

APPENDIX 4

PLANNING HISTORY – LAMBTON HARBOUR

The planning framework now applying to the Lambton Harbour Area under the operative District Plan has had a relatively recent history.

That history essentially commences in the early 1980s when consideration was first given to using the inner harbour area for non-port activities. An early landmark event was the holding of the Wellington Civic Trust sponsored 'design competition' in 1982, when ideas were sought for the redevelopment of the area.

The 1982 design competition was followed in 1984 by the Harbour/City Conference jointly sponsored by the Wellington Harbour Board and the Wellington City Council. The conference recommended a joint approach by the City Council and the Harbour Board to the future development of the waterfront.

Empowering legislation to establish a joint planning committee and a Lambton Harbour Development Area (LHDA) was passed in 1987.¹ In turn, a combined planning scheme, the Lambton Harbour Combined Scheme, prepared under the Town and Country Planning Act 1977, was made operative on 1 November 1989.

3.1 LAMBTON HARBOUR COMBINED SCHEME

In the Introduction to the Lambton Harbour Combined Scheme, it was recorded that:

“Over the years there has been a marked change in the character of the Wellington waterfront. In the past, the wharves around the Lambton Harbour were intensively used by both cargo and passenger vessels as well as by smaller local craft. The major cargo handling areas have however shifted north, where land could be reclaimed for the large areas required for container storage and handling, and an overseas passenger terminal was constructed near Clyde Quay. With the migration of these functions away from the central area of Lambton Harbour a large area of land with significant development potential became available. Its proximity to the central area of Wellington, ready availability to existing transport routes and its commanding location at the water’s edge provides superior development sites for a wide range of activities.

*This potential was recognised by both the Wellington City Council and the Harbour Board, who agreed to prepare a combined planning scheme for the area as shown in Figure 1 following page”.*²

The Lambton Harbour Combined Scheme (LHCS) advanced a proposed development concept for the 20 hectares of harbourfront land from the Wellington Railway Station in the north to the Clyde Quay Wharf in the south-east.

The 'concept plan' goal underpinning the LHCS was:

*“To create a high quality built environment within the Lambton Harbour Development Area with uses appropriate to a waterfront location and complementary to the Central Area of the City and which is financially viable”.*³

The concept plan set out eight “character areas” for which such matters as building location and suggested uses, bulk and height, the distribution of open spaces, vehicular access points, parking buildings and areas, pedestrian areas and vehicle routes to service the area, were established. One of the eight character areas was the “Railway Link Character Area”.

¹ Wellington Harbour Board and Wellington City Council Vesting and Empowering Act 1987

² Lambton Harbour Combined Scheme, page 13

³ Op cit, page 14

The Railway Link Character Area at the northern end of the LHDA included the area now known as North Kumutoto. At page 21 of the LHCS it was recorded that:

Among the policies in relation to “development and design” for the Railway Character Area were:

Policy 3: To develop the southern part of the area as a pedestrian area with sunny open spaces and unimpeded views of the harbour.

Policy 5: To retain Shed 21 and the Eastbourne Ferry Buildings as buildings of historic and/or architectural significance and to refurbish them for uses appropriate to the area.

Policy 6: To develop buildings abutting Waterloo Quay that are generally sympathetic to the design and appearance of the buildings of historic and/or architectural significance that are to be retained.

Policy 7: To develop buildings generally of a lower height than in the City Centre.⁴

The policies in relation to “activities” were:

Policy 1: To utilise refurbished buildings for uses that will attract the public to the area.

Policy 2: To replace Shed 17 (demolished) with a multi-storey office building with car parking floors.

Policy 3: To preserve the open character of the area by developing pedestrian open spaces between Waterloo Quay and the Harbour.

The LHCS, prepared under the Town and Country Planning Act 1977, became the “transitional” District Plan under the Resource Management Act 1991 and was administered as such until the new District Plan was prepared.⁵

3.2 PROPOSED DISTRICT PLAN (1994)

The Proposed Wellington City District Plan, publicly notified on 27 July 1994, included the Lambton Harbour Area as part of the Central Area, but contained no detailed design provisions. It was indicated that a design guide would be introduced in the future by way of a variation or change to the Plan.⁶

3.3 VARIATION 2

Variation 2 “Lambton Harbour Precinct”, publicly notified on 23 June 1995, sought to introduce separate provisions for Lambton Harbour Area. However, although the Variation was publicly notified and submissions received, it did not proceed to a hearing. This was primarily due to the Council’s decision in May 1996 to introduce a ‘moratorium’ on Lambton Harbour development pending a review of the concept plan being implemented through the Transitional District Plan.⁷

The moratorium followed Lambton Harbour Management Limited⁸ and Council holding a public forum in mid-1996 to discuss mounting public concern around some of the Lambton Harbour Area developments.

