

**Before the Hearings Panel  
At Wellington City Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Wellington City District Plan

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**Hearing Stream 6 (Port Zone) Reporting Officer Right of Reply of  
Hannah van Haren-Giles on behalf on Wellington City Council  
Date: 28 March 2024**

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## INTRODUCTION

1. My name is Hannah van Haren-Giles. I am employed as a Senior Planning Advisor at Wellington City Council (the Council).
2. I have prepared this Reply in respect of the matters in Hearing Stream 6 relating to the Special Purpose Port Zone chapter (PORTZ).
3. I have listened to submitters in Hearing Stream 6, read their evidence and tabled statements, and referenced the written submissions and further submissions relevant to the Hearing Stream 6 topics.
4. The [Port Zone Section 42A Report](#) sets out my qualifications and experience as an expert in planning.
5. 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. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
6. Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the relevant part of my evidence to which it relates. Where I have set out opinions in my evidence, I have given reasons for those opinions.

## SCOPE OF REPLY

7. This Reply follows Hearing Stream 6 held from 20 February to 27 February 2024. [Minute 44: Stream 6 Hearing Follow Up](#) released by the Panel on 29 February 2024 requested that Section 42A report authors submit a written Right of Reply as a formal response to matters raised during the course of the hearing. [Minute 38: 2024 Hearing Arrangements](#) requires this response to be submitted by 28 March 2024.
8. The Reply includes:
  - (i) Responses to specific matters and questions raised by the Panel in Minute 44.
  - (ii) Commentary on additional matters that I consider would be useful to further clarify or that were the subject of verbal requests from the Panel at the hearing.

**Responses to specific matters and questions raised in Minute 44:**

*(c)(i) What is the Reporting Officer's recommendation about potential cross reference in PORTZ-P5 to the Noise and Light Chapters?*

9. Firstly, I note an error in the minute's question above in that it incorrectly references PORTZ-P5. It is important to clarify that this question relates to PORTZ-P4 (Adverse effects), not PORTZ-P5 (Sensitive activities).
10. At the hearing it was discussed whether PORTZ-P4 should directly reference the Noise and Light chapters. Putting aside whether there is scope for any changes for now, in my view there are three different approaches that could be taken with respect to the PORTZ-P4 policy approach to managing adverse effects, expressly noise and light emissions, being:
  - a. Retain the notified PORTZ-P4 wording of managing adverse use and development related effects in the Port Zone associated with noise and light emission, without needing to cross-reference to the Noise and Light Chapters.
  - b. Add cross-references in PORTZ-P4 to the Noise and Light chapters as suggested.
  - c. Delete reference within PORTZ-P4 to noise and light emission to keep the policy more general in nature to just focusing on the umbrella of 'adverse effects'.
11. Turning to the first option, I note that there appears to be some variety in the drafting of 'managing adverse effects' policies in other zone chapters across the PDP. Some provisions take a broader approach to adverse effects in that individual generated effects such as noise and light emission are not specifically identified. For example, AIRPZ-P4 (Management of effects) requires having regard to 'design, scale and location, and associated public and private effects', likewise SARZ-P3 (Potentially compatible activities) seeks to minimise adverse effects on residential amenity, but does not explicitly identify which effects.
12. In contrast, the Centres and Mixed-Use Zone chapters tend to identify specific effects i.e. building dominance, shading, privacy etc. STADZ-P2 (Other activities) provides the greatest similarity to PORTZ-P4 as it requires 'managing amenity values of adjacent sensitive activities, including visual, light-spill and noise effects'.

