

**IN THE ENVIRONMENT COURT
AT WELLINGTON
TE KŌTI TAIAO O AOTEAROA**

ENV-2024-WLG-

IN THE MATTER

An appeal under Schedule 1 of the Resource Management Act 1991 to Greater Wellington Regional Councils Regional Policy Statement Plan Change 1.

BETWEEN

WINSTONE AGGREGATES, a division of Fletcher Infrastructure and Concrete Limited with its registered office at 810 Great South Road, Penrose, Auckland.

Appellant

AND

GREATER WELLINGTON REGIONAL COUNCIL, a duly constituted territorial authority under the Local Government Act 2002 with its office at 100 Cuba Street, Te Aro, Wellington.

Respondent

**NOTICE OF APPEAL ON DECISIONS ON A PROPOSED PLAN CHANGE
1 TO THE RPS**

18 October 2024

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To The Registrar
Environment Court
Wellington

NOTICE OF APPEAL

1. The appellant, Winstone Aggregates (**Winstone**), appeals against Part of the decision by Greater Wellington Regional Council (**Council**) in respect of Proposed Plan Change 1 to its Regional Policy Statement (RPS-PC1) (**the decision**).
2. Winstone Aggregates made a submission and a further submission on the plan.
3. Winstone received notice of the decision on 4th October 2024.
4. The Decision was made by Greater Wellington Regional Council to adopt the recommendations of the Independent Hearing Panel delegated to hear Plan Change 1.
5. Winstone is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (RMA).
6. The decisions to which Winstone is appealing are the decisions on the following parts of the proposed RPS-PC1:
 - (a) **Policy 7** -Recognising the benefits from renewable energy and regionally significant infrastructure in regional and district plans.
 - (b) **Policy 39** – Recognising the benefits from renewable energy and regionally significant infrastructure consideration.
 - (c) **Chapter 2A** a new definition of “quarrying activities.”
 - (d) **Policy 23** – Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna - district and regional plans.

- (e) **Policy 24** – Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans.
- (f) **Policy 24A** – Principles for biodiversity offsetting and biodiversity compensation (except for REG and ET activities) regional and district plans.
- (g) **Policy 47** Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna – consideration.
- (h) **Policy IE.2A** – Maintaining indigenous biodiversity in the terrestrial environment, consideration.
- (i) **Appendix 1A** – Limits to biodiversity offsetting and biodiversity compensation.
- (j) **Chapter 2A Related Definitions:**
 - (i) Biodiversity compensation
 - (ii) Biodiversity offsetting
 - (iii) Buffer/buffering
 - (iv) Ecological integrity
 - (v) Ecological function
 - (vi) Effects management hierarchy
 - (vii) Ecological connectivity
 - (viii) Ecosystem health
 - (ix) Ecosystem processes
 - (x) Enhancement (in relation to indigenous biodiversity)
 - (xi) Indigenous biodiversity
 - (xii) Maintain /maintained /maintenance (in relation to indigenous biodiversity)
 - (xiii) Naturally uncommon ecosystems
 - (xiv) Resilience (in relation to an ecosystem)
 - (xv) Restoration (in relation to indigenous biodiversity)
 - (xvi) Threatened ecosystems

(xvii) Threatened or At Risk species

(xviii) Vegetation clearance.

The Reasons for the appeal are as follows:

7. Winstone (a division of Fletcher Concrete and Infrastructure) is the largest manufacturer and distributor of aggregates in the country. The company operates several quarries in the Wellington Region including Belmont Quarry, Otaki Quarry and Petone Quarry. These operations provide a local and reliable supply of aggregates for construction in the region that is essential for roading, construction and infrastructure development.
8. The availability of a locally sourced aggregate is crucial for minimising transportation costs and ensuring a sustainable supply of materials. Aggregates are a vital ingredient in ensuring the region meets its objectives of suitable public infrastructure, resilience planning and affordable housing, and underpin's the growth outcomes sought by the NPS-UD.
9. Winstone's submission and subsequent appeal of RPS-PC1 in summary seeks to ensure that:
 - (a) Properly recognises the importance and benefits of aggregates and quarrying;
 - (b) Ensure that the RPS provided policy recognition and support for continued pathways for quarrying in the region providing security of supply.
 - (c) Ensure that the RPS recognised the need to quarry in areas where the resource is located, protected significant resource deposits from reverse sensitivity effects.
 - (d) Ensure that land long set aside for quarrying activities at its existing sites was not sterilised as a result of the Policy framework implemented through RPS-PC1 over and above limits provided in National Direction.

