

File no.: X/26/02/192
24 April 2013

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Dear Andrew

Submission on District Plan change 77 – Curtis Street Business Zone

Thank you for the opportunity you provided to discuss the Greater Wellington Regional Council (GWRC) submission on proposed plan change 77 (DPC77) and the future direction for the Wellington District Plan, the implications of which we were unaware of while preparing our submission.

GWRC notes the unique nature of the Curtis Street Business Zone and the Wellington City Council's (WCC's) decision to propose a zone-specific plan change in order to address the particular attributes of the site, and welcomes the opportunity to clarify and elaborate further on the intent of our submission.

Further information

It is now our understanding that in the next one to two years a city-wide plan change (the 'natural environment plan change') will be initiated. This future plan change will review how activities that impact on environmental values could be controlled under the District Plan. It is intended to cover activities which impact on water quality and indigenous biodiversity values. WCC has indicated that once operative, the provisions of such a future plan change would apply to the Curtis Street site.

You have also indicated that with regard to stormwater outcomes from the re-zoning of an area, it is usual practice within WCC to manage stormwater outcomes at the consent application stage.

Clarification on submission

Ecological values

In our submission, paragraph 4.2.4 states that GWRC considers that the general approach of the proposed policies of DPC 77 does not adequately meet the intent of pRPS policy 23. This is then explained over several following paragraphs.

We note that WCC expects the future 'natural environment plan change' would address the concerns raised by GWRC in regard to adverse impacts on ecological values from proposed DPC 77. Similarly, the future 'natural environment plan change' could address concerns noted in paragraphs 4.2.5, 4.2.6, 4.3.6, 4.3.7 and 4.3.10, as well as many concerns raised about stormwater management.

We consider that there is value in a future 'natural environment plan change' and its ability to respond to the pRPS in a city-wide, comprehensive way. In the meantime, WCC may like to consider how policy direction in that 'natural environment plan change' could be reflected in the Curtis Street location in the plan change before us today.

Stormwater management and flood mitigation

As noted in GWRC's submission, the site is small and therefore the adverse impacts of stormwater capture on the site may be small, relatively speaking. GWRC acknowledges that if stormwater was to be managed at a resource consent stage, it may be appropriate to undertake a stormwater assessment during that process.

GWRC considers however that there are a number of methods by which WCC could provide some direction for stormwater management in this plan change without unfairly singling out the Curtis Street site, without requiring a full stormwater assessment now and while addressing GWRC's concerns as laid out in the submission. This could include providing guidance for the resource consent process through applying criteria for stormwater management on the site (for example, hydraulic neutrality, permeable surface requirements, or other ideas as listed in policy 41 of the pRPS). Another option could be to include making stormwater management a matter of consideration in a site design plan.

GWRC has made similar recommendations to manage stormwater for adverse environmental effects in recent submissions on changes to the Porirua City, Hutt City and Upper Hutt City district plans, and the proposed Kapiti Coast District Plan.

Conclusion

In our submission we asked for a change in wording for two of the proposed policies and put forward suggestions from some further policies that could be appropriate. We note that WCC may be concerned that ad hoc approaches to managing issues within a site-specific zoning may cause inconsistencies with the current plan or with the potential intent of the future 'natural environment plan change'.

GWRC considers that there are a number of options available to WCC to take into account the key messages of our submission and relief sought, without constraining the policy direction of the future natural environment plan change.

GWRC wishes to work with WCC to seek a timely resolution to the concerns raised in our submission and looks forward to engaging further with WCC to do so through the pre-hearing phase.

Yours sincerely

A handwritten signature in purple ink, appearing to read "pp. H. Streat".

Jonathan Streat
Manager
Environmental Policy



11 March 2013
File no: X/26/02/192

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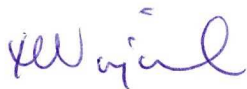
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Dear Andrew

Submission on Proposed District Plan Change 77

Please find attached our submission on the proposed District Plan Change 77 for the Curtis Street Business Area.

Yours sincerely



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Greater Wellington Regional Council: Submission

To:	Wellington City Council
Submission on:	Proposed District Plan Change 77 – Curtis Street Business Area

1. Introduction

1.1.1 Greater Wellington Regional Council (GWRC) wishes to provide a submission to Wellington City Council that **partly opposes** the Proposed District Plan Change 77 – Curtis Street Business Area. The GWRC seeks relief on a number of provisions of the proposed Plan Change.

