

**Before the Hearings Panel
At Greater Wellington Regional Council**

Under Schedule 1 of the Resource Management Act

In the matter of Proposed Change 1 to the Regional Policy Statement for the Wellington Region

Hearing Topic Hearing Stream 4 – Urban Development

**Statement of evidence of Gabriela Jimenez Rojas on behalf of Upper Hutt City Council
(Planning)
Date: 15 September 2023**

INTRODUCTION

1. My full name is Gabriela Jimenez Rojas, and I am employed as Senior Planner (Policy) by Upper Hutt City Council (UHCC).
2. My pronouns are she/her.
3. I have prepared this statement of evidence on behalf of UHCC in support of the UHCC submission to Greater Wellington Regional Council's (GWRC) Regional Policy Statement (RPS) Plan Change 1 (PC1).
4. This statement of evidence relates to Hearing Stream Four – Urban Development.
5. I am authorised to provide this evidence on behalf of UHCC.

QUALIFICATIONS AND EXPERIENCE

6. I hold the qualifications of Bachelor of Urban Planning (Honours) from University of Auckland.
7. I have worked for Upper Hutt City Council as Senior Planner since August 2022. I have supported the development of Plan Changes, including the Intensification Planning Instrument and Rural Review, as well working on the UHCC Integrated Transport Strategy.
8. I am involved in regional projects as a lead for UHCC on the core group developing the Housing and Business Assessment and the Future Development Strategy.
9. Prior to working at UHCC, I was employed by Aurecon New Zealand as an Environment and Planning Consultant. My role included the preparation of district and regional resource consents for major infrastructure projects and residential and commercial developments, the preparation of environmental, economic, and social impact assessments, and policy research and analysis across Australia and New Zealand. Prior to this, I was an undergraduate intern at Auckland Transport, also undertaking policy research and analysis, particularly regarding the integration of land use and multimodal corridors.
10. I am an intermediate member of the New Zealand Planning Institute (NZPI).

CODE OF CONDUCT

11. I confirm that I have read the Expert Witness Code of Conduct set out in the Environment Court's Practice Note 2023. I have complied with the Code of Conduct in preparing this evidence and agree to comply with it while giving oral evidence. Except where I state that I am relying on the evidence of another person, this written evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this evidence.

SCOPE OF EVIDENCE

12. In preparing my evidence I have relied on the following:

- The operative RPS for the Wellington Region
 - The RPS PC1 for the Wellington Region
 - The submission on RPS PC1 made by Upper Hutt City Council
 - The Section 42A reports for Hearing Stream Four
 - The RPS PC1 Section 32 Assessment
 - The Resource Management Act (RMA)
 - The National Policy Statement for Urban Development 2020
 - The Natural Resources Plan
13. The scope of this statement of evidence does not extend to identifying consequential amendments needed in response to the concerns raised.
14. For ease of administration, this statement of evidence is focused only on areas of remaining concerns. Generally, I believe most submission points raised by UHCC (relevant to this hearing stream) have been addressed. Where I have not commented specifically on a provision, I am comfortable with the recommendations proposed by Ms Zöllner or Mr Jeffreys within the Hearing Stream Four – Urban Development S42A reports.
15. For ease of reference, this statement of evidence will focus specifically on the matters arising from the UHCC submission on RPS PC1 identified in Table 1 below.

Table 1

| Provision | Section 42A Report author |
|----------------------|----------------------------------|
| Objective 22 and 22B | Mika Zöllner / Owen Jeffreys |
| New Policy UD.5 | Mika Zöllner |
| Policy UD.3 | Mika Zöllner |
| Policy 55 | Mika Zöllner |
| New Policy UD.4 | Mika Zöllner |
| Urban areas | Mika Zöllner |
| Policy 56 | Owen Jeffreys |