3.4 COMMUNITY CONSULTATIVE COMMITTEE

In July 1996 the Council resolved to undertake a review of the concept plan and appointed a Lambton Harbour Community Consultative Committee (CCC) to undertake the review.⁹

⁴ Op cit, page 22

⁵ The now operative District Plan was first publicly notified as the Proposed District Plan in July 1994

⁶ Proposed District Plan, July 1994, page 1/22

⁷ This was the concept plan introduced through the Lambton Harbour Combined Scheme (refer Volume 3, **Appendix 4**)

⁸ Lambton Harbour Management Company (LHML), the fore-runner to Wellington Waterfront Limited (WWL), was the management company set up by Council to implement the development plans for the waterfront.

⁹ The CCC included representatives of Wellington Civic Trust, Waterfront Watch Inc, New Zealand Historic Places Trust, New Zealand Institute of Architects, Wellington Tenth Trust, Wellington Regional Chamber of Commerce, Tourism Wellington Trust, Building Owners’ and Managers’ Association, Royal Port Nicholson Yacht Club and Chaffers Marina, Victoria University Students’ Association, Wellington

The CCC adopted as an ‘over-arching vision’ for Lambton Harbour:

“Lambton Harbour is a special place that welcomes all people to walk our waterfront history through an exciting playground of beautiful and inspiring spaces that connect our city to the sea, and protect our heritage for future generations”.

In the Preface to its November 1996 Report, the CCC recorded that:

“People know what they want. The same themes emerge whoever is talking:

- *A wide, welcoming promenade on the water’s edge*
- *Exciting new buildings that are in scale and sympathetic to their surroundings*
- *A faithful restoration and creative use of old buildings*
- *Lots of quality, people friendly public space - particularly green space*
- *A network of walkways with opportunities for access to the water*
- *A wide variety of vibrant activities, exciting uses and imaginative developments*
- *The very best of design*
- *Quality development which maximises the potential of the site*
- *Visionary planning*
- *Effective and responsive management”.*¹⁰

On 29 May 1997 the Wellington City Council accepted the recommendations of the CCC and adopted the vision identified by the committee as its own.

Subsequently, in July 1997 the CCC was reconstituted specifically to provide public input into the design phase of the Lambton Harbour project.¹¹

3.5 LAMBTON HARBOUR CONCEPT PLAN

In December 1998 the Wellington City Council endorsed the Lambton Harbour Concept Plan, which had been prepared following a period of public consultation and design development led by the Community Consultative Committee commencing back in mid-1996.

Subsequently, in March 1999 the Council resolved to prepare a District Plan variation to provide for the development of the Lambton Harbour Area in accordance with the approved Concept Plan.

3.6 VARIATION 17

Variation 17, like Variation 2, was a variation to the 1994 Proposed District Plan. It proposed to incorporate new provisions for the Lambton Harbour Area. The principal changes the variation proposed were new objectives and policies, a new rule requiring a minimum ‘public access area’ of 65%, a Lambton Harbour Design Guide and a new map identifying “maximum building heights and public access areas”.

Variation 17 was publicly notified with a closing date for submissions of 7 February 2000.

Polytechnic Students’ Association, Wellington Playcentre Association and Kindergarten Association, Wellington Residents’ Association and three Wellington residents.

¹⁰ Community Consultative Committee, Report on Lambton Harbour, November 1996, page 1.

¹¹ A 13-member design team was established to assist the Committee.

The public notice stated that Variation 2 was withdrawn by resolution of Council on 11 October 1999, for the reason that:

“... a new variation for Lambton Harbour (Variation 17) has been prepared which reflects the latest design proposals for the area”.

