

**Before the Independent Hearings Panel
at Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan – Hearing
Stream 7 (Open Spaces and Recreation zones)

**Statement of Supplementary Planning Evidence of
James (Jamie) Grant Sirl on behalf of Wellington City Council**

Date: 13 March 2024

INTRODUCTION

1 My full name is James (Jamie) Grant Sirl. I am employed as Senior Advisor in the District Planning Team at Wellington City Council (the Council).

2 I have read the further evidence and statements provided by submitters relevant to the Section 42A Report – Open Spaces and Recreation zones.

3 I have prepared this statement of supplementary planning evidence in response to evidence submitted in response to the Section 42A Report – Open Spaces and Recreation zones (s42A report) (dated 20 February 2024), including the associated appendices, which can be found here: [s42A report](#).

4 Specifically, I respond to the following submitters:

Wellington International Airport Limited (WIAL) [406 and FS36]

- a. Kirsty O’Sullivan (Planning)

KiwiRail [408 and FS72]

- b. Catherine Heppelthwaite (Planning)
- c. Michael Brown (Corporate)

Panorama Property Limited [10 and FS11]

- d. Maciej Lewandowski (Planning)
- e. Martin Shelton (Corporate)

Boston Real Estate Limited [220]

- f. Cameron de Leijer (Surveying)

5 I have not addressed points where the submitter has agreed with the recommendations in the s42A report. Where submitter evidence speaks to matters already addressed in this report, I rely on the recommendations and reasoning in this report and only provide additional assessment where necessary.

6 Where, in response to the evidence of submitters, I recommend amendments to plan provisions

in addition to those contained in the s42A report, I identify these in Appendix A to this supplementary evidence.

QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT

7 Section 1.2 of the s42A report sets out my qualifications and experience as an expert in planning.

8 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to this Independent Panel hearing.

SCOPE OF EVIDENCE

9 My statement of evidence addresses:

- a. The expert evidence of the submitters listed above.
- b. Additional matters including identified errors in my section 42A report.

RESPONSES TO EXPERT EVIDENCE

Wellington International Airport Limited (WIAL) [404 and FS36]

10 I agree with the observations outlined in Ms O'Sullivan's evidence¹ with respect to the disconnect between the highly modified character of the area of land containing the seawalls and the NOSZ chapter introduction and purpose. However, I remain of the view that NOSZ is the most appropriate zone for this area and do not consider the Airport Zone a more appropriate alternative when considering the purpose of that zone.

11 I have considered Ms O'Sullivan's proposition that amendments to the Infrastructure Chapter and associated definitions could be an option for further consideration with respect to providing for ongoing maintenance, repair and upgrade of the seawalls. In response, I note that this matter is outside the scope of Hearing Stream 7, and suggest instead that it be explored in Hearing Stream 9 should WIAL seek to promote this option.

¹ Statement of planning evidence of Kirsty O'Sullivan on behalf of WIAL, 5 March 2024.

- 12 I agree with Ms O’Sullivan that there is a need within the PDP to clearly recognise and provide for the ongoing maintenance, repair and upgrade of the seawalls. I note that I have aimed to achieve this through previous recommendations in relation to coastal hazards provisions in the Coastal Environment chapter (in Hearing Stream 5) and recommended amendments to the NOSZ chapter contained in the s42A Report. With respect to the latter, I applied a ‘light touch’ approach to amendments as although the works required to ensure the functionality of the seawalls are critically important, they are not anticipated to be undertaken on a frequent basis. I considered there to be a consenting pathway available such that when assessing an application against the relevant provisions across the wider plan, there would be adequate policy support for the activity. In that case, it would be more a matter of proving that any adverse effects of the activity could be adequately avoided, remedied or mitigated.
- 13 However, I acknowledge that the NOSZ chapter objective and policy framework is not explicitly supportive of the anticipated works, which is helpfully outlined in detail in Ms Lester’s evidence².
- 14 In the s42A report, I expressed my opinion that a bespoke objective and policy framework relating to the seawalls within the NOSZ chapter was unnecessary, and that alternative amendments were preferred to provide for works relating to the seawalls.
- 15 However, following consideration of Ms O’Sullivan’s Statement of Evidence, I agree with Ms O’Sullivan that there is a gap between the NOSZ objectives, policies and the proposed new method outlined in the s42A report (recommended amendments to NOSZ-R14). I remain of the view that the proposed amendments to NOSZ-R14 are not in conflict with existing policy direction i.e. when considering works to the seawall against NOSZ-P6, many of the policy limbs are not relevant due to the highly modified nature of the area and the functional need for the structure in this location. However, I acknowledge that the degree of policy support for the proposed amendments to NOSZ-R14 that specifically provide for seawalls is tenuous, and that policy support within the NOSZ chapter for the works anticipated to ensure the functionality of the seawalls is lacking. In my opinion, it is appropriate for the plan to enable these works subject to ensuring potential adverse effects are appropriately avoided, remedied or mitigated.
- 16 After further consideration, and in part due to there not being a more effective and efficient

