

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Wellington City Proposed District Plan

**STATEMENT OF EVIDENCE OF KATE SEARLE
ON BEHALF OF CENTREPORT LIMITED
HEARING STREAM 5 – NATURAL HAZARDS AND COASTAL HAZARDS
18 July 2023**

**STATEMENT OF PRIMARY EVIDENCE OF KATE SEARLE ON BEHALF OF CENTREPORT LIMITED
– SUBMITTER 402**

QUALIFICATIONS AND EXPERIENCE

- 1 My full name is Kate Michelle Searle.
- 2 I am a Principal Planner with Tonkin & Taylor Ltd (Tonkin + Taylor). I have a Bachelor of Arts degree, majoring in sociology, from the University of Canterbury and a Master of Environmental Policy degree from Lincoln University. I am a full member of the New Zealand Planning Institute.
- 3 I have more than 14 years of experience as a planner in New Zealand. My experience to date includes policy advice and preparation of submissions on plan changes, consent compliance and the preparation and processing of resource consent applications around New Zealand.
- 4 I have been engaged by CentrePort Limited (CentrePort) to provide expert planning advice in relation to the Wellington City Proposed District Plan (the Proposed Plan).
- 5 I am familiar with CentrePort's submission on the Proposed Plan.
- 6 In preparing my evidence I have reviewed:
 - a The relevant parts of the Proposed Plan; and
 - b The Section 42A report for Hearing Stream 5 – Natural Hazards and Coastal Hazards, prepared on behalf of Wellington City Council (WCC) by Jamie Sirl.

CODE OF CONDUCT

- 7 I confirm that I have read the Code of Conduct for expert witnesses contained in the 2023 Environment Court Practice Note and that I agree to comply with it. I confirm that I have considered all the material facts that I am aware of that might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

SCOPE OF EVIDENCE

- 8 Hearing Stream 5 relates to submissions that were received by the Council on District-Wide Matters, including Natural Hazards and Coastal Environment.
- 9 My evidence relates to CentrePort's primary submission, which sought:
- a Clarity in the way that the natural hazards provisions in the General District-Wide – Natural Hazards and Coastal Environment chapters, and Infrastructure – Natural Hazards and Coastal Environment chapters relate to each other (402.91 – 402.95).
 - b The retention of, or minor amendments to, a number of objectives, policies and rules in the Natural Hazards and Coastal Environment chapters as notified (402.96-402.99, 402.104). As stated below, I generally support the amendments to these provisions proposed in Mr Sirl's s42A report.
 - c Amendments to NH-P2 to recognise the functional need and operational need for certain activities to locate in hazard areas (402.100, 402.101)
 - d Amendments to Policy NH-P14 (402.106, 402.107) which sought the removal of references to occupiers of buildings within the Wellington Fault Overlay.
- 10 CentrePort made a number of other submissions on these chapters, which either Mr Sirl has recommended are accepted, or which CentrePort no longer wishes to pursue. I have not addressed these submissions further in my evidence.
- 11 I have also raised an issue that arises from the application of Policy CE-P12, as addressed in Mr Sirl's s42A report. I have not provided an opinion on this matter but have described the matter if the Panel wishes to consider it in accordance with s99(3), Schedule 1 of the RMA.

CENTREPORT

- 12 CentrePort is a Port Company under the Port Companies Act 1988 and is registered under the Companies Act 1993. It is owned by Greater Wellington Regional Council (76.4%) and Horizons Regional Council (23.6%).
- 13 CentrePort is central New Zealand's most strategically situated intermodal hub, linking road, rail, domestic and international shipping services.

- 14 CentrePort has port facilities situated in Thorndon (the main port site), Seaview and Miramar; and provides intermodal freight transport sites throughout the lower North Island and upper South Island.
- 15 The port's facilities comprise a modern, fully equipped container terminal, container repair and storage depot, international cruise ship terminal, and facilities equipped to handle and store specialist cargoes such as cement, forestry products, fresh produce and bulk liquids, including chemicals and petroleum. CentrePort also provides the Wellington infrastructure for two inter-island ferry services.