As subsequently recorded in the Wellington Waterfront Framework (refer section 3.5 below):

“By 7 February the original closing date for submissions, the Council had received some 2,500 submissions - the highest number ever recorded on a planning issue in Wellington. Some 94% of those submissions opposed Variation 17 proceeding without modification. Under intense political pressure, the Council voted to extend the submission date.

*Finally, in April 2000, the Council agreed to withdraw Variation 17 and asked for a new process to be developed to find a way forward for the waterfront”.*¹²

Following the withdrawal of Variation 17 the Council appointed a 10-member Waterfront Leadership Group consisting of three councillors and seven community and interest group representatives. The Group was tasked with developing a framework for the waterfront. The framework was to be Stage 1 in a three-stage process, with Stage 2 to follow to propose more detailed plans for each part of the waterfront. The Council also appointed a technical advisory group (TAG) which would advise on the detailed plans as they were developed and then, in turn, would monitor the implementation of those plans (Stage 3).

3.7 WELLINGTON WATERFRONT FRAMEWORK

The Wellington Waterfront Framework (“Framework”) was adopted by Council in April 2001. The Introduction to the Framework states that its purpose was threefold:

*“... firstly to record the Leadership Group’s work; secondly to describe what the Group recommends should be done on the Wellington Waterfront; and thirdly to present how it believes this future work should be undertaken”.*¹³

The Framework stated an overarching vision supported by five themes which were considered to give the waterfront its ‘flavour’ or identity. Values and principles to reinforce the themes were also stated.

The overarching vision was:

*“Wellington’s Waterfront is a special place that welcomes all people to live, work and play in the beautiful and inspiring spaces and architecture that connect our city to the sea and protect our heritage for future generations”.*¹⁴

The five inter-linking themes to apply throughout the waterfront were:

- Historical and contemporary culture
- City to water connections
- Promenade
- Open space
- Diversity

Section 3 of the Framework set out the “values” to guide the development of the waterfront. The values were:

- Expression of heritage and history
- Expression of Maori heritage and presence
- “Sense of place” for Wellingtonians
- Diversity of experience
- Sense of collective ownership and involvement
- Experience of space and openness
- Ease of access for all.

¹² The Wellington Waterfront Framework, Wellington City Council, April 2001, page 9

¹³ Op cit, page 5

¹⁴ Op cit, page 11

Key principles were identified for each of the values, including the following that are relevant in the context of the Project:

“Sense of place” for Wellingtonians

- Any development will be of high quality
- Any new buildings will be complementary to, and in a scale appropriate to, the existing buildings around them
- The identity developed for each area will be in character with the waterfront as a whole
- The design and use of buildings should be orientated outwards to maximise the unique value of the waterfront location
- The waterfront is part of Wellington and new work will complement the buildings and public spaces in the adjacent city

Diversity of experience

- There will be an allowance for some commercial development on the waterfront
- Public space development does not depend for funding on commercial development
- New buildings can be considered for the waterfront

Sense of collective ownership and involvement

- The waterfront is predominantly a public area
- The public should be consulted - either through the Stage 2 process or through a statutory planning process - about any proposed new buildings and any significant changes to existing buildings
- Ground floors of buildings will be predominantly accessible to the public

Experience of space and openness

- The harbour is the primary open space on the waterfront
- There will be a network of paths throughout the area
- A series of different open spaces that cater for diverse uses and activities will predominate
- There will be a variety of open spaces - some green, some sheltered and some paved
- Important views and vistas from the city to the sea will be protected and important new ones created
- Buildings will support the open spaces, both in their design and their associated uses and activities

Ease of access for all

- There will be a public walkway/promenade along the full length of the waterfront, predominantly at the water's edge
- There should be opportunities for people to gain access to and from the water
- The waterfront should be accessible for people with special needs
- The waterfront will be designed with safety and security in mind
- Ideally, surface parking should be progressively removed as development takes place
- Parking provided on the waterfront will be primarily for waterfront users

Seven objectives to guide the overall design of identified 'sub-areas' within the waterfront were stated. They were:

- The waterfront is locally and internationally recognised for its design
- The waterfront is readily accessible for all people
- The waterfront is, and is perceived to be, safe at all times
- The waterfront is seen as an attractive place that draws Wellingtonians and visitors alike
- The waterfront successfully caters for a wide range of events and activities
- Significant heritage buildings are protected on the waterfront
- Activities on the waterfront are integrated with those on the harbour