- (e) That the RPS introduced policy that gave proper effect to NPS-FM, NPS-UD and NPS-IB, in a more balanced and integrated way by ensuring that it gave equal recognition to the use as well as protection elements of those National Directions (including reference to the consenting pathways for quarrying of aggregates and clean-filling and aggregate extraction), including providing for the interaction of those activities.
- (f) That biodiversity offsetting and availability of the effects management hierarchy remains as articulated in National Direction in the NPS-IB and NPS-FM (including the most recent amendments) and the Council do not seek to impose further undue restrictions by way of regional circumstances that render biodiversity offsetting/ application of the effects hierarchy unavailable which will result in sterilisation of aggregate resource in the Wellington Region or undermine those consenting pathways provided for quarrying and aggregate extraction in National Direction.

Policy 7 and Policy 39

- 10. Amendments are sought to ensure that there is recognition of the benefits of regionally significant minerals. Recognising and providing for the benefits of regionally significant minerals is critical for a secure and reliable supply of aggregates that underpin growth.
- 11. This is required to provide for integration with the Urban Development direction within RPS-PC1. RPS-PC1 has in part sought to give effect to the NPS-UD which will require sufficient development capacity and urban growth to be planned for in the short, medium and long term. To not recognise the role that regionally significant minerals (specifically aggregate) in supporting this direction will result in a gap.

12. The Natural Resources Plan¹ (NRP) includes a Policy Framework that specifically recognises the criticality of significant mineral and aggregate resources for the Wellington Region (including Objectives 9 and 11 of the NRP). This direction is also provided alongside renewable electricity generation and regionally significant infrastructure. However, the NPS does not follow that consistent approach, nor does it recognise the social, economic, cultural and environmental benefits of the utilisation of mineral and aggregate resources or the protection of land containing significant aggregate resources. Changes are sought to provide for this.
13. RPS-PC1 has focused primarily on protectionist direction from the NPS-FM and IB, both National Policy Statements also direct decisionmakers to recognise the social, economic and cultural wellbeing benefits (Policy 15 of the NPS and Policy 10 of the NPS-IB). Without also recognising activities that have regionally significant benefits (such as aggregate extraction, quarrying and clean filling – beneficial uses that are provided consenting pathways in the NPS) does not allow for a balanced approach and fails to give full effect to the NPS.
14. A key theme of RPS-PC1 has been to provide for an integrated approach to other direction of RPS. Changes to Policy 7 and 39 would provide for this and which would integrate with the changes made to Policy 24A-C and Policy 40A-B.
15. The Panel's decision on Policy 39 does not recognise and provide for mineral resource utilisation and the benefits significant mineral resources. These activities are regionally beneficial activity in a similar vein to RSI and renewable energy generation and also provide social, cultural, and environmental benefits. Quarrying activity shares many characteristics of RSI and REG's including the need to locate where accessible resources exist and need to be protected from reverse sensitivity effects.

¹ Appeals version

16. **Relief sought:** Amend Policy 7 as follows:

Policy 7: Recognising the benefits from renewable energy, **significant mineral resources** and regionally significant infrastructure – district and regional plans

District and regional plans shall include objectives, policies, rules and/or other methods that ~~recognise~~:

- a. recognise the social, economic, cultural and environmental benefits of *regionally significant infrastructure* **and significant mineral resources**, including:
 - i people and goods can travel to, from and around the Wellington Region efficiently and safely and in ways that support the transition to low or zero-carbon multi-modal transport modes;
 - ii public health and safety is maintained through the provision of essential services: - supply of potable water, the collection and transfer of *sewage* and *stormwater*, and the provision of emergency services;
 - iii people have access to energy, and preferably renewable energy, so as to meet their needs; and
 - iv people have access to telecommunication services; and
 - v **a secure supply of aggregate is available for development within the region**