RELATIONSHIP BETWEEN NATURAL HAZARDS, COASTAL ENVIRONMENT AND INFRASTRUCTURE CHAPTERS

- 16 A number of CentrePort's submission points (402.91 – 402.95) sought better clarity in the application of provisions relating to natural hazards that would apply to its property and activities.
- 17 As currently drafted, there are provisions in all of the chapters identified above of the Proposed Plan that could apply to CentrePort's operational activities in hazard areas, and the overall planning framework that would apply to its activities is therefore very complex.
- 18 A hypothetical example is a new building for port operations within CentrePort's container terminal wharf. Parts of the terminal wharf are within both the liquefaction hazard area and the high tsunami hazard area. There are objectives, policies and rules in the District-Wide Natural Hazards chapter and the General District-Wide Coastal Environment chapter which relate to 'operational port activities' in hazard areas. As the activity also falls within the definition of 'infrastructure', there are provisions in the District-Wide Infrastructure – Natural Hazards and Infrastructure – Coastal Environment chapters that would also apply.
- 19 Effectively, this means that there are multiple sets of provisions that apply.
- 20 In my opinion, the provisions that refer to 'operational port activities' in the District-Wide chapters for Natural Hazards and Coastal Environment should be deleted, so that operational port activities (which fall within the definition of 'infrastructure') are addressed solely in the Infrastructure – Natural Hazards and

Coastal Environment chapters. This would simplify the application of the relevant rules in the Proposed Plan and assist in its implementation.

- 21 I understand that some of CentrePort's land is not used for 'infrastructure' purposes (as defined in s2 of the RMA), or for 'operational port activities' (as defined in the Proposed Plan). Some examples of uses of CentrePort land that would fall outside these definitions are:
- a Commercial office accommodation (e.g. Customshouse); and
 - b Possible future commercial development of land adjacent to the 'finger wharves' (Lambton Harbour Northern Zone in the Proposed Natural Resources Plan), unrelated to operational port activities. The finger wharves are located in the high tsunami hazard area.
- 22 In these cases, the District-Wide Natural Hazards and General District-Wide Coastal Environment provisions would apply, rather than the Infrastructure provisions. Where activities do not fall within the definition for 'infrastructure', in my opinion they should not be treated any differently to other activities that might take place within the natural hazard overlays.
- 23 In summary, CentrePort's port operations and associated structures/facilities are captured by the definition of 'infrastructure', and therefore should be addressed entirely in the Infrastructure chapters. Any commercial operations that sit outside the 'infrastructure' definition should be addressed in the relevant zone and General District-Wide provisions.
- 24 This suggested approach would require some redrafting of provisions to remove references to 'operational port activities' as well as airport activities, passenger port facilities and rail activities in the General District-Wide Natural Hazards and Coastal Environment chapters and consolidate the provisions within the Infrastructure – Natural Hazards and Coastal Environment chapters. Explanatory text may also be useful to explain the relationship between the chapters. I note that other parties are likely to have an interest in these proposed amendments such as Wellington International Airport Limited (WIAL) and the rail operators. If these parties were in agreement with this approach, there may be opportunities to input jointly into redrafting the relevant provisions for the Panel's consideration.

- 25 It is possible that there are other instances in the plan where similar overlap occurs, but CentrePort's submissions in Hearing Stream 5 do not provide scope to consider this further.

HAZARD MITIGATION STRUCTURES

- 26 CentrePort's submissions sought amendments to the definitions for 'community scale natural hazard mitigation structures' and 'natural hazard mitigation works' to provide for hazard structures constructed and administered by CentrePort.
- 27 Mr Sirl's s42A report recommends deleting the definition for 'community scale natural hazard mitigation structures' and instead listing the relevant agencies who may undertake natural hazard mitigation works under the relevant provisions (Policies NH-P16 and NH-P17, Rule NH-R2). This list includes CentrePort. I support Mr Sirl's amendments as they provide greater clarity in how the provisions would apply.
- 28 While I note that CentrePort did not submit specifically on Rule CE-R17, the approach in this rule has not been amended for consistency with Policies NH-P16, NH-P17, and Rule NH-R2. Rule CE-R17 remains as notified, as follows:

CE-R17 Green infrastructure for the purposes of coastal hazard mitigation works undertaken by a Crown entity or their nominated contractor or agent within the Coastal Hazard Overlays

All Zones 1. Activity status: Permitted

Where:

a. The works must be undertaken by either Crown entity, Regional or Territorial Authority or an agent on their behalf for the express purpose of coastal hazard mitigation works.

- 29 For consistency with the Natural Hazard chapter amendments, I suggest the following amendments:

CE-R17 Green infrastructure for the purposes of coastal hazard mitigation works ~~undertaken by a Crown entity or their nominated contractor or agent~~ within the Coastal Hazard Overlays

All Zones 1. Activity status: Permitted

Where:

a. The works must be undertaken by either the Greater Wellington Regional Council, Wellington City Council, Waka Kotahi, KiwiRail, CentrePort Limited, Wellington International Airport Limited or a

~~nominated contractor Crown entity, Regional or Territorial Authority or an agent on their behalf for the express purpose of coastal hazard mitigation works.~~

- 30 Rule CE-R24 has been amended to provide for maintenance or repair, and limited upgrades of hard engineering natural hazard mitigation works (where they protect nationally or regionally significant infrastructure) as a permitted activity. The reference to significant infrastructure is a different approach to the agency-specific provisions in the natural hazards chapter.
- 31 I consider the approach in Rule CE-24 is pragmatic and I support Mr Sirl's assessment on this matter (paras 984-990). The rule, alongside the recommended amendments to Policy CE-P26, provide a valid consenting pathway for new or larger upgrades of hard engineering natural hazards mitigation works in the coastal environment. It is also consistent with Policy P27 of Greater Wellington Regional Council's (GWRC) Proposed Natural Resources Plan (PNRP).