16. The order identified above relates to the order in which they are addressed in the Section 42A reports.

GENERAL COMMENTS

17. UHCC made several general submission points on RPS PC1, which are relevant to all topics in Hearing Stream 4. Rather than repeating them in each of the topics discussed in this statement of evidence, these are identified below. For ease of reference, the submission point numbers allocated to the points raised by UHCC in the summary of submissions are also shown. UHCC's general submission points are:
- (S34.0111) UHCC has not:
 - undertaken a complete check of whether detailed relief sought in this submission, could be/are partly or fully addressed by other provisions in RPS PC1.
 - undertaken a full review of background documents and higher order documents supporting or relating to these provisions.
 - identified all consequential amendments needed in response to relief sought on specific provisions or that might address our concerns.

- (S34.0115) Requirements for district plans to include provisions for regional council functions or that extend beyond the ability of regional council to direct: Council has significant concerns that many of the proposed provisions attempt to require city and district councils to carry out some of the functions of regional councils or require Council to address resource management issues in its district plan that are beyond its statutory functions, powers and duties under the RMA. GWRC is not able to legitimately direct these outcomes. Council considers these provisions ultra vires. UHCC seeks the RPS is reviewed and amended to more appropriately and accurately reflect the powers, functions, and duties of the regional, district and city councils.
 - (S34.0116) Lack of higher order document or evidentiary support for provisions, and policies which duplicate national direction: Many of the proposed provisions do not appear to be adequately supported within the Section 32 Assessment by robust evidence, including any existing legislation or higher-level strategic planning document such as a national policy statement. This is particularly evident for the proposed climate change and indigenous biodiversity provisions. UHCC submits that a full legal and planning review is undertaken to address these inconsistencies and relief sought to specific provisions.
 - (S34.0117) Lack of consideration of scale of provisions: The requirements and evidence base to develop the thresholds require significant effort and resourcing, which Council is not in a position to undertake, and in some cases, thresholds may not be an appropriate mechanism to address effects. UHCC contends that GWRC should further consider the practicalities associated with threshold-based provisions, to determine if this is the most appropriate method to achieve an objective or policy or develop guidance jointly with territorial authorities to support the development of provisions and decision-making process. Council seeks relief to specific provisions to address concerns.
 - (S34.0118) Inadequacy of Section 32 Assessment: Council is concerned that the Section 32 assessment is not sufficiently evidenced and does not fully evaluate whether many of the regulatory provisions are practical / can be achieved and are the best method of achieving the outcomes sought. UHCC seeks that these provisions should be deleted and considered in a later plan change.
 - (S34.0120) Council considers that there are fundamental issues with the proposed provisions that require significant revision or deletion to ensure the RPSPC1 is legally robust and practical to implement. Thus, Council seeks that GWRC undertake a full legal and planning review of the proposed provisions and amend the RPSPC1 to address these concerns, including detailed submission points on individual provisions. Council also seeks any other consequential amendments to remedy errors and address relief sought.
18. Some areas, the Section 42A authors have specifically addressed the general comments in the UHCC submission, whereas in others consideration of these submission points has not been obvious. However, for the reasons identified in this statement of evidence, I do not consider that the general comments made in the UHCC submission have been fully addressed, and some concerns remain. I am of the opinion that some provisions as recommended for amendment by the Section 42A authors still:
- lack higher order document or evidentiary support or are beyond what can be achieved within the statutory functions provided for in the RMA;
 - cannot practically be implemented;

- lack recognition of scale and significance; and
 - are not the most appropriate method of achieving an outcome.
19. Given the limited time submitters have available to review the Section 42A report and provide evidence, I have not had the opportunity to recommend amendments in respect of these general submission points. Therefore, the issues identified above would need further consideration, including whether consequential amendments would be required as a result of any further amendments proposed to address the concerns raised in this statement of evidence.

