

**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 9 – Response to Minute 51 dated 17 June 2024**

**Kirsty O’Sullivan - Wellington International Airport Limited Submitter 406,  
Further Submission 36**

**21 June 2024**

---

## Background

1. On the 17<sup>th</sup> June 2024, the Independent Hearing Panel (IHP) issued Minute 51. Paragraph 2(e) of the minute states:

*When Wellington International Airport Limited (WIAL) appeared, we discussed with its planning witness, Ms O'Sullivan, the need for an analysis of the costs and benefits of the amendment she proposed (and the Reporting Officer accepted) to alter the Introduction to the Infrastructure Chapter with the effect that the objectives and policies of that chapter would apply to airport activities or airport related activities (as defined) within the Airport Zone, port or operational port activities (as defined) within the Port Zone, and renewable electricity generation activities. Ms O'Sullivan had provided a relatively high level assessment of same in her evidence and we gave her leave to provide a more detailed assessment; such assessment to be with the Hearing Administrator not later than 1pm on Friday 21 June. We requested that, at the same time, Ms O'Sullivan supply the number of the submission point referred to in her evidence in chief at paragraph 55.*

## Response

2. A high level section 32AA evaluation for my recommended changes to the introductory text was set out in my Evidence in Chief.<sup>1</sup> Given that the introductory text is not a provision that gives effect to an objective (which is the function of a policy or a method), this evaluation was pitched at a comparatively high level. I acknowledge however, that due to the drafting style of the Proposed Plan, the introductory text sometimes appears to fulfil the function of a method, or at least might be read that way. Perhaps this is why the Panel has requested the further evaluation.

*Efficiency / Effectiveness*

3. As set out in my Evidence in Chief, my recommended amendments to the introduction are specifically directed at achieving the objectives of the

---

<sup>1</sup> Paragraph 42.

Proposed Plan, particularly strategic objectives SCA-O4 to O6 in an efficient and effective way. In summary the changes to the introductory text will:

- 3.1 Provide necessary policy recognition for the airport and port, as regionally significant infrastructure, both within and beyond the Airport and Port Zones, through application of the provisions within the Infrastructure chapter;
  - 3.2 Allow for engagement of provisions within the Infrastructure chapter that seek to manage the effects of incompatible activity on the Airport and Port; and
  - 3.3 Allow for engagement of provisions within the Infrastructure chapter that recognise the operational and functional requirements of infrastructure needs to be balanced with the management of adverse effects.
4. The environmental, economic, social and cultural effects of the amendments are broadly summarised in terms of their costs and benefits below:

*Benefits*

- 4.1 The infrastructure provisions will provide additional policy guidance for activities of scale within the Airport and Port zones, including for resource consents or in the case of the Airport, notice of requirements, where the activities may be new and thus not anticipated within the Airport or Port Zones, but may be appropriate in that setting;
- 4.2 The infrastructure provisions provide policy guidance for airport and port related activities that may occur outside of the existing Airport or Port zones; and
- 4.3 The infrastructure provisions will fill any potential gaps in the planning framework, such is the case with respect to incompatible land use development occurring that may adversely affect the airport.

## Costs

- 4.4 No social, economic, cultural or environmental costs are anticipated as the specific provisions in the Airport and Port chapters would remain.
5. Based on my review of the Port and Airport Zone provisions, they are more prescriptive and specific than the Infrastructure chapter. The infrastructure provisions therefore supplement and are in addition to the Port and Airport zone provisions, rather than in conflict or inconsistent with them. While this may be considered inefficient, it ensures that where potential policy gaps are identified, the infrastructure provisions provide guidance on how to address those. It is also important that they are afforded a policy framework that can be applied beyond the current geographical boundaries of the Port/Airport.
6. With respect to renewable electricity generation, this activity is afforded its own National Policy Statement with its own set of national directions. Accordingly, the Proposed Plan appropriately includes a specific chapter that provides for renewable energy electricity generation in a manner that gives effect to the NPS-REG. As those directions are unique to renewable energy generation and are addressed in the renewable electricity generation chapter of the Proposed Plan, it is not appropriate for the qualifier originally proffered to extend to renewable electricity generation. I therefore recommend the following amendments to the introductory text:

**Note red shows WCC section 42A report recommendations, blue shows WCC supplementary evidence recommendations and green shows my further recommendations in light of Minute 51.**

*Further, the Resource Management Act, and therefore the District Plan, share the same broad definition of 'infrastructure', which includes airport and port facilities, and renewable electricity generation. Notwithstanding that, this the rules within the Infrastructure Chapter (including the infrastructure sub chapters) does not apply to activities that fall under the definition of airport activity purposes or airport related activity ies (and are located within which are dealt with in the Airport Zone chapter), or-or the definition of port or operational port activities (and are located within which are dealt with in the*

~~Port Zone chapter), or the definition of Renewable Electricity Generation Activity (which are dealt with in the Renewable Electricity Generation chapter).~~  
Any infrastructure in the airport or port ~~zones-areas~~ that is inconsistent with those definitions is managed by the provisions in this Infrastructure Chapter.