13. Following review of other New Zealand second generation district plans' approaches within their respective Port Zone/ Port Precincts, I note that there is a consensus in specifically referring to noise and light emissions within respective 'managing adverse effect' type policies. New Plymouth District Council's PDP – Appeals Version PORTZ-P7 requires activities within the Port Zone to *'minimise adverse effects on the character and amenity of surrounding areas and at zone interfaces by managing noise and light emissions to an acceptable level, particularly in relation to sensitive activities'* (amongst other matters). The Auckland Unitary Plan Port Precinct policy (4) requires *'activities within the precinct to avoid, remedy or mitigate adverse effects on the land and coastal environment, particularly noise, lighting and amenity effects...'*. Dunedin City's Second Generation District Plan Appeals version under Policy 30.2.2.4 requires *'land use activities to operate, and development to be designed, to ensure that adverse effects from noise on the health of people will be avoided or minimised as far as practicable'*.
14. Turning to option two, in considering adding cross-references to the Noise and Light chapter within PORTZ-P4, I note that it is generally not the drafting style of the PDP to cross-reference other chapters within policies or rules. No zone chapters do so within their policies. The only Part 3 Area-Specific chapter that does cross-reference to another chapter's provisions in policy is DEV2-P6 (Local Centre) which refers to CEKP-O2.
15. Based on my review of the PDP approach to cross-referencing other chapters, it is more typical of Part 2 District-wide topics to cross-reference within their rule frameworks. Another point to note is that these cross-reference examples are not referring to chapters generally, but instead specific policies or provisions.
16. The third option would entail simplifying PORTZ-P4 to remove reference to 'noise and light emissions'. In my view reference to 'bulk, scale and location of buildings and structures' would also need to be removed to achieve a general managing adverse effects policy. A benefit of this approach is that it enables a wider consideration of effects for a consent planner to consider. However, on the other hand it is not clear in the policy what the potential adverse effects are that can be generated by activities anticipated within the zone.
17. Having reviewed the policy frameworks of other PDP chapters, I note that no other zones have such a simplistic 'managing adverse effects' policy. Instead, each respective chapters' 'managing adverse effects' type of policy identifies specific

development outcomes to assist in managing adverse effects. For example, CCZ-P12 (Managing Adverse Effects) seeks to manage any associated adverse effects including the impacts of building dominance and height and scale, and building mass effects including the amount of light and outlook around buildings etc.

18. With respect to scope, I note that the only submissions on PORTZ-P4 were from KiwiRail [408.139] seeking to retain PORTZ-P4 and CentrePort [402.162 & 402.163] seeking 'Manage' be replaced with 'Avoid, remedy or mitigate' (opposed by Wellington Civic Trust [FS83.55]). No submitters sought cross-references be added to connect PORTZ-P4 to the noise and light chapters.
19. Having considered the three options above, and noting the lack of scope, I consider option one of retaining PORTZ-P4 as notified is the most appropriate option. In my view, the notified wording is consistent with other policy structure approaches across the PDP as well as the policies of other PORTZ chapter policies in other second generation district plans. I also note that the connection to the noise and light chapters is strengthened in the notified PORTZ through:
  - a. The reference to adverse effects in the introduction, including the specific reference to 'noise' effects;
  - b. The reference to the 'Other relevant District Plan provisions' section in the introduction;
  - c. The reference in the last paragraph of the PORTZ introduction to '*Noise generated by the commercial port in the Port Zone and coastal marine area is managed through the Port Noise Management Plan for CentrePort Ltd 2008*'.
20. If the Panel were not of the mind to accept my position of retaining the notified PORTZ-P4, two possible amendments could be made by way of a future plan change or variation to refer to 'light' in the introduction when discussing adverse effects and to explicitly identify within the 'Other relevant District Plan provisions' which chapters are relevant, for example the Noise, Light, Signs chapters etc. However, it appears to be a consistent drafting style of the PDP Part 3 Area-Specific chapters to not explicitly identify individual chapters, unlike the Part 2 District-Wide chapters which do.

(c)(ii) What is the Reporting Officer's recommendation on PORTZ-P5 given the recommendation of the Airport Zone Reporting Officer for deletion of a similar policy purporting to provide direction regarding activities outside the zone?

21. I have considered the recommendation of the Airport Zone Reporting Officer in relation to amending AIRPZ-O4 (Adverse effects generated by activities) to remove the reference to the 'need for effects management in adjacent areas outside the Airport Zone...' to instead focusing on effects generated within the Airport Zone.
22. It is my view that referring to effects management outside of the Port Zone in PORTZ-P5 (Sensitive Activities) is not appropriate as PORTZ provisions have no ability to influence outcomes beyond the zone extent.
23. At the hearing there were some questions raised about PORTZ-P5 and whether there was scope to amend the policy from 'seeking to establish adjacent to' the Port Zone, to instead read 'seeking to establish within'.
24. CentrePort [402.164 and 402.165] submitted that PORTZ-P5 '*could be read in two ways in that there could be an expectation that the Port needs to remedy or mitigate adverse effects which should be the responsibility of the proponent of the new sensitive activity*'. I recommended amendments consistent with CentrePort's relief sought<sup>1</sup> (shown in red text below). I consider that clarifying that the policy only relates to sensitive activities seeking to establish within the Port Zone will go further to address the submitters concerns.
25. I consider that this amendment would address the matter raised by the Panel and provide clarity to plan users on the regulatory limitations of the policy. It would also provide for consistency with other special purpose zones' provision approaches. This amendment is set out below and in Appendix A to this Right of Reply:

**PORTZ-P5 Sensitive activities**

Ensure that any new sensitive activities seeking to establish ~~adjacent to~~within the Port Zone are appropriately located ~~or designed~~ to avoid adverse reverse sensitivity effects and/or potential conflict with lawfully established activities within this Zone, and where avoidance is not possible, that any adverse effects are appropriately remedied or mitigated ~~by the sensitive activity~~.

<sup>1</sup> Paragraph 100, [Port Zone s42A Report](#)

(c)(iii) What is the Reporting Officer's view on substituting a meter squared figure for the current reference to 10% of the Precinct in PORTZ-R7.1(b)(ii)?

26. In the Port Zone s42A Report, I recommended<sup>2</sup> amending PORTZ-PREC01-R7 to enable as a permitted activity the construction of any new building or structure not related to existing passenger port facilities or operational port activities in the IHPP where it will have a gross floor area of 100m<sup>2</sup> or less; and result in a building coverage of no more than 10 percent across the precinct.
27. On page 2 of Ms Searle's speaking notes<sup>3</sup> she noted that '*at the hearing on 22 February 2024, the hearing panel questioned whether PORTZ-PREC01-R71(b)(ii) to refer to the precinct area in square metres, rather than as a percentage of the total site area. I agreed that this would be a more useful reference.*'
28. I concur with Ms Searle's position.
29. The total area of the Inner Harbour Port Precinct (IHPP) is 52,628m<sup>2</sup>. 10 percent of this figure is 5,263m<sup>2</sup>. On this basis, I recommend that PORTZ-PREC01-R7.1.b.ii be amended accordingly as set out below and detailed in Appendix A.

**PORTZ-PREC01-R7 Construction of buildings and structures and alterations and additions to buildings and structures not related to existing passenger port facilities or operational port activities in the Inner Harbour Port Precinct**

1. Activity status: Permitted

Where:

- a. The alterations or additions to a building structure:
  - i. Do not alter the external appearance of the building or structure; or
  - ii. Relate to a building frontage below verandah level; or
  - iii. Do not extend the existing building footprint by more than 10 percent.
- b. It involves the construction of any new building or structure that:
  - i. Will have a gross floor area of 100m<sup>2</sup> or less; and
  - ii. Will result in a building coverage of no more than ~~10 percent~~ 5,263m<sup>2</sup> across the precinct; and
- c. Compliance with PORTZ-PREC01-S1 and PORTZ-PREC01-S2 is achieved.

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<sup>2</sup> HS6-PORTZ-Rec27

<sup>3</sup> [Submitter speaking notes - K Searle for CentrePort \(402 & FS30\)](#)

(c)(iv) What is the Reporting Officer's recommendation regarding the ambit of PREC01-R3? In particular, should operational Port activities be excluded from it?

30. The intent of the Port Zone is that operational port activities be enabled as a permitted activity throughout the entirety of the zone – including within both precincts.
31. During the hearing the Panel questioned what the notified activity status of operational port activities would be within the IHPP and Multi-User Ferry (MUFP) PORTZ precincts, and whether it would be appropriate to exclude operational port activities from PORTZ-PREC01-R3 to achieve the desired outcome of ensuring operational port activities are permitted activities within the PORTZ precincts.
32. I have considered this option and an alternative - of whether deleting PORTZ-PREC01-R3 and PORTZ-PREC02-R1 would achieve the same outcome. This would then shift the default rule for operational port activities to PORTZ-R1 and would require 'all other activities' within the precincts to defer to the Port Zone default rule for 'All other activities' PORTZ-R2. The implication of this, however, is that relying on the 'All other activities' discretionary rule under PORTZ-R2 is then determinant on the activity having an operational need or functional need to locate in the Port Zone, otherwise the activity would become non-complying. This would not be consistent with the purpose and long-term visions of the precincts which is to enable a wider variety of activities than anticipated within the Port Zone, particularly for the IHPP in order to achieve a mixed-use waterfront environment.
33. Another option considered is whether the requirement of PORTZ-PREC01-R3 that *'The activity is not otherwise provided for as a permitted or restricted discretionary activity.'* is in itself sufficient to direct plan users to PORTZ-R1 (Operational port activities).
34. Having considered these options, I recommend that PORTZ-PREC01-R3 be amended to exclude operational port activities as raised by the Panel. I have looked at how exclusions are applied throughout the PDP and consider it most appropriate to amend the rule title consistent with other provisions, for example CCZ-R13, TEMP-R1, and CE-23. Amending the rule title ensures consistency with the PDP drafting style as to when a rule provides an exclusion for a particular activity.