Objective 22

20. [S34.098] UHCC seeks amendments to Objective 22 to allow district plans the flexibility to respond to local characteristics and issues, as the provision as notified was overly prescriptive and in UHCC's opinion, went beyond the requirements of the NPS-UD and what the RPS can specify districts should do to give effect to the higher order legislation.
21. In response to other submissions, namely those of KCDC, PCC and GWRC, Objective 22 has been modified significantly from the provision notified. These submissions were concerned that the provision as notified, introduced policy level direction within the objective. In the S42A Report, Ms Zöllner agrees that the chapeau and many of the clauses were drafted as a policy, rather than an objective which should focus on identifying an outcome. As a result, Ms Zöllner recommends that the clauses of the objective be reworded to be focused on the outcome being sought.
22. In addition, in response to submissions, Ms Zöllner further recommends the introduction of a new policy, Policy UD.5¹ be added to Chapter 4.2, to articulate well-functioning urban environments, which the S42A agrees, is more appropriately articulated a policy level. As a result, Ms Zöllner recommends that the notified chapeau of Objective 22, seeking to enable urban development which demonstrates the characteristics and qualities of well-functioning urban environment, is deleted.
23. It is my opinion that Ms Zöllner's recommended amendments to Objective 22, are preferable to the provision as notified. I support the reinstatement of 'regional form' to the objective as I agree that the integration of both urban and rural areas as part of this regional form, better supports a holistic, strategic outcome for the whole Wellington Region.
24. However, in my opinion, the recommended amendments to the objective do not address UHCC's request, to provide flexibility for district plans to respond to local characteristics and issues. It is my opinion that the subclauses of Objective 22 as recommended in the S42A Report, continue to introduce directions within the objective which are more appropriately provided at policy level.
25. I note Ms Zöllner's comments that the objective sets a high-level outcome which does not prescribe a specific direction, but in my reading of the objective the use of 'and' throughout the

¹ I have noted further comments in relation to Policy UD.5 in paragraphs 33 to 37 of this statement of evidence.

recommended wording prescribes the fulfilment of all subclauses for the objective to be considered achieved. It is my view that that any one resource consent or plan change giving effect to the RPS is unlikely to be able to achieve all the subclauses, therefore I consider the test of achieving the objective is too high.

26. Therefore, it is my recommendation that the subclauses (a) - (i) be deleted from the amended Objective 22. The remaining wording “A compact, well-designed, climate-resilient, accessible, and environmentally responsive regional form with well-functioning urban areas and rural areas”, is in my opinion the most appropriate drafting for this objective and provides more flexibility for local authorities and district plans to respond to local characteristics and issues, while retaining the intent of the objective.
27. However, if the hearing panel are of mind to retain Objective 22 as recommended in the S42A report, I recommend a prioritisation of the subclauses would be appropriate, noting my previous concern that the test to achieve all the objectives sub clauses is too high. In addition, I recommend further alternative wording changes to the subclauses (as set out in Appendix 1 of this statement of evidence) to address the following issues:
 - Clause (d) – I consider the “is” used, is too strong, as with the current technology, materials and construction practices available in New Zealand, I do not consider any subdivision is able to be “low emission”. While I support the intent of the clause, given “low emission” is not defined, in my reading of the policy, the most onerous definition of the word is likely to be applied, which I do not consider can be achieved at this point in time. Instead, I recommend rewording this subclause to reflect the transition period we are currently in as a nation and the contribution subdivision and developments can make to a low emission region.
 - Clause (e) – It is my opinion that the additions to the clause (k) unnecessarily duplicates the housing aspects identified in (a), and as a result loses the intent of the subclause which is to ensure connections and access across the built environment.

Objective 22B

28. [S34.98] UHCC seeks to better understand the role of Objective 22B in relation to the NPS-HPL.
29. I note that as a result of amendments recommended by the S42A report to Objective 22, and the reintegration of rural areas into Objective 22, Ms Zöllner recommends that Objective 22B is deleted and re-combined with Objective 22.
30. I am generally supportive of the recommended deletion, should amendments to Objective 22 are made as requested in paragraphs 27 to 28 of this evidence.