2. Reason for submission

2.1.1 The Resource Management Act 1991 states that a plan change must give effect to a regional policy statement (section 75(3)) and have regard to any proposed regional policy statement (section 74(2)(a)).

2.1.2 The proposed Regional Policy Statement (pRPS) was approved by Council on 18 May 2010 and was publicly notified on 22 May 2010. The appeal period closed on 6 July 2010. Eight appeals have been received and court-assisted mediation has resulted in resolution of all of these appeals by late 2012.

2.1.3 In assessing the resource consent for consistency with regional planning documents including the operative Regional Policy Statement and the pRPS, Greater Wellington is particularly interested in how a proposed plan change will support and contribute to achieving the sustainable management of natural and physical resources in the Wellington region.

2.1.4 Though not yet operative, the pRPS offers guidance on the future direction of resource management in the Region and sets out new objectives and policies to address regionally significant issues. Hence, the assessment below is focused on the pRPS.

2.1.5 Greater Wellington seeks that the proposed Plan Change proposal is given effect to and is consistent with the pRPS.

3. Policy framework

3.1 Proposed Regional Policy Statement for the Wellington Region 2010 (pRPS)

3.1.1 The pRPS provides direction to city councils in regards to the identification and protection of places, sites and areas with significant historic heritage and indigenous biodiversity values. The pRPS directs regional, city and district plans to give effect to Policies 1 to 33. The pRPS also contains policies 34 to 60 which are to be considered when making changes to regional, city and district plans.

- 3.1.2 The relevant pRPS provisions when considering proposed Plan Change 77 are policies 23, 33, 39, 42, and 46. The full text and explanation of these policies are attached in Appendix 1.

4. Key issues of plan change

- 4.1.1 This section outlines GWRC's assessment of how the proposed Plan Change meets the pRPS policies described above. Relief sought in relation to each issue is discussed in section 5.

4.2 Ecological values

- 4.2.1 The adjacent forest remnant (including vegetation within the proposed business zone), seepage wetlands and Kaiwharawhara Stream have all been identified as significant in the Ecological Assessment undertaken by Wildlands Consultants as part the Plan Change proposal. Significance was assessed using the criteria as set out in Policy 22 of the pRPS, together with Wellington City Council's own internal guidance criteria.
- 4.2.2 We further note that the Kaiwharawhara Stream is identified as having significant ecological values requiring protection in Table 16 of the pRPS. The values the stream is listed for in Table 16 are habitat for threatened indigenous fish species, and habitat for six or more migratory indigenous fish species.
- 4.2.3 Policy 23 of the pRPS states that district plans "shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development". Further, regard should also be had to policies 42 (for significant rivers and lakes as per Table 16) and 46 (for significant ecosystems and habitats of indigenous fauna).
- 4.2.4 At present, GWRC considers that the general approach of the proposed policies relating to ecological value and the areas with significant values identified in the Wildlands report does not adequately meet the intent of pRPS policy 23. Further, GWRC considers that the general approach of the proposed Plan Change could do more to have regard to pRPS policies 42 and 46.
- 4.2.5 While the proposed Plan Change acknowledges the significant values as identified by Wildlands, the proposed policies do little to provide certainty that the identified values will be appropriately protected.
- 4.2.6 GWRC notes that the Section 32 report (p14) proposes "a mix of regulatory (proposed plan change provisions) and non-regulatory (advocacy and mitigation) measure to protect and maintain ecological values in the wider area". However, the general approach in the proposed Plan Change to 'encourage' actions for ecological protection does not seem to reflect a balanced mix of provisions. For example, regarding potential effects on the Kaiwharawhara Stream, the drafted policies (eg. 35.2.3.6 and 35.2.3.7), do not provide this mix and provide little certainty that pRPS policy will be met. Another example is in the permitted activity rule 36.1 for vegetation removal. This rule does not have relevant standards (36.6) that would provide regulatory

back up to the policy (35.2.3.3) to ‘encourage’ retaining vegetation along the western edge of the site.

- 4.2.7 Greater Wellington Regional Council recommends that the provisions are strengthened to better provide for the protection of significant ecosystems.