17. **Relief sought:** Amend Policy 39 as follows (in line with original submission):

Policy 39: Recognising the benefits from renewable energy, **and** regionally significant infrastructure **and mineral resource utilisation** – 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:~~

- b. recognise and provide for the social, economic, cultural, and environmental benefits of energy generated from renewable energy resources and its transmission through the *electricity transmission network*; and
- c. recognise the social, economic, cultural, and environmental benefits of **significant mineral resources** and other ~~and/or~~ *regionally significant infrastructure*, including where it contributes to reducing *greenhouse gas emissions* and provides for *climate change mitigation, climate change adaptation* and *climate-resilience*; and
- d. have particular regard to protecting *regionally significant infrastructure* **and significant mineral resources** from incompatible subdivision, use and development occurring under, over, or adjacent to the *infrastructure* **or the mineral resource**; and

- e. recognise and provide for the operational need and functional ~~the~~ need for renewable electricity generation activities to be in particular locations, including the need ~~facilities~~ to locate where the renewable energy resources exist; and
- f. recognise the benefits of utilising the significant wind, solar and marine renewable energy resources within the Wellington Region and the development of the *electricity transmission network* to connect the renewable energy resource to distribution networks and end-users.
- g. **Recognise and provide for the operational need and functional need for quarrying activities to be located where the significant mineral resources exist.**

Insert a new definition of “quarrying activities”

- 18. The term “Quarrying activities” should be defined in the RPS, (or otherwise ***defined*** with reference to the National Planning Standards. This is important because of the misconception that quarrying only encompasses the aggregate extraction, as opposed to landfilling, overburden placement, striping and a number of associated activities required to facilitate extraction. This also provides a link to Objective A(j) and Policy 7, 39 and 18A(b)(iii) and (iv).
- 19. ***Relief sought:*** provide a new definition as follows:

“Quarrying activities means the extraction, processing (including crushing, screening, washing, and blending), transport, storage, sale and recycling of aggregates (clay, silt, rock and sand) the deposition of overburden material, rehabilitation, landscaping and clean filling of the quarry, and the use of land and accessory buildings for offices, workshops and carparking areas associated with the operation of a quarry.”

Policy 23:

- 20. Policy 23 was already consistent with the NPS-IB without the amendments as to timing and implications made in the decision. The timing and implementation is already applicable in the NPS-IB and there is no benefit to repeating these here, particularly where timeframes have been amended by the Resource Management

(Freshwater and Other Matters) Amendment Act 2024, which enacted a new section 78 into the RMA with effect from 25 October 2024. Indeed, it would be inefficient planning to include a specific timeframe given that change in the legislative landscape. Winstone seek that the Policy 23 revert to its original text, without reference or reliance upon the classification method in Appendix 1B.

Relief sought: Amend Policy 23 in the following way:

~~As soon as is reasonably practicable and no later than 4 August 2028~~ **District and Regional Plans shall identify and evaluate indigenous ecosystems and habitats with significant biodiversity values; these ecosystems and habitats will be considered significant if:**

~~1. District plans shall identify and map indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the terrestrial environment that qualify as significant natural areas in accordance with Appendix 1B; and~~

~~2. Regional Plans shall identify and map indigenous ecosystems and habitats with significant indigenous biodiversity values and other significant habitats of indigenous fauna in the coastal marine area, the beds of lakes and rivers, and natural wetlands, that meet one or more of the following criteria.~~

(a) representativeness: the *ecosystems* or *habitats* that are typical and characteristic examples of the full range of the original or current natural diversity of *ecosystem* and *habitat* types in a district or in the Wellington Region, and:

(i) are no longer commonplace (less than about 30% remaining); or

(ii) are poorly represented in existing protected areas (less than about 20% legally protected).