Section 4 of the Framework identified the five 'sub-areas' within the waterfront which were seen to have a recognisable character that relates to both built form and open spaces. The Framework stated that:

*“Making each area distinct will allow the development of a unique ‘sense of place’ or local character for each area”.*¹⁵

The five sub-areas were:

¹⁵ Op cit, page 23

North Queens Wharf (now known as North Kumutoto)
Queens Wharf
Frank Kitts Park
Taranaki Street Wharf/Lagoon
Chaffers

For North Queens Wharf/North Kumutoto the key features that were identified were:

- Strong connection to CBD
- Maritime character
- New buildings in scale with heritage buildings and enhanced with squares and lanes
- Sheltered route from Railway Station along Customhouse Quay
- Underground parking preferred - an alternative could be above-ground parking in a building on Site 102
- Views from city streets preserved, and improved where possible
- “Two parts” promenade - one path along the Tug Wharf and a more sheltered path incorporated by new buildings along the inner water’s edge
- Tug Wharf refurbished and access to water for fishing and pleasure boats improved.¹⁶

Section 4.2 of the Framework, “North Queens Wharf”, further describes the existing character of the area now known as North Kumutoto and identified future opportunities. It states that:

“North Queens Wharf has a strong connection to the city’s Central Business District. This will be reflected with a stronger sense of the city form being developed in this area through a higher proportion of buildings than on the rest of the waterfront.

*The character of the area will be of squares, lanes and new buildings in scale with the heritage buildings, such as Shed 21 at the northern end and the Queens Wharf Apartments and Sheds 11 and 13 at the other end”.*¹⁷

In relation to “building relationship to open spaces” it is stated that:

“New buildings in this area will have a range of uses, and could include recreational, retail, commercial, residential and institutional uses. An option to be further explored in this area is the idea of a contemporary maritime museum.

*New buildings in the North Queens Wharf area will be sympathetic to, and relate to the scale and size of, the heritage buildings, bearing in mind that Shed 21 at the northern end is higher than the heritage buildings at the southern end. They will also be designed in a coherent fashion so they relate to and complement each other”.*¹⁸

3.8 VARIATION 22

Variation 22 was notified on 15 August 2001.¹⁹ The variation essentially sought to incorporate the substance of the Wellington Waterfront Framework into the District Plan. The public notice noted that the “*Framework becomes an over-arching strategy for the waterfront that will guide its development*”. The public notice further stated that:

“Incorporating the substance of the Framework into the District Plan provides a clear expression of the Council’s policy direction for the waterfront. Variation 22 will replace the Transitional District Plan provisions (the 1989 Lambton Harbour Combined Planning Scheme and Concept Plan)”.

The principal changes proposed by Variation 22 were:

- the waterfront, described as the Lambton Harbour Area (LHA), was incorporated into the District Plan as part of the Central Area rather than by creating a separate waterfront zone. Specific objectives, policies, and in some cases, rules were set for the LHA;
- new rules that required resource consents for all new buildings and the development of open space in the LHA; and

¹⁶ Op cit, page 27

¹⁷ Op cit, page 32

¹⁸ Op cit, page 33

¹⁹ Variation 22 was a variation (or ‘change’) to the Proposed District Plan.

- a zero height limit set for new buildings.

The public notice stated that the zero height limit meant that:

“... there is no new site on the waterfront that carries an automatic right to build to a particular height without a resource consent being granted”.

Following the submission and hearing process the Council resolved to confirm the recommendations of the independent Hearing Commissioners and issued its Decision on 7 May 2002.

In the Hearing Commissioner’s Report it was recorded that:

“The purpose of Variation 22 as notified is to incorporate into the District Plan the vision, values, principles and themes to guide the development of Wellington’s waterfront area. Under the Variation, the Framework becomes an over-arching strategy for the waterfront. Variation 22 can be seen as the culmination of Stage 1 of the waterfront design process.

The aim of incorporating the substance of the Framework into the District Plan is to give the Framework statutory weight as an indicator of the Council’s policy direction for the waterfront. Variation 22 is intended to replace the Transitional District Plan provisions (the 1989 Lambton Harbour Combined Planning Scheme and Concept Plan) and remove the risk that out-of-date provisions could carry weight by default.