² Statement of corporate evidence of Jo Lester on behalf of WIAL, 5 March 2024.

alternative to recognise the importance of the seawall, I agree with Ms O’Sullivan that a specific new objective and policy within the NOSZ is necessary to adequately provide for the for ongoing maintenance, repair and upgrade of the seawalls. However, I propose alternative wording to Ms O’Sullivan and suggest that a single policy is adequate, noting that NOSZ-P6 remains relevant and addresses many of the matters contained in the new NOSZ-P9 as promoted by Ms O’Sullivan.

17 I also disagree with Ms O’Sullivan that the s42A report recommended amendments to NOSZ-R4 should also include provision for ‘repair and maintenance’ as NOSZ-R13 already provides for repair and maintenance of structures (including seawalls) as a permitted activity.

Section 32AA Evaluation

18 In my opinion, the addition of a new objective NOSZ-O4, and associated policy NOSZ-P8 as discussed above are more appropriate in achieving the objectives of the plan compared to the notified provisions. In particular, I consider that:

- a. The amendments will better achieve the Strategic Direction of the PDP, in particular objective SCA-O1 in the context of the seawalls function of protecting the safe and efficient operation of regionally significant infrastructure; and
- b. The option of retaining the notified provisions will result in uncertainty with respect to the purpose and policy direction of the NOSZ and potential conflict between these and future works required to ensure the functionality of the seawalls.

19 The environmental, economic, social and cultural effects of the recommended amendments, as they vary somewhat from the existing section 32 evaluation report, are below:

Environmental	There are unlikely to be any additional environmental costs or benefits compared to the notified proposal.
Economic	Positive economic effects will result from a consenting framework that is more supportive of works required to ensure the safe and efficient operation of the airport and public infrastructure, including the road network, that are protected by the seawalls. These benefits are likely to be greater than under the notified PDP.
Social	Positive social effects will arise from a consenting framework that is more supportive of works required to ensure the safe and efficient operation of the

	airport and public infrastructure including the road network, that are protected by the seawalls. These may be greater than under the notified PDP.
Cultural	There are unlikely to be any additional cultural costs or benefits compared to the notified proposal.

20 Consequently, in response to the expert evidence provided on behalf of WIAL I recommend the following:

HS7-OSR-Rebuttal-Rec1: That a new objective (NOSZ-O4) and new policy (NOSZ-P8) are included in the NOSZ chapter as outlined in Appendix A.

KiwiRail [408 and FS72]

21 I acknowledge the additional information provided by KiwiRail in Mr Brown’s evidence³, and agree that a building that is located only 1.5m from a rail corridor will likely constrain the available methods for accessing the relevant side of said building. However, I remain unconvinced that a 5m setback is necessary in the open space and recreation zones, particularly where it is much less likely that large buildings will locate in close proximity to the rail corridor compared with other zones where large-scale buildings are enabled and anticipated.

22 I note that Ms Heppelthwaite’s evidence⁴ suggests that the same principles relevant to the necessity for a 5m setback in residential zones also applies to open space zones, whilst also highlighting that a shared boundary between an open space zoned site and the rail corridor only occurs in seven locations within the city. I consider that the likelihood of large structures or buildings locating 1.5m (or 5m) from the rail corridor in these seven locations is low, and the smaller buildings enabled in these zones are unlikely to require a full scaffolding system for maintenance purposes. It follows that I disagree with any additional amendments to the building setback recommended in the s42A report.

