

BEFORE THE WELLINGTON CITY COUNCIL

IN THE MATTER OF of the Resource Management Act 1991

AND

IN THE MATTER OF the Wellington City Proposed District Plan Hearing
Stream 1

BETWEEN Wellington City Council

AND Wellington International Airport Limited
Submitter 409 and Further Submitter 36

STATEMENT OF EVIDENCE BY JOHN KYLE

HEARING STREAM 1 - 14 FEBRUARY 2023
REBUTTAL EVIDENCE

INTRODUCTION

- 1 My name is John Kyle. I have been engaged in the field of resource and environmental management for more than 35 years.
- 2 I have prepared evidence in chief for Hearing Stream 1 (dated 7 February 2023).
- 3 I confirm my obligations in terms of the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I confirm that the issues addressed in this brief of evidence are within my area of expertise. I confirm that I have not omitted to consider material facts known to me that might alter or detract from the opinions I express in my evidence.

SCOPE OF EVIDENCE

- 4 This statement of rebuttal evidence relates to the evidence presented by Mr Matt Heale on behalf of Kāinga Ora (Submitter 391).
- 5 In preparing this brief of evidence, I confirm that I have read and reviewed:
 - a. The evidence of Mr Matt Heale, dated 7th February 2023;
 - b. Mr Nicholas James Rae, dated 7th February 2023; and
 - c. Mr Michael John Cullen, dated 7th February 2023.

MIRAMAR AND KILBIRNIE

- 6 A theme that is evident throughout the evidence of Mr Heale relates to Kāinga Ora's proposed expansion of the notified High Density Residential Zones and the introduction of new Town Centre Zones. Two areas that would effectively be "up-zoned" if the submission of Kāinga Ora was accepted include:
 - a. A broad area of Kilbirnie, located to the west of Wellington International Airport; and
 - b. A broad area of Miramar, located to the north east of Wellington International Airport.

- 7 A range of changes are proposed by Kāinga Ora to facilitate the above zoning amendments, including changes to Objective CEKP-O2 to provide the introduction of a new “Town Centre” zone. It is also suggested that such areas should be provided with the ability to develop up to six stories.¹
- 8 Both of these areas are located beneath the Wellington Airport Obstacle Limitation Surface Designation and partially located within the Wellington Airport Air Noise Overlay (a qualifying matter). I therefore note that development of the nature and scale that is proposed to be enabled by this submitter will be constrained by the presence of the Air Noise Overlay and Wellington International Airport Limited’s Obstacle Limitation Surface Designation. While the extent of these constraints will be discussed at subsequent hearing streams (Hearing Stream 5 and Hearing Stream 10), in my opinion, it is a relevant consideration to bring to the Panel’s (and Kāinga Ora’s) attention now how it could affect the appropriateness or otherwise of the rezoning sought.

Objective CC-O2

- 9 Kāinga Ora filed a submission seeking that objective CC-O2 be amended as follows:

Wellington City is a well-functioning Capital City where....

4. *Urban intensification is delivered in appropriate locations and in a manner that meets the needs of current and future generations.”*

- 10 Mr Heale supports this amendment on the basis that (my paraphrasing):
- a. urban intensification is critical to meet the needs of future generations;
 - b. the use of the term “appropriate” is unclear, noting that intensification is anticipated across the urban environment; and,
 - c. that the zone objectives and policies detail how and where urban intensification is delivered.

¹ Paragraph 4.58 of the Statement of Evidence of Matt Heale, dated 7th February 2023.

- 11 In my view (which is consistent with that expressed by WIAL in its further submission), it is important that the qualifier that urban intensification is delivered in “appropriate locations” remains in this objective. While I acknowledge that the Proposed Plan needs to provide for urban intensification in line with the policy directives set out in the National Policy Statement for Urban Development (“**NPS-UD**”) as provided for by the Amendment Act, such documents also recognise that higher density development may not be appropriate in all areas. For example, within areas where qualifying matters apply.
- 12 Retention of the phrase “in appropriate locations” therefore signals there are potential constraints on urban intensification. At a strategic level, this is important as it helps establish a direct connection between the strategic objectives, and the objectives, policies and methods in both the zone and District Wide chapters (such as natural hazards and noise) that constrain intensification.

UFD-07

- 13 As set out in my evidence in chief², in response to a submission by Transpower (and further submission by WIAL), the section 42A report writer has included a clarification note at the end of UFD-07 to signal that medium to high density housing developments may not be appropriate in qualifying matter areas. Mr Heale considers that this clarification note is superfluous and considers the objective clarifies how development will achieve well-functioning urban environments by addressing qualifying matters “such as heritage and servicing”.
- 14 The potential list of qualifying matters, as set out in clause 3.32 of the NPS-UD and section 77I and 77O of the RMA is much broader than the matters contemplated in UFD-07. In my opinion, this clarification note is therefore appropriate as again, at a strategic level, it signals that the outcomes sought by the objective should not be read in isolation of other provisions of the Proposed Plan.

² Paragraph 75, Evidence of John Kyle, dated 7th February 2023.

INTERPRETATION – REVERSE SENSITIVITY

15 WIAL, along with a number of other infrastructure providers, submitted in support of the notified definition of reverse sensitivity.³ Kāinga Ora has sought the deletion of this definition,⁴ citing that the matter is covered by general considerations relating to adverse effects.

16 Mr Heale has indicated that he is not opposed (in principle) to including a definition of reverse sensitivity in the Proposed Plan, however questions whether:

a. making unlimited provision for upgrading in a definition is appropriate;

b. whether infrastructure coming to lawfully established operations is appropriate; and

c. whether perceived effects are appropriate to consider.

17 On the above basis, he opposes the proposed definition of reverse sensitivity.

18 As set out in my evidence in chief⁵, reverse sensitivity, as a concept, is recognised and defined in the Greater Wellington Regional Policy Statement. In my experience, it is common for district plans to recognise the concept . I therefore do not agree that the term should be removed. Furthermore, I am not completely clear about Mr Heale’s rationale for removing the term. As set out in my evidence in chief, recognising this concept is important and the inclusion in district plans of methods that preclude sensitive development “coming to the effect” is equally as critical. There are numerous examples around the country where the operations of critical infrastructure have been constrained or curtailed due to pressure brought by newcomers, as development intensifies on land around that infrastructure. Given the critical importance of Wellington Airport to the City,

³ Submission 406.42.

⁴ Submission 391.9.

⁵ Paragraph 33 to 34, Evidence of John Kyle, dated 7th February 2023.

it is my opinion that the definition is important (as are Plan methods that appropriately recognise and address the issue).

John Kyle

14 February 2023