Variation 22 introduces less detailed provisions than the earlier withdrawn variations. More detailed plans for the waterfront are being developed as part of the next stage of the waterfront planning process. We understand that when this design work is completed, a further District Plan change or changes may be initiated to incorporate specific proposals for development of the waterfront.

*Variation 22 can therefore be seen as introducing a transitional set of provisions that create a holding situation while more detailed plans are prepared. Under Variation 22, all significant new development will require resource consent. By this mechanism, the Council can ensure that there is opportunity for public scrutiny of any significant new development on the waterfront - particularly during the period while detailed design plans are being finalised during Stage Two. The Council’s commitment to continued public involvement in decision-making on the waterfront is recorded in the Variation”.*²⁰

The new provisions for the waterfront introduced through Variation 22 also cited the Wellington Waterfront Framework as a Design Guide.²¹

3.9 OPERATIVE DISTRICT PLAN

The proposed District Plan (first publicly notified in July 1994) was made operative on 27 July 2000. The new Lambton Harbour Area provisions confirmed through Variation 22 were subsequently incorporated in the operative District Plan in July 2004.

3.10 VARIATION 11

Variation 11 was a variation which sought to incorporate changes to Proposed District Plan Change 48 (Central Area Review). DPC 48 was notified on 23 September 2006. Variation 11 was publicly notified on 1 February 2009.

In the Section 32 Report on Variation 11 it was recorded that:

²⁰ District Plan Variation 22 - Report of Hearing Commissioners (20 February 2002), page 3

²¹ Subsequently the Environment Court concluded that:

[56] We are of the view that the Waterfront Framework has no status as a component of the District Plan and those provisions of the Plan which purport to incorporate the Framework into it are ultra vires. Nor do we agree with the statement contained in the Agreed Statement of planning experts that the Waterfront Framework is the ‘dominant design guide’ for the waterfront. The Waterfront Framework does not purport to direct design matters but rather to be a policy document.

Intercontinental Hotel v Wellington Regional Council (the ‘Hilton Hotel’ case), Environment Court, 14 March 2008, Decision No W015/2008, page 15

"In 2000 the Council commenced work on the preparation of a non statutory framework for the waterfront area. The Waterfront Framework which was adopted in April 2001 sets out the vision, values and principles that have continued to guide the ongoing development of the waterfront.

The current operative District Plan provisions were developed with reference to the Framework and promulgated as Proposed Variation 22 in August 2001. This variation generated over 100 submissions and resulted in only one appeal relating to the existing buildings on Queens Wharf. The variation proposals were adopted into the Plan in July 2004.

More recently the waterfront area was subject to review under District Plan Change 48 (Central Area Review) which was notified in September 2006. This review raised few submissions relating to the waterfront and no specific waterfront appeals were lodged.

In light of this planning history and the comprehensive nature of both the Variation 22 and District Plan Change 48 processes it was accepted that the waterfront provisions were in accordance with the legislation and were working appropriately to give effect to Council's policy as expressed in the Waterfront Framework (April 2001).

However, on 14 March 2008 the Environment Court issued its decision on the resource consent appeals relating to the proposal to construct a new Hilton hotel on the Outer-T of Queens Wharf (Decision No 015/2008). This decision raised important issues relevant to the operation of the existing District Plan provisions and the future determination of resource consents on the waterfront.

With regard to the District Plan, the Court found that provisions that purport to incorporate the Waterfront Framework into the operative District Plan were 'ultra vires' or beyond the law. Specifically this related to.

- *The provisions that refer to the Waterfront Framework as a design guide (meaning a design guide similar to the existing guides in Volume 2 of the District Plan)*
- *The references to the Waterfront Framework applying as assessment criteria for the consideration of resource consent applications.*

The decision also commented on various matters relating to the protection of both public and private views. On this matter the height and bulk of buildings are the most important considerations. Currently a zero height limit applies over most of the waterfront. This limit was imposed as a trigger to activate resource consents for new building development and not as a means to prevent development. It is now considered that to continue with a zero height limit in areas of the waterfront identified for development would be problematic. As a zero height limit provides no permitted baseline for the assessment of resource consents it is possible that future resource consent applications could face significant planning and legal obstacles if issues such as building height and the intensity of development were to be raised by submitters.