New Policy UD.5

31. As this is a new policy proposed by Ms Zöllner, UHCC did not specifically seek relief in relation to this provision.
32. However, I note that in the S42A report, Ms Zöllner considered UHCC’s submission point [S34.0116] related to a full planning review being undertaken to review inconsistencies within RPSPC1, during the drafting of this policy.

33. I generally support new Policy UD.5 and consider that it provides clear and specific direction for urban areas and the characteristics which make up well-functioning urban areas, within the Wellington Region.
34. While I support the intent of subclause (b), I suggest the wording and subsequently the intended outcome of the clause could be improved by amending the recommended wording to reflect the consistent preference for multi-modal access and corridors within the RPS (and thus, the Wellington Region). It is my view that the addition of “multi-modal” within the wording of the subclause (b), better reflects this intention.
35. I recommend the recommended wording of Policy UD.5, be amended as set out in Appendix 1 of this statement of evidence.

Policy UD.3

36. [S34.095] UHCC opposed Policy UD.3 and sought amendments to the chapeau to reflect that, Policy UD.3 specifically relates to *urban development* outside of existing urban areas.
37. I note that, similarly to Objective 22, in response to submissions raised by other parties, the drafting and in my view, intent of Policy UD.3 has changed significantly from that which was notified. Particularly, the policy chapeau has been amended to improve clarity, certainty and clarify the relationship between Policy UD.3 and Policy 55 and the connection of Policy UD.3 back to clause 3.8 and Policy 8 of the NPS-UD.
38. It is my opinion, that Ms Zöllner’s recommended amendments to Policy UD.3 are preferable to the provision as notified. It is my reading that the amendments recommended to the policy now more clearly reflect the consideration criteria for whether any one development, application or plan change, adds significantly to development capacity. Rather than potentially being criteria for any and all development, as I had read the notified provision wording to indicate.
39. However, I consider the amended policy could further benefit from further amendments to add specificity and consistency with other areas of the RPS.
40. I am concerned that clause (b)(i) could potentially lead to inappropriate development types, which do not provide for adequate housing choice and typologies and could in some cases result in only high density or medium density housing, where, in some locations, lower density typologies may also be appropriate.
41. It is my opinion that the amended wording could be stronger in clauses (c)(iii) and (e) to reflect that demonstrated demand should be specific to the housing/business typologies and locations proposed. This amendment would ensure that any demand evidence provided, demonstrates a required need, specifically for the type of development proposed as part of the plan change. Without the amendment, in my reading, it is possible that any unanticipated or out-of-sequence plan change could rely on any overall or required need for additional urban-zoned land within a wider district or region, as justification for development in a potentially inappropriate location.
42. As a result, I recommend that Policy UD.3 is amended as set out in Appendix 1 of this statement of evidence.