- (b) rarity: the *ecosystem* or *habitat* has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.
- (c) diversity: the *ecosystem* or *habitat* has a natural diversity of ecological units, ecosystems, species and physical features within an area.
- (d) ecological context of an area: the *ecosystem* or *habitat*:
 - (i) enhances *connectivity* or otherwise *buffers* representative, rare or diverse *indigenous* ecosystems and *habitats*; or
 - (ii) provides seasonal or core habitat for protected or *threatened indigenous* species.
- (e) mana whenua / t̄Fangata whenua values: the ecosystem or *habitat* contains characteristics of special spiritual, historical or cultural significance to mana whenua / tangata whenua, identified in accordance with *tikanga* Māori.

Explanation

Policy 23 sets out the criteria as guidance that must be met for an considered in identifying indigenous ecosystems and or habitats to be considered to have with significant indigenous biodiversity values. ~~**This evaluation is to be completed and the ecosystems and habitats identified as having significant indigenous biodiversity values included in a district or regional plan as soon as reasonably practicable, and by no later than 4 August 2028.**~~

Wellington Regional Council, and district and city councils are required to assess *indigenous* ecosystems and *habitats*

against all the criteria but the relevance of each will depend on the individual cases. To be classed as having significant biodiversity values, an *indigenous* ecosystem or *habitat* must meet fit one or more of the listed criteria in Policy 23(1) or (2). Wellington Regional Council and district and city councils will need to engage directly with landowners and work collaboratively with them to identify area, undertake field evaluation, and assess significance. Policy 23 will ensure that significant biodiversity values are identified in district and regional plans in a consistent way.'

Policy 24:

21. Policy 24 links with policies 24A -24D. This suite of policies does not give full effect to the NPS-IB for reasons discussed below in relation to Policy 24A. The amendments sought to Policy 24A resolve the issue without amendment to Policy 24.

Policy 24A:

22. Policy 24A will significantly restrict the ability to undertake biodiversity offsetting in the Greater Wellington Region. Insufficient evidence has been provided to support the highly prescriptive approach. This Policy does not give effect to the NPS-IB.
23. This takes a more restrictive approach than the NPS-IB and is not warranted. The provision to require achievement over and above 10% of “net gains” in indigenous biodiversity outcomes under Policy 24A(e) is impractical and unreasonable and is not in line with National Direction. The policy also inappropriately takes a species-specific approach and fails to allow for site specific assessment on a case by case basis. It also fails to appropriately recognise beneficial activities and result in severe restrictions for the quarrying industry because it increases the instances where offsetting is unavailable. Collectively with other provisions appealed Policy 24A places additional undue restrictions on when biodiversity offsetting is available, that is not found in the NPS-IB and is int warranted.

Relief sought: Amend Policy 24A as follows:

Policy 24A: Principles for biodiversity offsetting and biodiversity compensation – (except for REG and ET activities) - regional and district plans

- (a) Where *district* and *regional plans* provide for *biodiversity offsetting* or *aquatic offsetting* or *biodiversity compensation* or *aquatic compensation* as part of an *effects management hierarchy* for *indigenous biodiversity* and/or for aquatic values and extent, they shall include policies and methods to:
- (i) ensure this meets the requirements of the full suite of principles for *biodiversity offsetting* and/or *aquatic offsetting* set out in Appendix 1C or for *biodiversity compensation* and/or *aquatic compensation* set out in Appendix 1D;
 - ~~(ii) provide further direction on where *biodiversity offsetting*, *aquatic offsetting*, *biodiversity compensation*, and *aquatic compensation* are inappropriate, in accordance with clauses (b) to (d) below;~~
 - (iii) provide further direction on required outcomes from *biodiversity offsetting*, *aquatic offsetting*, *biodiversity compensation*, and *aquatic compensation*, in accordance with clauses (e) and (f) below; and
- ~~(b) In evaluating whether *biodiversity offsetting* or *aquatic offsetting* is inappropriate because of irreplaceability or vulnerability of the *indigenous biodiversity*, extent, or values affected, the feasibility to offset residual adverse effects on any *threatened* or *naturally uncommon ecosystem* or *threatened species* must be considered, including those listed in Appendix 1A as a minimum; and~~
- ~~(c) In evaluating whether *biodiversity compensation* or *aquatic compensation* is inappropriate because of the irreplaceability or vulnerability of the *indigenous biodiversity*, extent, or values affected, recognise that it is inappropriate to use *biodiversity compensation* or *aquatic compensation* where residual adverse effects affect a *threatened* or *naturally uncommon ecosystem* or *threatened species*, including those listed in Appendix 1A as a minimum; and~~
- ~~(d) In evaluating whether *biodiversity offsetting* or *aquatic offsetting* is inappropriate because there are no technically feasible methods to secure gains in acceptable timeframes, recognise that this is likely to be inappropriate for those species and ecosystems listed in column Policy 24A(d) in Appendix 1A but that may change over time due to changes in knowledge, methods or expertise, or mechanisms; and~~
- (e) *District* and *regional plans* shall include policies and methods that require *biodiversity offsetting* or *aquatic offsetting* to achieve at least a net gain, ~~and preferably a 10% net gain or greater~~, in *indigenous biodiversity* outcomes to address residual adverse effects on *indigenous biodiversity*, extent, or values. This requires demonstrating, and then achieving, net gains in the type, amount, and condition of the *indigenous biodiversity*, extent, or values impacted. Calculating net gain requires a