4.3 Stormwater management and flood mitigation

- 4.3.1 The proposed Plan Change will likely result in the site being covered with impermeable surfaces and buildings. Though the site itself is small, GWRC notes that the cumulative nature of the adverse effects of stormwater capture and discharge becomes significant on a catchment basis.
- 4.3.2 The impacts of stormwater from new subdivision and development on receiving water bodies should be considered in accordance with pRPS policy 41. This policy lays out options for consideration when making changes to a district plan in order to minimise the adverse impacts of stormwater from subdivision and development.
- 4.3.3 The adverse impacts of stormwater quantity and quality on these receiving environments should also be considered in respect to pRPS policy 39. This policy states that changes to a district plan should have particular regard to “requiring, as a minimum, that water quality, flows and water levels or surface water bodies are managed for the purpose of maintaining or enhancing aquatic ecosystem health”.
- 4.3.4 With the exception of a brief discussion within the Ecological Assessment, GWRC was unable to find information assessing the impacts of increased stormwater quantities or contaminant loads from the potential development of the Curtis Street site in the Plan Change documentation, on the Kaiwharawhara Stream. As discussed in section 4.2, the Kaiwharawhara Stream is listed in the pRPS for its significant ecological values.

Stormwater quantity

- 4.3.5 As a result of the development of the Curtis Street site, it can be reasonably expected that there will be greater collection of stormwater than at present, leading to greater stormwater quantities and increased peak flows.
- 4.3.6 Regarding policies 39 and 41, there is no assessment in the Plan Change documents of the following:
- the potential downstream effects on the Kaiwharawhara Stream of increased stormwater volumes, bed and bank erosion and increased contaminant loads.
 - potential options for requiring stormwater attenuation or other options for reducing the adverse effects of increased stormwater quantities, with the exception of the policy 35.2.3.7 to “encourage the use of permeable surfaces”.
- 4.3.7 The Kaiwharawhara Stream runs in a pipe under the site. We have been unable to find information in the Plan Change documents regarding the design

capacity of this culvert and whether it will contain the 100 year return period flood event, including climate change.

- 4.3.8 Likewise there is no assessment of how rainfall events above this limit would affect the site or adjacent areas.

Stormwater quality

- 4.3.9 The subdivision and development of the site is also likely to lead to greater loads of potential contaminants in stormwater collected on and discharged from site, including heavy metals, PAHs and other hydrocarbon derivatives.
- 4.3.10 Regarding policies 39 and 41, there is no assessment in the Plan Change documents of potential options for requiring treatment of stormwater to minimise likely contaminants and therefore the impact of subdivision and development of the site on the Kaiwharawhara Stream and ultimately Wellington Harbour.

4.4 Activities on contaminated land

Policy 34 of the pRPS states that district plans “shall include policies and rules that control activities on contaminated land so that those activities are not adversely affected by the contamination”.

GWRC supports the findings of the contaminated land assessment undertaken by Tonkin and Taylor. We note, though, that the extent of the contamination from the former use of the land as a depot and landfill may be greater than is anticipated by the report – GWRC information indicates two different extents of the landfill, as shown in Figure 1 below.

The proposed Plan Change provision should therefore take a precautionary approach to identifying the likelihood of contaminated soil within the site so that any soil disturbance is appropriately considered under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health as well as Rule 32.2 of the current Wellington District Plan.

