

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

STATEMENT OF EVIDENCE BY KIRSTY O'SULLIVAN

HEARING STREAM 7

5 MARCH 2024

1. EXECUTIVE SUMMARY

1 This statement of evidence relates to the hearing on submissions with respect to Natural Open Space Zone and Signs chapter of the Wellington City Proposed District Plan (**“Proposed Plan”, or “Plan”**).

Natural Open Space Zone

2 By way of background, Wellington International Airport Limited (**“WIAL”**) is in the early investigative phase of its seawall renewal project for the area of seawalls between Lyall Bay and Moa Point Road. This project has been necessitated by the existing seawalls nearing the end of its economic life, the increasing frequency and severity of storm events and the need to plan for rising sea levels.

3 As Ms Lester explains in more detail in her evidence, the seawalls protects Moa Point Road, Wellington Waters 3 Waters infrastructure and Wellington International Airport from the effects of coastal erosion and storm surge. This infrastructure is both of local and regional significance and is afforded recognition in both the Greater Wellington Regional Policy Statement and Natural Resources Plan.

4 Part of the seawalls are located within the Natural Open Space Zone (**“NOSZ”**) of the Proposed Plan. WIAL filed a number of submissions seeking to ensure that the planning framework, insofar as it relates to the area that includes the landward portion of the seawalls between Lyall Bay and Moa Point (**“seawalls”**), should enable the ongoing maintenance, repair upgrading and renewal of the seawalls where it protects regionally significant infrastructure.

5 While the section 42A reporting officer acknowledges that the Proposed Plan should provide for such activities, the officer generally considers that changes are not required to the NOSZ to accommodate this due to changes made to the Coastal Environment chapter of the Proposed Plan (heard via Hearing Stream 5). The exception to this is the recommendation to include a new limb within Rule NOSZ-R4 which provides for minor “additions and alterations” to the seawalls (as a structure). This amendment is considered

necessary by the section 42A reporting officer due to the mechanics of the District Plan and how the NOSZ rules influence the application of the Coastal Environment rules.

- 6 In my view there remains and clear disconnect between the NOSZ purpose and the seawalls. I also do not consider the drafting of Rule NOSZ-R4 is sufficiently broad to capture the range of activities reasonably necessary to maintain, repair and upgrade the seawalls. I also consider a new objective, policies as well as amendments to proposed Rule NOSZ-R4 are required to ensure that the NOSZ appropriately recognises and provides for the seawalls now and in the future.

Signs

- 7 WIAL filed a number of submissions with respect to the Signs chapter of the Proposed Plan. These submissions broadly seek to ensure that signs within the Airport Zone are treated in an equitable manner to signs located in similar zones. The submission also seeks to clarify and where appropriate, create consistency between WIAL's designation and the Signs chapter.
- 8 The section 42A reporting officer has recommended supporting WIAL's submission with respect to Policy SIGN-P6 (Airport Zone signage), Standard SIGN-S8 (Digital signs) and Standard SIGN-S9 (Illuminated signs). I therefore do not elaborate on these matters further.
- 9 With respect to the remainder of WIAL's submissions:
 - a. I broadly support the section 42A reporting officer's recommended amendments to Standard SIGN-S14 (Airport Zone signs and billboards), although I consider that controls on the maximum height of permitted signs should be retained within the Terminal Precinct. I also consider a thorough revisit of the assessment matters set out in Standard SIGN-S14 is warranted.
 - b. I consider the use of the conjunction "and" within Policy SIGN-P1 (Appropriate signs) requires review to ensure the application of the policy is not unduly constraining;

- c. In my view, a refinement to Policy SIGN-P2 (Digital and illuminated signs) is also necessary to ensure that the policy does not capture any sign “visible” but not intended to be viewed from a state highway;
- d. On review of SIGN-R3 (On Site Signs), it is my view that further amendments are required to ensure that an appropriate cascade is available for signs within the Airport Zone that do not comply with the relevant standards; and
- e. I consider that, in light of the relationship between designations and zone provisions, further amendments are required to SIGN-R4 (Third party signs) to ensure the approach for Third Party Signs is appropriate within the Miramar South Precinct of the Airport Zone.

2. INTRODUCTION

QUALIFICATIONS AND EXPERIENCE

10 My name is Kirsty O’Sullivan.

11 I have appeared before the Independent Hearings Panel with respect to Hearing Stream 5 and 6 of the Proposed Plan on behalf of Wellington International Airport Limited (“**WIAL**”). Within my brief of evidence for Hearing Stream 5,¹ I set out, my qualifications and experiences as an expert planning witness. I do not repeat that here.

CODE OF CONDUCT STATEMENT

12 While this is not an Environment Court hearing, I nonetheless confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023. I agree to comply with the Code and I am satisfied that the matters which I address in my evidence are within my field of expertise. I am not aware of any material facts that I have omitted which might alter or detract from the opinions I express in my evidence.

SCOPE OF EVIDENCE

¹ Statement of evidence of Kirsty O’Sullivan on behalf of Wellington International Airport Limited, 18 July 2023, paragraphs 2.1 – 2.4 and Appendix A.