like-for-like quantitative loss/ gain calculation of the indigenous biodiversity values (type, amount, and condition) affected by the proposed activity; and

- (f) District and regional plans shall include policies and methods to require biodiversity compensation or aquatic compensation to achieve positive effects in indigenous biodiversity, extent, or values that outweigh residual adverse effects on affected indigenous biodiversity, extent, or values.'

Appendix 1A:

24. Appendix 1A and Policy 24A work together to significantly constrain development activities. The species and habitats identified in Appendix 1A that will either meet or exceed the limits to the use of biodiversity offsetting and biodiversity compensation in the Wellington Region are extensive and broad including a range of species commonly found throughout the region.
25. The approach in Appendix 1A effectively prohibits activities where the species or habitats exist (as where they exist it removes the ability to manage residual effects under the effects management hierarchy), regardless of the actual effects. This will inhibit opportunities for innovation and or allow for the best environmental outcomes to be reached. The prescriptive approach is in conflict with the need to provide for reasonable consideration of the principles for applying biodiversity offsetting and/or biodiversity compensation in accordance with the NPS-IB and compromises pathways provided in both the NPS-FM and NPS-IB.
26. There is a lack of evidential basis for the inclusion of species and habitats listed. These have not been appropriately supported by evidence, nor have the costs and benefits of imposing this restriction being properly quantified in accordance with Section 32 of the RMA.
27. The approach in Appendix 1A is inconsistent with National Direction and the RMA. The NPS-IB and NPS-FM set out principles for applying offsetting and compensation² (which are restated in Appendix 1B and

² Appendix 3 and 4 of the NPS-IB and Appendix 6 and 7 of the NPS-FM

1C of the RPS). There is no direction in any National Policy Statement that requires the RPS to further clarify how these principles are implemented or to further restrict those principles. They are intended to be 'principles' to allow for case-by-case assessment. It also improperly negates/further limits the pathways provided for in the NPS-IB for quarrying and mineral extraction and other recognised beneficial uses.

28. Appendix 1A would conflict with this by over prescribing circumstances where it is not appropriate. Deleting Appendix 1A and references to it will allow the principles to be apply on a case-by-case as intended.
29. Identifying specific species and habitats (as set out in Appendix 1A) is inflexible and fails to account for further research and the evolving understanding of conservation statuses of species over the duration of the RPS.
30. Appendix 1A also seeks to incorporate material by reference of a number of documents into the RPS including:
 - (a) Crisp P and Oliver M 2022, limits to offsetting -Thresholds of concern for Biodiversity, Greater Wellington Regional Council Publication No. GW/ESCI-G-22/11, Wellington (footnote 4 to Appendix 1A);
 - (b) Business and Biodiversity Offsets Programme (2018). The BBOP principles on biodiversity offsets (footnote 5 to Appendix 1).
31. This introduces material incorporated by reference, which in some cases has not been reviewed (or is not commonly accepted by the profession) into the plan by reference, in a manner where the process in Clause 34 of Schedule 1 of the RMA does not appear to have been followed.
32. **Relief sought:** Delete Appendix 1A in its entirety.