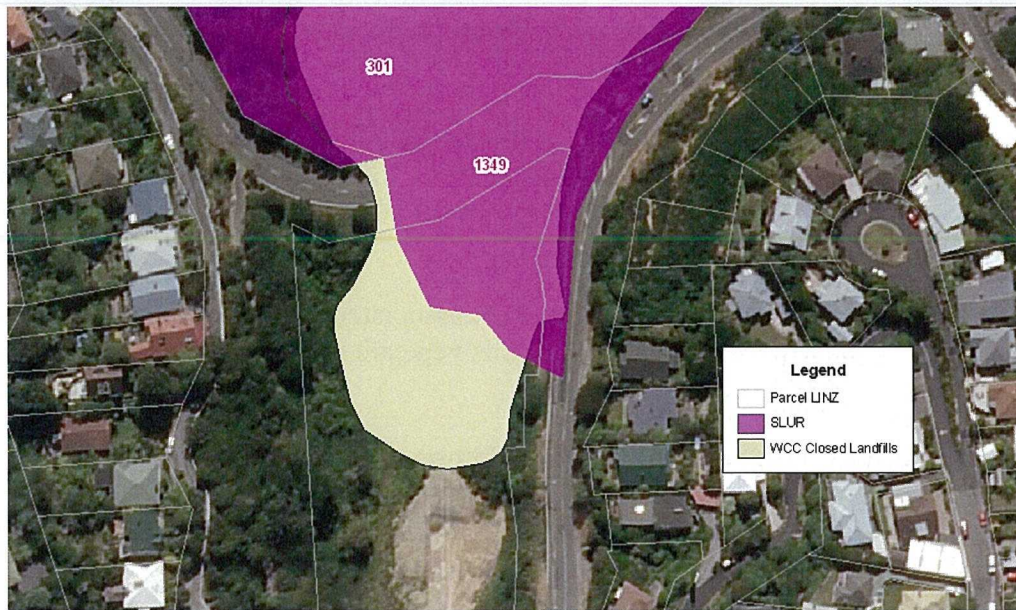


Figure 1 Extent of landfill from GWRC data files

4.5 Conclusions

- 4.5.1 Greater Wellington considers that this proposed plan change gives only partial effect to policies 23 of the proposed Regional Policy Statement in respect of the protection of significant indigenous biodiversity values. GWRC considers that the Plan Change could go further to meet policies 42 and 46, and 39 and 41 of the pRPS and therefore seeks amendments to the proposed plan change to fully give effect to these policies.

5. Relief sought

5.1 Ecological values – relief sought

- 5.1.1 The proposed Plan Change should appropriately protect the recognised ecological values of the forest remnant, seepage wetlands and the Kaiwharawhara Stream, as identified in the Wildlands report and in Table 16 of the pRPS.
- 5.1.2 GWRC **seeks** that the recommended area of vegetation buffer of the seepage wetland, including both within the WCC road reserve and within the zone footprint, be retained in accordance with the map provided in the Wildlands report. Within this area, maintenance of all native vegetation and pest control should be required, and we would recommend the enhancement of the vegetation with planting and pest control, in accordance with the Wildlands report.
- 5.1.3 Regarding policy 35.2.3.3, GWRC **seeks** that:
- The policy is reworded to change “encourage” to “require” (or other word to same effect).
 - The wording of the policy makes clear that retaining the structural integrity and existing vegetation (including non-weedy, exotic plants) of

the buffer area is more appropriate than clearance for earthworks and replanting.

- Suggested rewording for this policy 35.2.3.3 could be “Encourage Require the retention and maintenance of trees and non-weedy vegetation as an effective buffer along the western edge of the area adjacent to Old Karori Road.”
- Update the standards in 36.6, associated with permitted activity rule 36.1, to require the retention of this vegetation in accordance with the Wildlands report recommendation.

5.1.4 GWRC also **recommends** the addition of two policies:

- “Encourage the extension of the vegetation buffer northwards along the western site boundary to Whitehead Road.”
- “Encourage liaison and/or collaboration on vegetation buffer maintenance with WCC Parks and Gardens staff managing vegetation along the adjacent road reserve.”

5.1.5 Regarding Objective 35.2.3, GWRC **seeks** that a new policy is included that requires avoidance of the adverse effects of lighting the business zone site on the seepage wetland ecosystem, including the glow worm community. This could be worded as follows:

- “Require that lighting at or within the business zone is designed and maintained to avoid light spill beyond the western site boundary where it may adversely affect the seepage wetland ecosystem.”

5.2 Stormwater management – relief sought

5.2.1 The proposed Plan Change should ensure that particular regard has been given to Policy 41 of the RPS in reducing the adverse effects of stormwater discharge quantity and quality from the development of the Curtis Street site. The Plan Change should ensure that the potential adverse impacts of stormwater of the site are managed to meet policies 39, and protect the aquatic ecological function of the Kaiwharawhara stream in accordance with Policy 42(e) of the pRPS.

5.2.2 Regarding policy 35.2.3.7, GWRC **seeks** that:

- The policy is reworded to change “encourage” to “require” (or other word to same effect).
- Suggested rewording for this policy 35.2.3.7 could be “Encourage Ensure peak flow discharge rates are not increased above pre-development discharge rates, including through the use of permeable surfaces, stormwater attenuation or other low impact design means in order to enhance visual amenity and reduce incidences of sudden, large volume discharges to the Kaiwharawhara Stream.”

- The wording of the policy makes clear what rainfall event (ARI) the business area is being managed for, in order to avoid increasing peak flow discharge rates.