To activate the original intention of devising tailored District Plan provisions for identified areas on the waterfront and to address the issues arising from the Hilton decision it has been recommended that appropriate changes to the District Plan be initiated before further resource consent applications for new developments are made".²²

Variation 11 was publicly notified on 1 February 2009.

In the public notice it was recorded that:

"Variation 11 proposes to amend District Plan Change 48 - Central Area Review. Existing provisions will be revised to establish a suitable regulatory framework for the assessment of any new development in identified areas on the waterfront, including:

- *the inclusion of more detailed policy provisions for future building development on the waterfront - particularly in the North Kumutoto Area;*
- *the introduction of defined limits including building height and 'footprints' for development in the North Kumutoto Area;*

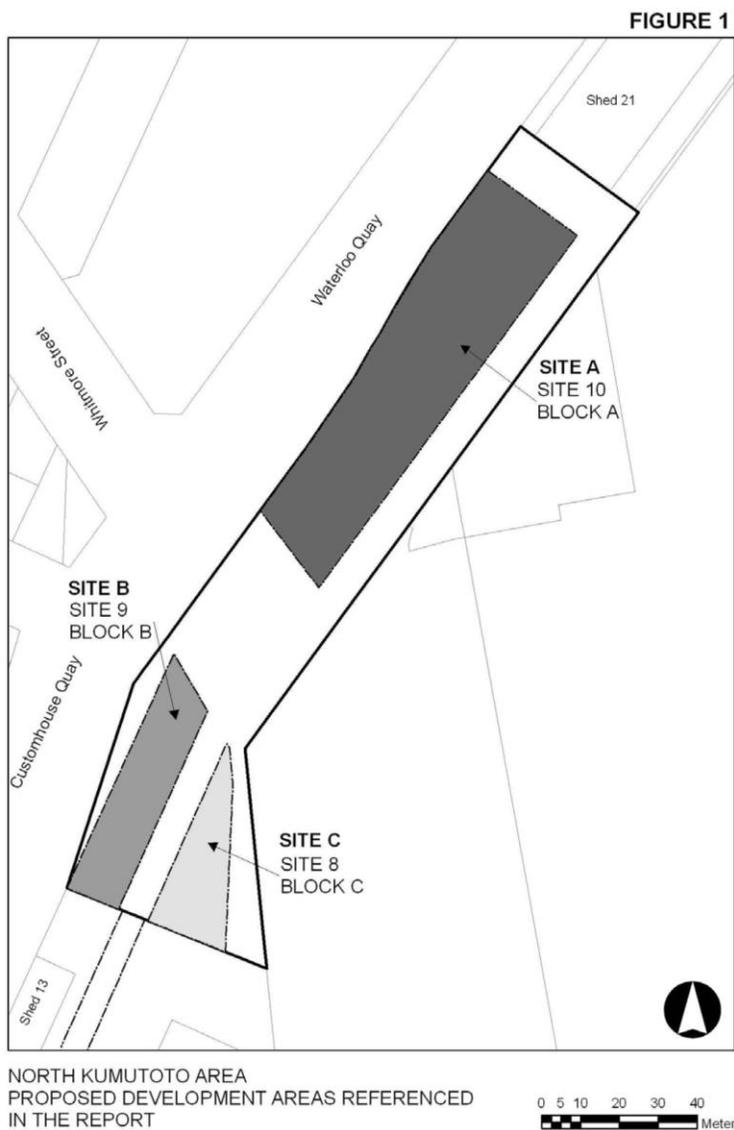
²² Section 32 Report Proposed District Plan Variation 11, December 2008, pages 2-3

- the inclusion of a new rule 13.3.4A to provide for new building development within defined limits to be considered by the Council on a ‘restricted discretionary’ basis without the requirement for public notification - proposals that do not meet this rule will be dealt with on a fully discretionary basis and are likely to be notified; and
- a new design guide that recognises the special character of the North Kumutoto Area and the need for outstanding design of new buildings and related public space”.

Variation 11 identified the three ‘sites’ that are now referred to in many subsequent reports, including this AEE, as Sites 8, 9 and 10. For ease of reference a copy of diagram (Figure 1) identifying the sites is presented below.²³

Following the submission and hearing process two appeals were lodged with the Environment Court by Waterfront Watch Inc and Queens Wharf Holdings.