35. As noted above, the intent is operational port activities are enabled throughout the entirety of the Port Zone. I therefore recommend the same amendment to PORTZ-PREC02-R1 as set out below and in Appendix A to this Right of Reply:

**PORTZ-PREC01-R3 All other activities, [excluding Operational Port Activities](#)**

**PORTZ-PREC02-~~R2R1~~ All other activities, [excluding Operational Port Activities](#)**

*(c)(v) Can the Reporting Officer please provide a revised Chapter picking up points discussed in her presentation of the Section 42A Report and any additional amendments she recommends, together with a Section 32AA evaluation of suggested changes where appropriate.*

36. As raised at the hearing, there are a few minor clarifications to note:
- a. Addition of 'The' to PORTZ-PREC01-P4.3.d
  - b. Correction of the spelling of Kaiwharawhara in PORTZ-PREC02-P4.3.d
  - c. Consistent with the recommendation to delete reference to 'a heritage building, heritage structure or heritage area' from PORTZ-PREC02-P2.3, I recommended deletion of this same reference from PORTZ-PREC02-P4 in response to CentrePort [402.179]<sup>4</sup>. However, this amendment was not shown in the tracked change Appendix A.
37. The above amendments, as well as updated references to the numbering of provisions, are set out in Appendix A to this Right of Reply.

**Response to other matters raised at the hearing:**

*Passenger port facilities*

38. The only other matter raised at the hearing that I wish to comment on is in relation to the rule framework for passenger port facilities. PORTZ-PREC01-R4 and PORTZ-PREC02-R3 are both permitted activity rules titled 'Existing passenger port facilities'.
39. At the hearing Ms Seale was supportive of my supplementary recommended amendments in response to her evidence, but suggested that adding 'for existing

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<sup>4</sup> Paragraph 127, [Port Zone s42A Report](#)

operators' might be beneficial to clarify the intent of the rules for existing passenger port facilities.

40. Another option considered in my supplementary evidence<sup>5</sup> and raised by the Panel at the hearing, was the option to integrate PORTZ-PREC01-R4 and PORTZ-PREC02-R3 (permitted activity rule for existing passenger port facilities) with PORTZ-PREC01-R7 and PORTZ-PREC02-R6 in a manner similar to PORTZ-R5 – where the building or structure is permitted where it is for existing passenger port facilities.
41. Having considered these options, in my view there is scope and merit in rationalising and clarifying the rule framework for passenger port facilities. I recommend amending PORTZ-PREC01-R4 and PORTZ-PREC02-R3 in a manner which incorporates Ms Searle's suggestion to clarify the intent of the permitted activity rule is that it relates to 'existing operators' i.e. Bluebridge and Interislander operations. The recommended wording is set out below and in Appendix A to this Right of Reply.

**PORTZ-PREC01-R4 Existing passenger port facilities**

1. Activity status: **Permitted**

Where:

- a. The passenger port facilities are associated with existing operators.

**PORTZ-PREC02-R3 Existing passenger port facilities**

1. Activity status: **Permitted**

Where:

- a. The passenger port facilities are associated with existing operators.

*Section 32AA Evaluation*

42. In my opinion, the amendments set out in this report are the most appropriate way to achieve the objectives of the plan compared to the notified provisions. In particular, I consider that:
- a. The amendments clarify the provision framework which reduces the likelihood

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<sup>5</sup> Paragraph 18, [Port Zone Supplementary Planning Evidence](#)

of interpretive issues. Consequently, they are more efficient than the notified provisions in achieving the objectives of the PDP.

- b. The recommended amendments set out in this report will not have any greater environmental, economic, social, and cultural effects than the notified provisions. However, there will be benefits from improved plan interpretation and more efficient plan administration.

A handwritten signature in black ink, appearing to read 'Han', enclosed within a hand-drawn oval.

**Date:** 28 March 2024