MINIMISING RISK IN LOW- AND MEDIUM-HAZARD AREAS

- 32 CentrePort's submissions¹ generally supported Objectives NH-O1 to NH-O4 (now NH-O5) as drafted. Mr Sirl has recommended changes to these objectives and related provisions, including new objective NH-O2, so that they seek to 'minimise' risk rather than 'not increase' risk from natural hazards to people, property and infrastructure. This approach flows through to the relevant policies and rules.
- 33 I agree with Mr Sirl's recommendations. In my opinion, the amendments better reflect a risk-based approach, with a higher risk tolerance applying to low- and medium-hazard areas than the approach for high hazard areas in Policy NH-O1.

POLICY NH-P2 – LEVELS OF RISK

- 34 CentrePort's submission (402.100) sought amendments to Policy NH-P2 (Levels of Risk) to recognise that there may be a functional need or operational requirement for a building or activity to locate within a high hazard risk area, including within the Special Purpose Port Zone.

¹ 402.96, 402.97, 402.98, 402.99

- 35 Mr Sirl has recommended accepting this submission and has amended the policy accordingly. I support Mr Sirl's recommendations and amendments as they provide an appropriate consenting pathway for activities that have functional need or operational need to operate in particular location within a hazard area. The amendments also provide some consistency with Policy CE-P12, which addresses levels of risk for coastal hazards.

POLICY NH-P14

- 36 CentrePort submitted (402.106, 402.107) in opposition to Policy NH-P14, stating that the policy is unnecessary and noting that some port operations, including the Kaiwharawhara ferry terminal, are located within the fault hazard overlay.
- 37 The s42A report has recommended the following amendments:

~~NH-P14 Subdivision, use and development~~ Buildings which will be occupied by members of the public, or employees associated with the operational port activities, passenger port facilities and rail activities in the Wellington Fault Overlay.

Manage subdivision, development and use associated within the operational port activities, passenger port facilities and rail activities within the Wellington Fault Overlay where the subdivision, development and use involves the construction of new buildings which will be occupied by members of the public, or more than 10 employees associated with the operational port activities, passenger port facilities and rail activities by ensuring that:

~~1. Mitigation measures are incorporated that avoid an increase in risk to people, property and infrastructure from the fault rupture of the Wellington Fault.~~

1. Any new buildings are located more than 20 m from the edge of the fault deformation zone of the Wellington Fault; or

2. Mitigation measures are incorporated into the building to minimise the risk to people and buildings in the event of fault rupture and the activity can continue to operate following an earthquake.

- 38 While I support the general approach recommended by Mr Sirl, the basis for including the requirement to 'continue to operate following an earthquake' is

unclear and does not appear to have been requested via submissions. Specific reasons for including this wording are not provided.

- 39 In my opinion, the direction in (2) above is uncertain and left too far open to interpretation. For example – is there a particular scale or magnitude of earthquake to which this applies? I understand that mitigation measures for withstanding a small earthquake would be very different to those required so that a building can continue to operate following a large fault rupture. The requirement to ‘continue to operate’ is also unclear – is an activity expected to return to operation immediately following an event, or within days, weeks or months?
- 40 I also note that earlier in my evidence I have requested that the provisions relating to operational port activities are removed from the General District-Wide Natural Hazards chapter. The opinions I have expressed here would apply if these provisions are shifted or addressed elsewhere (e.g. in the Infrastructure – Natural Hazards chapter).
- 41 While I understand that policies do not need to address these very specific matters, in my opinion the policy could be amended to remove some of this complexity, while achieving still seeking to minimise risk. I also understand that there are Building Code requirements that set out the design requirements for withstanding natural hazard events, and that these relate to the function of the building. Therefore, the second part of clause (2) appears to provide some duplication and is unnecessary in the Proposed Plan.
- 42 I suggest the following amendments to the policy:

~~NH-P14 Subdivision, use and development~~ Buildings which will be occupied by members of the public, or employees associated with the operational port activities, passenger port facilities and rail activities in the Wellington Fault Overlay.