Policy 47:

33. This policy cross-references Policy 24A, Winstone seeks such amendments to Policy 47 as are necessary to delete reference to Policy 24A in Policy 47 (i) or consequential on any relief granted in respect of its appeal against other policies.
34. **Relief sought:** Delete reference in Policy 47(i):
- (i) The provisions to protect significant biodiversity values in Policy 24B, and Policy 24C ~~and the principles for Biodiversity offsetting and Biodiversity compensation in Policy 24A except that Policy 24A and Policy 24B do not apply to REG activities and and ET activities; and~~

Policy IE.2A:

35. Policy IE.2A elates to managing non-significant biodiversity outside of Significant Natural Areas are amendments that in Winstone's view fall outside of the notified scope of RPS-PC1 and, in any event, are not appropriate amendments to the RPS.
36. The changes were introduced following a conferencing attended by experts engaged by a small number of submitters during Chapter 6. These provisions introduced significant changes from the status quo purportedly to give effect to the NPS-IB including the approach to biodiversity outside of SNA's including seek to articulate "regionally important community values" without proper engagement on what they are.
37. This late introduction of these provisions meant that they were not made available for full and meaningful community engagement in advance of their inclusion in RPS-PC1. This is contrary to the decision-making principles and mandatory direction in clause 3.2 NPS-IB about engagement, the NPS-IB and Part 2 RMA.
38. This not a practicable restriction. The costs and benefits of this policy were not adequately assessed by GWRC. Decision making Policy IE.2A was not informed by suitable evidence basis or provide sufficient

consideration against Section 32AA of the RMA. Specifically, the decision to include this policy has failed to consider the costs associated with these provisions on landowners (including Winstone) and have the ability to severely restrict access to aggregate in the Regions quarries.

39. **Relief sought:** Delete Policy IE.2A in its entirety.

~~**When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan or regional plan, indigenous biodiversity in the terrestrial environment that does not have significant indigenous biodiversity values as identified under Policy 23 and is not on Māori land, shall be maintained by:**~~

~~**(a) avoiding, remedying or mitigating the adverse effects of REG activities and ET activities to the extent practicable; and**~~

~~**(b) managing any significant adverse effects on indigenous biodiversity from any other proposed activity by applying the effects management hierarchy; and**~~

~~**(c) managing all other adverse effects on indigenous biodiversity to achieve at least no overall loss in indigenous biodiversity within the Wellington Region or district as applicable.**~~

Definitions

40. RPS-PC1 includes a number of unnecessary definitions, including 'ecological connectivity', 'ecosystem health', 'ecosystem processes, 'enhancement' and 'maintain/maintained/maintenance.' A definition within the Regional Policy Statement should only be introduced where policy direction introduces a unique term, or where there is need for regional consistency for the meaning of a term. Deletion is sought for various definitions that do not meet this intent for the following reasons:

- (a) There would also seem to be three definitions that have the same meaning: “ecological integrity”, “ecological health” and “resilience (in relation to an ecosystem)”. This does not assist plan users and rather hinders.
 - (b) Terms such as “maintain” and “enhance” are well understood in planning by their ordinary meaning and associated caselaw. There is no supporting evidence provided that the ordinary meaning as confirmed by caselaw should differ for indigenous biodiversity chapter of the RPS.
 - (c) Terms/definitions are not included in National Direction (including National Planning Standards or NPS-FM/IB)
41. **Relief sought:** Delete definitions of ‘ecological connectivity’, ‘ecosystem health’, ‘ecosystem processes’, ‘enhancement’ and ‘maintain/maintained/maintenance’:

Ecological connectivity

The structural or functional links or connections between habitats and ecosystems that provide for the movement of species and processes among and between the habitats or ecosystems.

Ecosystem health

The degree to which an ecosystem is able to sustain its ecological structure, processes, functions, and resilience within its range of natural variability.

Ecosystem processes

The physical, chemical, and biological processes that link organisms and their environment.

Enhancement (in relation to indigenous biodiversity)

The active intervention and management of modified or degraded habitats, ecosystems, landforms and landscapes in order to reinstate indigenous natural character, ecological and physical processes, and cultural and visual qualities. The aim of enhancement actions is to improve the condition of the environment, but not to return it to a former state.