~~The Infrastructure Chapter (including the infrastructure sub chapters) also do not apply to activities that fall within, or the definition of Renewable Electricity Generation Activity (which are dealt with in the Renewable Electricity Generation chapter).~~

7. I note that I have briefly discussed the aforementioned amendments with Ms Foster and Mr Anderson who I understand agree, in principle, with separating the approach used between the Airport, Port and Renewable Electricity Generation chapters. I understand that they will respond to the Panel separately regarding this matter.
8. With respect to the second point regarding the matter raised in paragraph 55 of my Evidence in Chief, I note that Submission Point 406.11 was allocated to Hearing Stream 6. As noted in my Evidence in Chief for Hearing Stream 6, the Airport Zone hearing was not the appropriate hearing stream for this submission point as its application extends well beyond the Airport Zone.

#### **INF-CE-P56**

9. During the hearing, the IHP raised a question regarding the potential conflict between my recommended relief with respect to INF-CE-P56 (previously INF-CE-P61) and New Zealand Coastal Policy Statement (“**NZCPS**”) Policy 25(a). Accordingly, they requested a structured analysis of the relief sought.
10. This request has not been reflected in Minute 51. I am unsure if this was an oversight or whether the IHP has reached the view that the analysis is no longer necessary. In case the panel has residual questions in this regard, I have provided a further analysis below.
11. As noted in paragraph 58 of my Evidence in Chief, since the Proposed Plan was notified, the terminology used to express an action with respect to coastal natural hazard provisions has changed substantially with the decisions made with respect to Hearing Stream 5 using the term “minimise”

rather than “do not increase the risk” or “reduce” the risk of natural hazards in certain circumstances. To ensure consistency throughout the Proposed Plan, I recommended that the terminology of INF-CE-P56 be amended as follows:

*Only allow for new infrastructure, and any associated structures in the Natural Hazard Overlays and Coastal Hazard Overlays where the infrastructure associated structures:*

1. *Minimises Do not increase the risk from the natural hazard to people, or other property or infrastructure;*
12. Policy 25 of the NZCPS relates to subdivision, use and development in areas of coastal hazard risk. For ease of reference, Policy 25 of the NZCPS is set out in full below.

***Policy 25 Subdivision, use, and development in areas of coastal hazard risk***

*In areas potentially affected by coastal hazards over at least the next 100 years:*

- (a) *avoid increasing the risk of social, environmental and economic harm from coastal hazards;*
- (b) *avoid redevelopment, or change in land use, that would increase the risk of adverse effects from coastal hazards;*
- (c) *encourage redevelopment, or change in land use, where that would reduce the risk of adverse effects from coastal hazards, including managed retreat by relocation or removal of existing structures or their abandonment in extreme circumstances, and designing for relocatability or recoverability from hazard events;*
- (d) *encourage the location of infrastructure away from areas of hazard risk where practicable;*
- (e) *discourage hard protection structures and promote the use of alternatives to them, including natural defences; and*
- (f) *consider the potential effects of tsunamis and how to avoid or mitigate them.*

13. I have undertaken a detailed analysis of the change I have suggested to Policy INF-CE-P56 in the context of Policy 25 of the NZCPS and make two key observations:
- 13.1 The use of the term “avoid” in clause (a) and (b) of Policy 25 means that these two provisions are directive, however this avoidance relates to “increasing the risk of social, environmental and economic harm from coastal hazards” and “redevelopment or change in land use that would increase the risk of adverse effects from coastal hazards”.
- 13.2 Clause (d) of Policy 25 relates specifically to infrastructure and seeks to encourage the location of infrastructure away from areas of hazard risk where practicable. Thus, this limb of the Policy includes an inherent recognition that infrastructure may have operational and functional requirements necessitating their presence within a coastal location that is subject to natural hazard. In fact, some infrastructure, by design, is put in place to protect against the effects of natural hazards (such as coastal defences) and some has a functional need to be there (such as Ports).
14. Having further reflected on the drafting put forward in my Evidence in Chief, I now recommend the following amendment to the notified version of INF-NH-P56(1):

*Only allow for new infrastructure, and any associated structures in the Natural Hazards Overlay and Coastal Hazard Overlays where the infrastructure or associated structures:*

- 1. Do not increase the risk from the natural hazard to people, or other property ~~or infrastructure~~;*

15. The rationale for this change is as follows:
- 15.1 INF-NH-P56 (1) seeks to ensure that new infrastructure does not increase (or exacerbate) the natural hazard risk to people or property (for example, by creating a new or increased flood hazard risk). This is consistent with NZCPS Policy 25(a) and (b).

- 15.2 Reference to infrastructure within INF-NH-P56(1) potentially precludes any new infrastructure being established within the natural hazard overlays as there is an inherent increase in the natural hazard risk to that infrastructure that did not exist prior to its establishment. This approach is inconsistent with NZCPS Policy 25(d), which is more accommodating of infrastructure within natural hazard risk areas. It is also inconsistent with the remaining policy directives in clause (2) and (3) of INF-NH-P56 and the rules within the sub chapter which anticipate infrastructure establishing within natural hazard areas (i.e. they do not follow the avoidance approach).
- 16 Only removing the reference to “infrastructure” within INF-NH-P56(1) will ensure the policy retains the requirement for any new infrastructure to avoid exacerbating the natural hazard risk for people or other property. “Other property” will of course extend to other infrastructure not being established under the policy itself (i.e. a new piece of infrastructure cannot increase the natural hazard risk of an existing piece of infrastructure).
- 17 For the sake of completeness, I note there is scope for this amendment as Wellington International Airport Ltd sought the deletion or amendment of INF-NH-P56.

**Kirsty O’Sullivan**

**21 June 2024**