Policy 55

43. [S34.013] UHCC submitted in partial opposition of Policy 55, with the submission raising concerns regarding the application of Policy due to the definition of *urban areas*, its inconsistency with the NPS-HPL definition of *urban areas*, and where settlement zones fit in relation to this definition, and subsequently in relation to Policy 55.
44. In response to other submissions, Ms Zöllner has recommended amendments to the chapeau of Policy 55. I consider that these amendments generally address the points raised within the UHCC submission, except in the instance of the inconsistent application of the urban areas definition and the policy gap created in relation to Settlement Zones.
45. I note that within the S42A report, Ms Zöllner does not consider Settlement Zones should be considered within the definition of *urban areas* as this would make development within Settlement Zones exempt from Policy 55. Ms Zöllner further notes that Settlement Zones are clearly distinct from urban areas in the way they are described in The National Planning Standards (The Standards).
46. However, it is my opinion that due to the limitations of the definitions of *urban areas*, and *urban development*, it remains unclear within the wording of the policy, whether development within the Settlement Zone of Upper Hutt would be subject to Policy 55.
47. The Settlement Zone in Upper Hutt is intended to work around the existing Maymorn Station and provide a density which is symbiotic with the further development of that station, with lot sizes intended to range between 1000-3000 m². Despite being partly disconnected from existing urban areas (as defined), it has existing multimodal connections, including public transport, to existing urban areas of Upper Hutt and intends to provide a mix of housing and business typologies. However, the majority of development in the Settlement Zone is not intended to rely on reticulated services – which in my reading, would exempt development from the definition of ‘urban development’, resulting in it being exempt from Policy 55.
48. I acknowledge and agree with the intent of Ms Zöllner’s commentary, in that greenfield development should be subject to a high bar, as is consistent with national direction and best practice, however I consider that the application of Policy 55 to development within the Settlement Zones is overly onerous for an existing zone where density and mixed-use development is the intended and anticipated outcome. I consider that Settlement Zones being subject to Policy 55, presents difficult unnecessary hurdles put in front of an already zoned and developed area, despite the fact that it is partly disconnected from existing urban areas.
49. I support the intent of the RPS to restrict inappropriate development and seek to prevent dispersed, disconnected growth, however the Settlement Zone is an area where I consider, and by definition, The Standards consider, development of a mixed-use nature to be appropriate. As part of UHCC’s rural review, UHCC has deemed development to be appropriate down to 1000 m², with some being reticulated, and is seeking to expand the existing Settlement Zone to better encompass the area surrounding Maymorn Station, with the view that this station will become a more rapid transit node. This, I note, is supported by Greater Wellington’s public transport expectations.
50. Further, I note that despite the commentary within the S42A noting that Settlement Zones are to be excluded from the definition of ‘urban areas’, the amended wording of the definition to

“includes the following zones...” is not exclusive and therefore on a point of law, Settlement Zones may be able to be included.

51. I have proposed some minor amendments to clause 3(ii) of Policy 55 as identified in Appendix 1 of this statement of evidence. One amendment I recommend, is the amendment of the date identified in the chapeau, to be the date of decision, due to the extensive objective and policy changes proposed to the plan change.
52. I note that if amendments were to be made to the definition of urban areas, to include the Settlement Zone, then this would consequently resolve my remaining concerns with Policy 55.

New Policy UD.4

53. As with new Policy UD.5, due to Policy UD.4 being a new policy proposed by Ms Zöllner, UHCC did not specifically seek relief in relation to this provision. However, I note that [S34.094] UHCC’s concerns surrounding the application of Policy UD.1 and Policy UD.2 and the inclusion of general land owned by Māori, has been taken into consideration during the drafting of this provision.
54. In my reading, Policy UD.4 is intended to provide a prioritisation lens for types of development within the Wellington Region, to promote and seek to achieve a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form.
55. While I am generally supportive of the intent of the policy, I consider further clarity and amendments are required to improve Policy 55.
56. While I am confident this was not the intended outcome, my reading of the policy, with consideration of Māori as the last clause, seems to read as almost an afterthought in the drafting. I recommend that this subclause is brought to the beginning of the policy, to highlight its importance to the achievement of a compact, well-designed, climate-resilient, accessible and environmentally responsive regional form, to become subclause (a).
57. In my reading of Policy UD.4, I am unclear on what is meant by ‘preventing dispersed growth patterns’ as I would consider subclauses (iii) and (iv) would contribute to dispersed growth, in that urban expansion (i.e., sprawl) would occur, despite connections and densities intended to be achieved by Policy 55, Policy 56 and Policy UD.3. The mitigation of the effects of urban expansion through density, safe and efficient access to housing, services and existing urban areas does not equal the prevention of dispersed growth pattern. I recommend that this wording is amended to more accurately reflect the intent.
58. While I am supportive of the prioritisation of development types, I do not consider that the Section 32AA analysis provided for this change has considered the practical ability of local authorities to differentiate between the types of development prioritised in recommended subclause (a)(i), versus (a)(ii). The UHCC IPI would not currently allow us to prioritise development in and adjacent to centres, due to development capacity being released by the MDRS, in all residential zones. UHCC have provided for high density development in and surrounding centres, but as a restricted discretionary activity (which we feel is appropriate to adequately manage the effects of higher density and achieve a well-functioning urban environment), I do not consider these rules/methods to meet the test of “prioritisation”, and therefore UHCC would not be able to feasibly achieve Policy UD.4, while still being consistent with the NPS-UD and achieving a well-functioning urban form.