- 5.2.3 GWRC also **recommends** the addition of a policy to the effect that ensures that the adverse quality and quantity impacts of stormwater on the Kaiwharawhara Stream are minimised through best practice, low impact design, including by having particular regard to Policy 41 of the Regional Policy Statement (2013).¹
- 5.2.4 GWRC **recommends** WCC undertakes an assessment of the capacity of the pipe under the site to ascertain its capacity and how it would cope in a 1 in 100 year return period flood event, including looking at the potential impacts of climate change.
- 5.2.5 GWRC also **recommends** that Plan Change requires that the design of the site allows for residual flooding through secondary flow paths to accommodate overdesign floods, which are those with greater than a 100 year return period.

6. Further involvement

- 6.1.1 GWRC wishes to be heard in support of its submission. GWRC would welcome the opportunity to clarify and further discuss the matters raised.



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¹ Note that re-numbering between the proposed and operative version will mean that this policy, numbered 41 in the proposed RPS, will become policy 42 in the operative RPS. The RPS will be made operative in April 2013, in accordance with Council's agreement to approve the RPS on 26 February 2013.

Appendix 1 Relevant policies from the proposed Regional Policy Statement

Policy 23: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans

District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.

Explanation

Policy 23 applies to provisions in regional and district plans.

Table 16 in Appendix 1 identifies rivers and lakes with significant *indigenous ecosystems* and habitats with significant indigenous biodiversity values by applying criteria taken from policy 22 of rarity (habitat for *threatened* indigenous fish species) and diversity (high macroinvertebrate community health, habitat for six or more migratory indigenous fish species).

Policy 46 will need to be considered alongside policy 23 when changing, varying or reviewing a regional or district plan.

Policy 23 is not intended to prevent change, but rather to ensure that change is carefully considered and is appropriate in relation to the biodiversity values identified in policy 22.

Policy 33: Controlling activities on contaminated land – district plans

District plans shall include policies and rules that control activities on contaminated land so that those activities are not adversely affected by the contamination.

Explanation

Policy 33 directs city and district councils to include policies and rules in their district plans to control land uses on contaminated land.

The Ministry for the Environment has compiled a list of 53 hazardous activities and industries capable of contaminating soil and causing adverse effects on the environment, including people. This alerts district and city councils to the likelihood of soil contamination, and therefore the need for further investigation. If land has been used for a hazardous activity or industry – such as a landfill or timber treatment plant – the actual level of any contamination needs to be determined. New land uses should be avoided unless the adverse effects associated with the contamination can be appropriately managed, remedied or mitigated to a level which is safe for the intended use.

Policy 39: Maintaining and enhancing aquatic ecosystem health in water bodies – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a regional or district plan, particular regard shall be given to:

- (a) requiring that water quality, flows and water levels and aquatic habitats of surface water bodies are managed for the purpose of safeguarding aquatic ecosystem health;
- (b) requiring, as a minimum, water quality in the coastal marine area to be managed for the purpose of maintaining or enhancing aquatic ecosystem health; and
- (c) managing water bodies and the water quality of coastal water for other purposes identified in regional plans.

Explanation

Clause (a) identifies ecosystem health as a water management purpose for surface water bodies and clause (b) identifies water quality in the coastal marine area is to be managed for the purpose of aquatic ecosystem health. Other water management purposes for water bodies and coastal waters in clause (c) are to be established in regional plans as required by policies 5 and 12.

Application for a resource consent refers to all types of resource consent. Policy 39 shall cease to be considered for resource consents processed by the Wellington Regional Council once policy 5 and 12 are given effect to in a regional plan. Policy 39 shall continue to be considered by city and district councils when processing resource consents, notices of requirement and making changes, variations or reviews of district plans.

District and city councils could implement this policy by requiring setback distances between buildings and rivers, wetlands and the coastal marine area to protect riparian areas, limiting the amount of impervious surfaces allowed in new developments in some catchments, requiring rooftop rainwater collection for gardens, requiring roadside swales, filter strips and 'rain gardens' for stormwater runoff instead of kerb and channelling, encouraging advanced community sewerage schemes rather than septic tanks in areas where groundwater is vulnerable, and encouraging the treatment of stormwater at source in car parks and industrial yards.

