

Minute 5

Applicant: **The Wellington Company Limited**

Location: **232, 264, 270 and 276 Shelly Bay Rd**

Application Number: **Service Request 368659**

Subject: **Information Requests**

Introduction

Following on from our previous Minutes regarding the process, the Commissioners have now read all of the relevant material, including the Application (including all original and updated specialist reports), as well as the section 42A Report and the associated specialist reports.

We are generally satisfied with the scope and extent of the material now available to us.

However, we have some specific requests of both the Reporting Officer and of the Applicant before we go to the next stage of the process.

This Minute outlines our instructions in this regard.

Section 42A Report – Objectives and Policies of the District Plan

One aspect we require to be more fully assessed is Section 8.4.3.5, the assessment of objectives and policies and the relevant assessment criteria of the Wellington City District Plan.

The author essentially adopts the Applicant's assessment of all relevant objectives and policies as 'correct', with the only exceptions being objectives and policies relating to Open Space. A very brief explanation is provided for that.

Whilst the relevant objectives and policies are annexed to the Report, they are not individually assessed. Instead the Report lists various specialist reports and states that the authors of those reports were consulted, presumably as part of the assessment of objectives and policies. In addition, there is no specific assessment of the application against the relevant assessment criteria located in Appendix J.

We consider a more thorough analysis of these provisions is required to assist us in our decision making.

Request 1:

That a Supplementary Section 42A Report be prepared to provide a more thorough assessment of all relevant objectives and policies, and all relevant assessment matters.

This could be in the form of a Table outlining the relevant matters. This could be compiled from Appendix I and Appendix J, with comments provided in a right-hand column alongside each provision.

Public Infrastructure Upgrade Works

The Commissioners require clarification from the Applicant on the extent of public infrastructure upgrade works required to be done as part of, or prior to, development of the Shelly Bay site.

Specifically, we need to understand:

- The consenting regime for required improvements on Shelly Bay Road in particular, necessitating works in the Coastal Marine Area such as earthworks, seawalls and reclamation to widen the road and provide additional lane capacity and recreational car parking etc as recommended in the Section 42A Report.

It is noted that the section 42A Report, in section 6.0, makes reference to Wellington Regional Council consents, in the context of not supporting a deferral to deal with those consents under section 91 of the RMA.

The Commissioners do not wish to defer consideration of the application but wish to more fully understand the scope and extent of the required works, and we may need to also consider the implications for the consent holder of a condition requiring these significant upgrade works to be implemented prior to development occurring on the site.

- At what stage(s) of the development is it intended that the various upgrades to public roading beyond the site, public gravity stormwater networks, public gravity wastewater will be implemented.

The Commissioners may need to consider whether a 'condition precedent' for some or all of these works may be required, or whether conditions can be framed for each stage of the project as demand for those services increases.

Request 2:

That the Applicant respond to the above matters relating to public infrastructure upgrade works and the consenting framework for regional consents in particular.

Minimum Building Level

The Commissioners have not seen detailed information on how the proposed minimum floor level has been determined. The Commissioners note that some of the proposed buildings and dwellings may be exposed to inundation from extreme sea level conditions resulting from extreme tides occurring during storm surge, waves and wave runup conditions. In addition, the allowance for sea level rise and free board to these storm situations, to determine the appropriate minimum building level are not clear.

Request 3:

That the Applicant provides an assessment of an appropriate minimum floor level for both habitable buildings and non-habitable buildings on the site. The assessment should show the separate allowances to be added to the level datum for maximum probable high tide, storm surge, wave height, wave runup, future sea level rise and free board.

Section 42A Report - Recommended Conditions

Related to the above issue, the Commissioners wish to also signal we have some concerns at the way several of the recommended conditions are framed.

The Commissioners consider that conditions of consent need to be precise, certain and clear in their intent and implementation. This appears not to be the case with conditions relating to upgrade of public infrastructure, which are either non-specific or take the form of advice notes in some instances.

Accordingly, we consider the recommended conditions should be reviewed and amended with these principles in mind.

It also occurs to us that it would assist us considerably if the Reporting Officer and the Applicant's planner are able to confer with an aim to developing a list of agreed conditions of consent, in terms of the matters addressed and the appropriate wording of conditions.

Request4:

That the Reporting Officer and Applicant's planner confer and provide a list of agreed recommended conditions, and that any disagreement be stated.

Conclusion

As noted in our previous Minutes to parties, the Commissioners anticipate a 'hearing' may be required, i.e. a meeting with the Reporting Officer (and authors of some of the specialist reports) and with the Applicant (which may just be with some of the experts on its team).

The scope and extent of the meeting will be reviewed upon receipt of the information and responses outlined above, as this may narrow the issues for us to consider at the meeting.

We would expect that this information may take some time to provide, and so suggest that it be provided by 31 July 2019.



Gary Rae

**Chair of Hearings Panel, on behalf of
Commissioners Helen Atkins and Ray O'Callaghan**

26 June 2019