

IN THE MATTER

of the Resource
Management Act 1991

AND

IN THE MATTER

of Submissions and Further
Submissions on the
Proposed Wellington City
District Plan

Minute 11:

Stream 1 Follow Up

1. Following completion of the Stream 1 hearing, the Hearing Panel has identified certain issues and questions that it requests the Council respond to in its written reply.
2. The Council is, of course, free to reply on any matters arising during the hearing that it considers worthy of a response, but the following are the matters on which the Hearing Panel would appreciate feedback.
3. First in the category of legal issues:
 - (a) During the presentation of the Council case, counsel suggested that there was authority for the proposition that “*and*” might be read as “*or*” in the context of the definition of Rapid Transit Service in the NPSUD. Mr Ballinger, for WCCT responded to that proposition, suggesting that the situations where that might be appropriate were limited. Can counsel for the Council kindly identify, with reference to authority, what circumstances it would be appropriate to read “*and*” to mean “*or*” and comment on whether those circumstances apply in this instance (i.e. the definition of Rapid Transit Service in the NPSUD).
 - (b) In discussions with counsel for Kāinga Ora, the Chair asked if the identification of a rapid transit service might be regarded as analogous to identification of an ONL, in respect of which, the Court of Appeal (in *Man O’War Station Limited v Auckland Council*¹) had indicated that the correct approach was to treat the identification of ONLs as a technical issue, from which planning consequences flow, rather than consider the planning consequences at the initial identification stage. Counsel for Kāinga Ora has filed a Memorandum on the subject. We request that counsel for the Council provide his view on the question, responding as appropriate to Counsel for Kāinga Ora’s memorandum.
4. In the economic sphere, can Mr Osborne please comment on the following issues:
 - (a) What are the implications of the drop in property values commencing March/April 2022 for the cost benefit evaluation around further intensification, and for the predicted surplus of realisable enabled supply to meet demand over the short, medium and long term time horizons. In relation to the former, is there potential (as suggested by

¹ [2017] NZCA 24

Mr Spargo) for the enablement for intensification in the PDP to cause property values to drop further than would otherwise be the case, and for consequential adverse social and economic effects that have not to date been considered?

- (b) Mr Cullen's evidence (for Kāinga Ora), that Tawa, Miramar and Newtown Centres exhibit a significantly greater level of retail and commercial activity and employ significantly more people than do the other local centres that have been identified in the PDP.
- (c) Mr Cullen's evidence (at paragraph 8.5) derived a current dwelling shortfall in Wellington City of 10,222: could Mr Osborne comment on that calculation, and discuss the implications of such a shortfall should that view be substantially correct.
- (d) Across the city as a whole, what proportion of predicted realisable capacity is dependent on access to the additional capacity provided by the HDZ over and above MDRS? As a subset of that question, can Mr Osborne please advise what additional realisable capacity the walkable catchments around the Johnsonville line stations other than Johnsonville itself provide compared to that provided by the MDRS (refer the evidence of Dr Helm on the latter point)?

5. To the Section 42A authors:

- (a) Can Mr McCutcheon please advise the status of submissions struck out (refer paragraph 59). In particular, are they beyond objection?
- (b) Can Mr McCutcheon please advise whether there are submissions seeking material amendments to the definition of Regionally Significant Infrastructure in Change 1 to the Wellington RPS, and if so, what the changes sought are.
- (c) Can Mr McCutcheon please advise the extent to which the PDP contains heritage listings that were not in the draft Plan circulated for consultation.
- (d) Can Mr Wharton please advise what proportion and number of Johnsonville line train passengers travel from the lower five stations (i.e. from Box Hill and closer) to the CBD.

- (e) Can Mr Wharton please supply a map of the Johnsonville 10 minute walking catchment if Johnsonville Centre is not a rapid transit service. If it is identical to the currently identified area, confirmation of that fact is sufficient.
- (f) Can Mr Wharton please comment on the appropriate interpretation of the word “*adjacent*” in the context of Policy 3(d) of the NPSUD and explain how that has been applied spatially to the Tawa, Newtown and Miramar Centres.
- (g) On the premise that the City Centre walking catchment is limited where it intersects with Hay Street on account of steepness and/or safety considerations, where in Mr Wharton’s opinion would be a defensible boundary in the lower part of the Street? Similarly, Bolton Street, Aurora Terrace, Everton Terrace, Devon Street and Raroa Road
- (h) Can Mr Wharton please comment on the evidence of Mr Georgeson to the effect that the Wellington Rail Programme Business Case (July 2022) indicates an intention to undertake off-peak frequency improvements to the Johnsonville line from 2032 and whether such improvements might be considered “planned” in the RLTP.
- (i) On a related point, can Mr Wharton provide advise on what the word “*planned*” in Policy 3(c) of the NPSUD means – in particular does it require a financial commitment?
- (j) Can Mr McCutcheon please advise his final view on the issue discussed at 4.16 of the Section 42A Report.
- (k) In relation to Mr McCutcheon’s recommendation regarding revisions to the definition of “reverse sensitivity”, is it necessary or desirable to qualify the extent to which upgrading of existing infrastructure is taken into account?
- (l) Can Mr McCutcheon please comment on whether clarification of the meaning and application of Qualifying Matters is better done by way of explanatory note than definition;
- (m) Can Mr McCutcheon please clarify his reasoning in paragraph 719?
- (n) Can Mr McCutcheon please comment whether and how the relationship of Muaūpoko with sites and other taonga within Wellington

City should be addressed in light of the evidence presented by Muaūpoko Tribal Authority;

- (o) Can Mr McCutcheon please provide a narrative explanation (along with a tabular presentation) as to how the Plan has addressed Clause 3.32(a)-(g) of the NPSUD. In particular, how have each of those matters been addressed in both a plan making context and how will they be applied in a resource consenting context. The Hearing Panel understands from the case presented for the Council that the Plan takes a different view regarding the appropriate mechanism for management of natural hazards compared with the management of built heritage. Assuming our understanding is correct, the Hearing Panel is interested as to why these matters have been treated differently in this regard.
 - (p) Can Mr McCutcheon please provide a discussion as to what matters have been addressed under Clause 3.32(h) of the NPSUD – in particular, the Panel would like Mr McCutcheon to provide a road map as how that clause has been implemented with references back to the Section 32 evaluations as appropriate?
 - (q) A number of submitters referred us to the work undertaken by Boffa Miskell for the Council, arguing that Boffa Miskell's recommendations as to identification of character areas should have been followed. Can Mr McCutcheon please advise in summary why the Boffa Miskell recommendations were not fully adopted, with appropriate references to the Section 32 evaluation and with an accompanying map showing the spatial differences;
 - (r) In relation of the definition of "*supported residential activity*" can Mr McCutcheon please advise the justification of treating this activity differently to large residential households. In addition, can Mr McCutcheon please advise his view as to how the discretion reserved, if the relevant restricted discretionary activity is triggered for a supported residential activity, should be exercised – what matters, in particular, should be taken into account?
6. Lastly, the Hearing Panel requests that the Council supply a Word version of both the notified and recommended (including any revised/additional

recommendations in the Council Reply) Strategic Objective Sections of the PDP.

A handwritten signature in blue ink, appearing to read 'T. Robinson', with a large, stylized flourish extending upwards and to the left.

Trevor Robinson
Chair

For the Wellington City Proposed District Plan Hearings Panel

Dated: 6 March 2023