Panorama Limited [10]

23 The recommendation within the s42A report to retain the notified Open Space Zone for 1 Upland

³ Statement of corporate evidence of Michael Brown on behalf of KiwiRail Holdings Limited, 5 March 2024.

⁴ Statement of planning evidence of Catherine Heppelthwaite on behalf of KiwiRail Holdings Limited, 5 March 2024.

Road was strongly informed by the reserve status of the land, and the fact that the land is managed under the Botanic Gardens of Wellington Management Plan 2014 which broadly anticipates commercial use and activities associated with the gardens. However, I agree with Mr Lewandowski's evidence to the extent that the reserve management plan includes no detail on the anticipated activities of 1 Upland Road, providing limited support for the types of commercial activities currently established on the site when considering new activities under OSZ-R11. In this respect, I seek to revise the opinion expressed in the s42A report (para 127). Whilst I consider the reserve land status and management of 1 Upland Road under the Botanic Gardens of Wellington Management Plan 2014 relevant to determining an appropriate land use zone, I agree that aside from the café, the wider activities currently undertaken on 1 Upland Road have a limited association with the Botanic Gardens.

- 24 I have considered the evidence of Maciej Lewandowski and Martin Shelton, which I found compelling. Mr Lewandowski has undertaken a thorough assessment and evaluation of zone options for 1 Upland Road, and correctly identifies that this level of detail had not been undertaken. I agree with Mr Lewandowski that from a land use zoning perspective, a Neighbourhood Centre Zone best reflects the current and future activities anticipated on this site.
- 25 I note that I have considered any consequential implications with respect to Policy 3(d) of the NPS-UD and consider that should 1 Upland Road (Lot 1 DP 55960) be rezoned to NCZ, no change to the surrounding residential zoning would be required to give effect to Policy 3(d).
- 26 However, there remains the matter of any conflict between the application of a non-open space zone under a RMA District Plan and other relevant legislation applicable to the site – being the Wellington Botanic Gardens Vesting Act 1891, the Reserves and Other Lands Disposal Act 1964, and the Reserves Act 1977.
- 27 If Mr Shelton's explanation of the legal position is correct (in the sense that the Reserves and Other Lands Disposal Act applies) then based on previous land use zoning, existing use, and anticipated future use I agree with Mr Lewandowski that 1 Upland Road (Lot 1 DP 55960) should be rezoned to NCZ. However, if the Reserves Act applies and it is Local Purpose Reserve (Botanic Garden) it is difficult to see how a non-open space zone is appropriate, even if that is not in-

keeping with the existing and anticipated use of the site. I have sought further legal confirmation of which position applies which will be provided to the Hearings Panel during the course of the hearing.

Boston Real Estate Limited [470 and FS107]

28 Mr de Leijer supports the recommendation outlined in the s42A report to rezone part of 62 Kaiwharawhara Road from NOSZ to MRZ, albeit based on slightly differing rationale.

29 In addition, as a consequential amendment resulting from the recommendation to rezone to MRZ, Mr de Leijer seeks that the SNA overlay is removed from the site. I make no further comment in this respect, and consider that this is a matter best addressed in the ECO topic. I note the submitter, Boston Real Estate Limited, has made submission points seeking the removal of the SNA overlay from the entire site as part of their original submission⁵.

ADDITIONAL MATTERS

30 I have identified an error where the proposed amendment to NOSZ-R14⁶ has not been correctly shown in the Appendix A to the s42A report. This has been rectified in Appendix A to this supplementary evidence.

31 Minor amendments to the wording used in NOSZ-S7 is also included in Appendix A to improve alignment with NOSZ-P8.

Jamie Sirl

Senior Planning Advisor

Wellington City Council

⁵ [Submission 220 Boston Real Estate Ltd](#)

⁶ [Section 42A Report – Open Spaces and Recreation zones. 20 February 2024. Para 268, HS7-OSR-Rec25.](#)

Appendix A: Tracked Changes to Natural and Coastal Chapters.

Note: **Red underline and ~~strike-out~~**: show additions and deletions to the notified Natural Open Spaces Chapter, as recommended by in the section 42A report dated 20 February 2024.

Blue underline and ~~strike-out~~: show further additions and deletions to the section 42A report version of Natural Open Spaces chapter, as recommended by Jamie Sirl, Statement of Supplementary Planning Evidence dated 13th March 2024.