of complexity, and this framework is being used by other councils in the country, and the definition of natural hazard sensitive activities is sufficiently narrow that it has specific applicability to only a limited number of activities.

4.3. High risk flood area - WRC still seeks inclusion of natural hazard sensitive land uses as a non-complying activity in high risk flood areas.

4.4. Defended areas - The rule framework of Defended Areas does not address consideration of residual risk in development and land use which is inconsistent with Policy 15.1.1.10. WRC proposes a restricted discretionary rule to ensure a consistent approach for subdivision and new buildings. Also sought is a new restricted discretionary activity rule for hazardous facilities to allow consideration of potential impact from the overwhelming or structural failure of protection works. The Reporting Officer identifies that the proposed framework would be more restrictive than the 1% AEP Floodplain rule framework. WRC acknowledges this, and recognises this as an issue. However, as the framework currently stands there is a significant loophole between subdivision and land use activities and the suggested framework as put forward by WRC would close this loophole. WRC is open to considering an alternative rule framework that could close this loophole and would be happy to conference with the Reporting Officer on this matter.

## 5. Hearing 27E – Land subsidence, liquefaction and other hazards

5.1. WRC agrees with the recommendations of the Reporting Officer in matters relating to this section.

## 6. Hearing 27F – Wildfire, climate change and definitions

6.1. Wildfire - WRC raises caution against the consideration of insurance as a risk mitigation tool, it is rather a risk transfer mechanism that does not prevent or limit the damage of fire hazards.

6.2. Climate Change - WRC seeks to remedy and reiterate the rejected submission points relating to climate change:

- The term 'dynamic adaptive options' recognises best practice responses to climate change risks and should be reflected in Policy 15.2.3.1 in replacement of the vague wording "adequate allowances".
- Inclusion of the word 'use' and 'new urban zones' in the opening body of the above policy is important to incorporate and recognise that some activities separate to development may not be appropriate in areas subject to climate change risk and that climate change assessment is required in private plan change applications.
- WRC proposes specific policy wording to include two new provisions in Policy 15.2.3.1 relating to natural systems, and vertical land movement.
- Policy 15.2.3.3 should require a precautionary approach in areas likely to be affected by climate change over at least 100 years rather than up to 100 years and also include the rezoning of land as well as subdivision and land use.

6.3. Definitions - WRC seeks rewording of the definitions of 'risk assessment' and 'natural hazard sensitive land use'. WRC maintains its submission point seeking the definitions of areas mapped as high risk in the coastal environment be amended to enable site specific investigations, as is provided for in the PWDP in relation to flood hazards and the 1% AEP floodplain extent.

James Beban and Sarah Gunnell

5 May 2021