59. This concern could be addressed by amending the wording of the chapeau from “and/or”, to “or”, thereby specifically clarifying that district and regional plans must include objectives, policies, rules or methods to prioritise the different types of development. However, I recommend that for specificity and clarity, that recommended subclauses (a)(i) and (ii) are combined as set out in Appendix 1 of this statement of evidence. In my opinion, this would retain the priority for development to firstly occur within urban areas, while addressing the inability of local authorities to prioritise between the developments identified in recommended subclauses (a)(i) and (ii).
60. I further consider that the recommended wording of (a)(i) as the first priority of the list is somewhat clunky and could be amended to improve the flow of the policy. In a similar vein, I note that semi colons would be more consistent with the drafting of the remainder of the RPS. I have recommended some further minor amendments to Policy UD.4, as set out in Appendix 1 of this statement of evidence.
61. As I have stated elsewhere in this statement of evidence, I note that development within the Settlement Zone may not be ‘urban development’ as defined in the RPS, while the mixed-use nature/intent of the zone may preclude this same development from being considered rural residential development. As a result, I consider there is a current policy gap in where development within Settlement Zones, as planned and existing zones, may fit within the scope of the RPSPC1.

Policy 56

62. [S34.014] UHCC opposes the policy in part, and specifically sought amendments to remove the reference to the Future Development Strategies from the policy wording.
63. I support the intent of the policy, which in my view seeks to generally manage the tension and effects of development within rural areas and particularly the urban fringe.
64. Whilst I agree with the recommended amendments made elsewhere in relation to strategic growth or development strategies, and acknowledge the intent of Mr Jeffery’s commentary that rural residential development should be consistent strategic direction or growth strategy, I must bring to the attention of the panel that the 2023 draft Future Development Strategy does not contain any direction on rural or rural residential development, and any urban development within rural areas would be instead be captured under Policy 55 which is appropriately subject to consistency with the FDS.
65. It is my view, that many if not all growth strategies in the region, would similarly also not concern themselves with rural residential development. This is certainly true of the Upper Hutt Land Use Strategy 2016, as our local growth strategies are often seeking to manage and direct urban expansion within existing urban areas or future urban zones rather than be seen to encourage growth in rural areas. As a result, and it is my understanding that any rural residential development could not be consistent with the FDS, or other growth strategies as rural areas are generally not discussed or included within these documents.
66. Further, I do not agree with the recommended wording of clause (h) being restricted to ‘rural residential development’. As identified previously, the Settlement Zone in Upper Hutt and the intention of the zone, as per my reading of The Standards, is to provide clustered mixed use development within a rural context, i.e., to purposely provide for clustered services for areas disconnected from the urban zones. In my reading of the clause (h) it seems to preclude mixed

use development within a Settlement Zone in favour of residential development, which in my view undermines the mixed-use intent of the zone.

67. Therefore, I recommend that clause (h) is deleted from Policy 56 and clause (i) is amended to reflect this change, as I have set out in Appendix 1 of this statement of evidence.

CONCLUSION

Overall, I consider that some of the key issues raised by UHCC have not been adequately addressed. I, therefore, propose amendments to the following provisions for the reasons set out in this evidence:

- Objective 22
- Policy UD.5
- Policy UD.3
- Policy 55
- Policy UD.4
- Policy 56

Gabriela Jimenez Rojas BUrbPlan(Hons), NZPI.Int
Senior Policy Planner

A handwritten signature in black ink, appearing to read 'G. Jimenez', is centered on a light gray rectangular background.