Policy 41: Minimising contamination in stormwater from development – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district plan, the adverse effects of stormwater run-off from subdivision and development shall be reduced by having particular regard to:

- (a) limiting the area of new impervious surfaces in the stormwater catchment;
- (b) using water permeable surfaces to reduce the volume of stormwater leaving a site;
- (c) restricting zinc or copper roofing materials, or requiring their effects to be mitigated;

- (d) collecting water from roofs for domestic or garden use while protecting public health;
- (e) using soakpits for the disposal of stormwater;
- (f) using roadside swales, filter strips and rain gardens;
- (g) using constructed wetland treatment areas;
- (h) using in situ treatment devices;
- (i) using stormwater attenuation techniques that reduce the velocity and quantity of stormwater discharges; and
- (j) using educational signs, as conditions on resource consents, that promote the values of water bodies and methods to protect them from the effects of stormwater discharges.

Explanation

The stormwater design and treatment approaches set out in this policy are to reduce adverse effects of subdivision and development on the quantity and quality of stormwater. Clauses in the policy are aimed at achieving hydraulic neutrality and aquatic ecosystem health when land is developed. It is important to take an integrated approach to management of the adverse effects of stormwater discharges, particularly on low energy aquatic receiving environments – such as Wellington Harbour, Porirua Harbour, inlets, estuaries, lakes, lowland streams and wetlands.

Policy 42: Protecting aquatic ecological function of water bodies – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, particular regard shall be given to:

- (a) maintaining or enhancing the functioning of ecosystems in the water body;
- (b) maintaining or enhancing the ecological functions of riparian margins;
- (c) minimising the effect of the proposal on groundwater recharge areas that are connected to surface water bodies;
- (d) maintaining or enhancing the amenity and recreational values of rivers and lakes, including those with significant values listed in Table 15 of Appendix 1;
- (e) protecting the significant indigenous ecosystems and habitats with significant indigenous biodiversity values of rivers and lakes, including those listed in Table 16 of Appendix 1;

- (f) maintaining natural flow regimes required to support aquatic ecosystem health;
- (g) maintaining fish passage;
- (h) protecting and reinstating riparian habitat, in particular riparian habitat that is important for fish spawning;
- (i) discouraging stock access to rivers lakes and wetlands; and
- (j) discouraging the removal or destruction of indigenous wetland plants in wetlands.

Explanation

This policy identifies key elements of habitat diversity that are essential for healthy aquatic ecosystems to survive and be self-sustaining.

When areas of habitat in one part of a river or lake are degraded or destroyed by people's activities, critical parts of the ecosystem may be permanently affected, with consequential effects elsewhere in the ecosystem. Specific policies and regional rules can set out where it is important to retain habitat for ecological function. Remedying and mitigating of effects can include offsetting, where appropriate.

Application for a resource consent refers to all types of resource consent. Policy 42 shall cease to be considered for resource consents processed by the Wellington Regional Council once policies 16 and 17 are given effect to in a regional plan. Policy 42 shall continue to be considered by city and district councils when processing resource consents, notices of requirement and making changes, variations or reviewing district plans.

The rivers and lakes with significant amenity and recreational values listed in Table 15 of Appendix 1 were identified by the community as places that are regularly used for recreational activities.

The rivers and lakes with significant indigenous ecosystems were selected using indicators of aquatic invertebrate community health, the diversity of indigenous migratory fish species, the presence of nationally threatened fish species and the location of inanga spawning habitat. The criteria used to assess rivers and lakes with significant indigenous ecosystems are given in Appendix 1.

Policy 46: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:

- (a) maintaining connections within, or corridors between, habitats of indigenous flora and fauna, and/or enhancing the connectivity between fragmented indigenous habitats;
- (b) providing adequate buffering around areas of significant indigenous ecosystems and habitats from other land uses;
- (c) managing wetlands for the purpose of aquatic ecosystem health;
- (d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats;
- (e) providing seasonal or core habitat for indigenous species;
- (f) protecting the life supporting capacity of indigenous ecosystems and habitats;
- (g) remedying or mitigating adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; and
- (h) the need for a precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats.

Explanation

Policy 46 provides an interim assessment framework for councils, resource consent applicants and other interested parties, prior to the identification of ecosystems and habitats with significant indigenous biodiversity values in accordance with policy 22, and the adoption of plan provisions for protection in accordance with policy 23. Remedying and mitigating effects can include offsetting, where appropriate.

In determining whether an activity may affect significant indigenous biodiversity values, the criteria in policy 22 should be used.

This policy shall cease to have effect once policies 22 and 23 are in place in an operative district or regional plan.