Manage subdivision, development and use associated within the operational port activities, passenger port facilities and rail activities within the Wellington Fault Overlay where the subdivision, development and use involves the construction of new buildings which will be occupied by members of the public, or more than 10 employees associated with the

operational port activities, passenger port facilities and rail activities by ensuring that:

~~1. Mitigation measures are incorporated that avoid an increase in risk to people, property and infrastructure from the fault rupture of the Wellington Fault.~~

1. Any new buildings are located more than 20 m from the edge of the fault deformation zone of the Wellington Fault; or

2. Mitigation measures are incorporated into the building to minimise the risk to people and buildings in the event of fault rupture ~~and the activity can continue to operate following an earthquake.~~

OUT OF SCOPE MATTERS

43 I understand that under s99 of Schedule 1 of the RMA, the recommendations of the Panel are not limited to being within the scope of submissions made on the intensification planning instrument (IPI). However, the recommended amendments to Policy CE-P12 in the s42A report for this topic have created an inconsistency with the policy framework in the Waterfront Zone chapter.

44 CentrePort has not made a submission on this particular policy and therefore does not have scope to seek amendments to Policy CE-P12. The s42A report indicates that this matter is not within the scope of other submissions. However, I have raised it in case the Panel wishes to consider the matter further.

45 Most of the Waterfront Zone is subject to the High Coastal Tsunami Hazard overlay.

46 Mr Sirl's s42A report recommends amending Policy CE-P12 as follows:

CE-P12 Levels of risk

Ensure sSubdivision, use and development ~~reduces~~ manages the coastal hazard risk to people, property, and infrastructure by:

1. ~~Enable~~ Enabling subdivision, use and development that have either low occupancy, risk, or replacement value within the low, medium and high hazard areas of the Coastal Hazard Overlays;
2. Requiring mitigation for subdivision, use and development that ~~addresses~~ minimises the ~~impacts~~ risk resulting from the development from the relevant coastal hazards to people, property, and infrastructure as far as reasonably practicable in the

low and medium hazard areas of the Coastal Hazard Overlays; and

3. Avoiding subdivision, use and development in the high hazard area of the Coastal Hazard Overlays (with the exception of the City Centre Zone) unless there is a functional and operational need for the building or activity to be located in this area and the building or activity incorporates mitigation measures ~~are incorporated~~ that ~~reduces~~ minimise the risk to people, property, and infrastructure.

- 47 In combination with Rules CE-R26 and CE-R27 (below), the result is a very challenging consenting pathway for hazard sensitive activities that do not have a functional need or operational need, but which could contribute to the ongoing revitalisation of land in the Waterfront Zone.

CE-R26 The construction of buildings or the conversion of existing buildings that will contain ~~H~~ hazard sensitive activities within the medium coastal hazard area, excluding the City Centre Zone or Airport, operation port activities, passenger port facilities and rail activities.

All Zones 1. Activity status: **Discretionary**

CE-R27 The construction of buildings or the conversion of existing buildings that will contain ~~H~~ hazard sensitive activities within the high coastal hazard area, excluding the City Centre Zone or Airport, operation port activities, passenger port facilities and rail activities.

All Zones 1. Activity status: **Non-complying**

- 48 For example, community facilities and visitor accommodation would be a non-complying activity under Rule CE-27, and commercial activity, food and beverage activity and offices would be a discretionary activity under Rule CE-26. Meeting the tests in Policy CE-12(3) would be very difficult for most of these activities, of which the bulk of recent waterfront development has comprised in recent years.
- 49 It is possible that this is the intention of the Proposed Plan. However, if that is not the intention, the Panel may wish to consider including 'the Waterfront Zone' alongside the exceptions for the City Centre Zone in Policy CE-12, Rules CE-R25-R27, or to otherwise further consider the effect of the overall policy and rule framework that would apply to development in the Waterfront Zone, including both the zone and overlay provisions.

CONCLUSION

- 50 In summary, it is my opinion that:

- a Provisions relating to ‘operational port activities’ as well as airport activities, passenger port facilities and rail activities should be deleted from the District-Wide – Natural Hazards and General District-Wide Coastal Environment chapters, so that the listed activities (which fall within the definition of ‘infrastructure’) are addressed in the Infrastructure – Natural Hazards and Coastal Environment chapters, and any non-port related activities undertaken by CentrePort are addressed in the General District-Wide chapters.
 - b Policy NH-P14 should be amended to remove the requirement that an activity can continue to operate following an earthquake.
 - c The amendments to the Natural Hazards objectives and policies are otherwise appropriate and I support the recommendations of Mr Sirl.
- 51 While it is not within the scope of CentrePort’s submissions, I have also raised a potential implementation issue arising from Policy CE-P12 and associated rules, for the Panel’s consideration.
- 52 If the Panel is of a mind to accept the suggested amendments in paragraphs 16 to 25 above, CentrePort would seek to address its residual concerns with the structure and content of the hazard provisions that apply to infrastructure, during Hearing Stream 9. CentrePort seeks assurance from the Panel that this scope will be available for it to address in Hearing Stream 9.

Kate Searle
18 July 2023

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