In its decision issued on 24 April 2012 the Court found that Variation 11 did not meet the relevant statutory tests. Consequently, the Court upheld the appeals against Variation 11, recording that it would:



²³ Figure 1 was a drawing attached to the Council Commissioner’s Decision Report on Variation 11

“... leave it to the Council, if it so wishes, to propose a new set of plan provisions for this area, considered against the background of what, hopefully has been learnt from this rather frustrating exercise ...”.²⁴

In the body of its decision a number of comments that were made by the Court could have some relevance to an assessment of the current Project.

The ‘zero permitted height rule’

[33] *Currently the District Plan does not provide a permissive height limit for buildings in the Lambton Harbour Area. It adopts this technique as a mechanism to trigger a requirement for a resource consent. Such development would be publicly notified. The present Plan provisions do not have any height below which a development would be a ‘permitted activity’. Somewhat misleadingly, this is occasionally referred to as the ‘Zero Height Rule’, but there is no ‘Rule’ so-called - there is just no permitted building height below which resource consent is not required. Following the Hilton decision the Council formed the view (as recorded in its s32 Report for Variation 11) that the zero height mechanism was ‘problematic’ because it meant that there was no relevant permitted baseline. We share the doubt expressed by that conclusion. Of itself, we would not have thought that the absence of a ‘permitted baseline’ is likely to raise a question about the validity or workability of a Plan. Appendix 13 to the variation is proposed as a height rule and links to existing District Plan maps 32 and 32A.*

Design Guidelines

[68] *As we have discussed, one of the objectives of Variation 11 was to introduce the Central Area Urban Design Guidelines as a tool for assessment at the waterfront. The Council had up until this point relied upon the (non-statutory) Wellington Waterfront Framework for assessment of new development. Thus, throughout the relevant sections of the Plan the variation replaces the words ‘Wellington Waterfront Framework’ with ‘Central Area Urban Design Guidelines’. However, it retains references to the ‘Framework’ document where it refers to methods to be used to give effect to certain policies in relation to ‘operational activities’, which we understand to mean Council’s own activities that it conducts in this area, for instance through Wellington Waterfront Ltd.*

3.11 OVERVIEW OF RECENT HISTORY

Over the last 34 years or so since the Harbour/City Conference, when the process for establishing a planning framework for the [re]development of the Wellington waterfront was initiated, there has been a continuing debate about what form the [re]development should take.

A significant step in the process was the adoption by the Wellington City Council in April 2001 of the Wellington Waterfront Framework as the city’s vision for the waterfront.

Either side of the adoption of the Wellington Waterfront Framework there have been a number of initiatives that have sought to establish the District Plan framework for guiding the [re]development of the waterfront (aka Lambton Harbour Area), some of which were controversial (e.g. Variation 17), while others, particularly Variation 22, were generally accepted.²⁵

For the area now referred to as North Kumutoto, previously known as North Queens Wharf, this recent history of District Plan changes and variations came to a conclusion with the Environment Court’s decision on Variation 11, with the Court rejecting more detailed provisions, including building locations and heights and urban design guidelines for North Kumutoto.

Nevertheless, the Court’s 2012 decision did include comment which has relevance to the current application for a new building on Site 9, which was that:

[115] *The footprint of Block B was generally considered as quite satisfactory across relevant witnesses, and we agree. However, in relative terms its height should be adjusted downwards to complement the lowered height of Block A.*

²⁴ Waterfront Watch Inc and Queen Wharf Holdings v Wellington City Council, Decision [2012] NZEnvC 74 dated 24 April 2012, [149] page 44

²⁵ Variation 22 was a variation or change to the proposed District Plan which introduced the now operative objectives, policies and rules for the Lambton Harbour Area.

The maximum height of the Block B should be 16m ad 19m accordingly (a lowering of the 25m allowance to 19m which would equate to the meridian Building annex and provide relativity to Shed 13).²⁶

Note: for the latest 'step' in the planning history for the Lambton Harbour Area, post the Environment Court's 2012 decision, refer to Section 2.3.3 of the AEE.

²⁶ Waterfront Watch Inc and Queen Wharf Holdings v Wellington City Council, Decision [2012] NZEnvC 74 dated 24 April 2012, page 35