Maintain /maintained /maintenance (in relation to indigenous biodiversity)

Maintaining indigenous biodiversity requires:

(a) — the maintenance and at least no overall reduction of all the following:

- (i) the size of populations of indigenous species:**
- (ii) indigenous species occupancy across their natural range:**
- (iii) the properties and function of ecosystems and habitats used or occupied by indigenous biodiversity:**
- (iv) the full range and extent of ecosystems and habitats used or occupied by indigenous biodiversity:**
- (v) connectivity between, and buffering around, ecosystems used or occupied by indigenous biodiversity:**
- (vi) the resilience and adaptability of ecosystems; and**

(b) — where necessary, the restoration and enhancement of ecosystems and habitats.

Definitions to be amended:

42. The following definitions are consequentially included in the appeal on Policies 24, 24A and 47 and may require consequential amendment arising from Winstone's relief sought on those policies to ensure those the definitions reflect the terms in the NPS-FM/ NPS-IB.

- (a) Biodiversity compensation
- (b) Biodiversity offsetting
- (c) Buffer/buffering
- (d) Ecological integrity
- (e) Ecological function
- (f) Effects management hierarchy
- (g) Ecological connectivity
- (h) Ecosystem health
- (i) Ecosystem processes
- (j) Enhancement (in relation to indigenous biodiversity)
- (k) Indigenous biodiversity
- (l) Maintain /maintained /maintenance (in relation to indigenous biodiversity)
- (m) Naturally uncommon ecosystems
- (n) Resilience (in relation to an ecosystem)
- (o) Restoration (in relation to indigenous biodiversity)
- (p) Threatened ecosystems
- (q) Threatened or At Risk species

(r) Vegetation clearance

43. **Relief Sought:** Amend the following definitions to address the concerns raised above.
44. Collectively the suite of amendments sought by Winstone in this appeal are required because the appealed provisions do not individually or collectively give effect to the NPS-IB. Collectively those provisions place additional unjustified restrictions on when biodiversity offsetting and biodiversity compensation. There are conflicts with the intent of the National Direction and there is insufficient evidence to justify this approach.
45. Individually and collectively, these provisions fail to give full effect to National Direction which includes but is not limited to failure to provide appropriate recognise beneficial activities such as quarrying activities (Policies 9 and 10 of the NPS-IB) that are otherwise provided in the NPS-FM, NPS-IB and NES-F.
46. As a result the decision on RPS-PC1 fails to:
 - (a) give effect to National Direction;
 - (b) provide for sustainable management and give proper effect to Part 2 of the RMA;
 - (c) properly assess the efficiency and effectiveness and the costs and benefits of those provisions on the Region in accordance with sections 32 and s32AA of the RMA and
 - (d) ensure internal consistency within the RPS direction and with other Regional Planning documents.
47. **Winstone seeks the following relief:**
 - (a) The plan be amended to address Winstone's concerns set out in the above paragraphs, or alternative wording to that effect.

- (b) Such consequential or related relief be granted as may be necessary to give effect to the relief sought by Winstone's; and
- (c) Costs be granted; and
- (d) Even further or other additional relief, that the Environment Court deems just.

48. The following documents are attached to this notice:

- (a) A copy of Winstone's submission and further submission.
- (b) A list of names and addresses of persons to be served with a copy of this notice;
- (c) A copy of the decision.

Dated: 18 October 2024.



P D Tancock / D W Ballinger

Counsel for the appellant

Address for service of the appellant:

Penelope Ryder-Lewis at the offices of Bartlett Law, Level 9 Equinox House, 111 The Terrace, Wellington.

Documents for service on the appellant may be left at that address for service or may be emailed to the solicitor prl@bartlettlaw.co.nz, provided that a copy is sent to counsel at Phernne.tancock@legalchambers.co.nz and duncan.ballinger@stoutstreet.co.nz

Advice to recipients of copy of notice of appeal

How to become a party to proceedings

1. If you wish to become a party to the appeal, you must,—
 - (a) within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
 - (b) within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.
2. You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing requirements (see form 38).
3. Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

Advice

4. If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.