- 13 In this brief of evidence, I will:
- a. Provide brief context around WIAL’s interest in the Natural Open Space Zone (“**NOSZ**”), followed by a summary of WIAL’s submission with respect to the zone and my recommended response to those submissions; and
 - b. Discuss WIAL’s submissions with respect to the Signage chapter of the Proposed Plan, including my further recommended amendments to ensure consistency with the management of signs throughout the District and where appropriate, consistency with WIAL’s designations.
- 14 I note that I do not address every submission point raised in the submission or further submission in relation to the NOSZ or Signage chapter of the Proposed Plan. My evidence instead focuses on those key matters which will have the greatest bearing on WIAL’s existing and future operations and therefore warrants further discussion. An absence of discussion with respect to a particular submission point should not be taken as agreement (tacit or otherwise) with the recommendations set out in the section 42A evaluation.
- 15 In preparing this statement of evidence, I confirm that I have read the following documents:
- a. Part 3 – Area Specific Matters - Natural Open Space Zone Chapter and Part 1 – District Wide Matters – Signs Chapter as notified;
 - b. WIAL’s submission and further submission;
 - c. The Proposed Plan Hearing Stream 7 reports prepared under section 42A of the Resource Management Act 1991 (“**the section 42A report**”) relating to the Natural Open Space Zone and Signs and the associated appendices;
 - d. The Section 32 Evaluation Report relating to the Natural Open Space Zone and Signs (“**the section 32 evaluations**”);
 - e. WIAL’s designations, namely WIAL2 (Miramar South), WIAL4 (Main Site) and WIAL5 (East Side Area);

- f. The Airport and Golf Course Precinct and Open Space B chapters of the Operative District Plan; and,
- g. The Independent Hearing Panel marked up recommendations to the Coastal Environment Natural Hazard and Earthwork provisions.

3. NGĀ AHOAHO ME NGĀ ROHE Ā-RĒHIA - NATURAL OPEN SPACE ZONE

- 16 As discussed by Ms Lester, an existing seawalls are located along the coastal interface, between Lyall Bay and Moa Point. The seawall serves a significant function, protecting Moa Point Road (an Urban Connector Road), Wellington Water’s Three Waters (“**3 Waters**”) infrastructure (including various pipes leading to the Moa Point Wastewater Treatment Plant) and Wellington Airport from the effects of coastal erosion and storm surges. Both the 3 Waters and Airport infrastructure comprise “regionally significant infrastructure” in the Greater Wellington Regional Policy Statement (“**RPS**”), Natural Resources Plan (“**NRP**”), and the Proposed Plan.
- 17 The importance of “hard hazard engineering” mitigation and protection methods is also recognised in the NRP. This includes through a specific policy framework for “hard hazard engineering” and “seawall” structures. The NRP also provides WIAL with specific exemptions to some rules relating to hard hazard engineering structures and seawalls, in recognition of the existing seawalls between Lyall Bay and Moa Point.
- 18 Ensuring the Proposed Plan appropriately recognises and provides for the seawalls is therefore a “cross boundary” issue, with mean high water spring delineating the jurisdictional change between Wellington City and Greater Wellington Regional Councils.
- 19 Under the Proposed Plan, the existing seawalls between Lyall Bay and Moa Point Road is subject to an underlying NOSZ. Under the Operative Plan, a similar land use zoning is applied (Open Space B). The Proposed Plan also introduces a new suite of provisions that relate to the “Coastal Environment” and the “Coastal Margins”. Unsurprisingly, due to the purpose and function

of the seawalls, they are located within both of these overlays. The seawalls are not located within the Airport Zone.

- 20 WIAL is in the early investigative phase of its seawalls renewal project. This project has been necessitated by the fact that the existing seawalls are nearing the end of their economic life, the increasing frequency and severity of storm events, and the need to plan for rising sea levels.
- 21 As the seawalls are not captured within the definition of “infrastructure” under the Proposed Plan, any maintenance, upgrading, repair, replacement, or development of the seawalls above mean high water springs is unlikely to engage the infrastructure provisions of the Proposed Plan. Instead, it requires consideration under the more narrowly focused NOSZ and the relevant provisions contained within the Coastal Environment and Earthwork chapters of the Proposed Plan. I note that the section 42A reporting officer agrees with this interpretation.²
- 22 While the following sections of my evidence focus on my recommended amendments to the NOSZ to ensure the ongoing maintenance, repair, and upgrade of the seawalls is appropriately provided for in the Proposed Plan, I note that this is not the only chapter in which amendments could be made to achieve a similar outcome. For example, WIAL has extensive submissions filed with respect to the Infrastructure chapter which is scheduled to be heard as part of Hearing Stream 9. I understand WIAL intends to present further evidence at that hearing with respect to this matter.
- 23 On a brief review of the Infrastructure chapter, it appears to address infrastructure in a comprehensive manner. While the seawalls may not be considered “infrastructure”, they serve a critical function in protecting a range of both locally and regionally significant infrastructure. It would therefore seem that providing for the seawalls through amendments to the Infrastructure chapter (including the definition) may provide an efficient and effective pathway for addressing some of the matters raised in WIAL submissions. In my view however, it is not panacea for all of the issues raised

² Paragraph 107, Section 42A – Hearing Stream 7 – Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt Zones, dated 20 February 2024.

in WIAL's submission as any future resource consent application(s) will likely require consideration of the broader objectives and policies within the Proposed Plan, including the NOSZ.

- 24 I anticipate that the Hearing Stream 9 section 42A reporting officer and WIAL will consider this further at a later date.

Overview of WIAL's submission

- 25 WIAL filed a number of submissions relating to the NOSZ. The submissions primarily centered on the existing seawalls located between Lyall Bay and Moa Point being located within the NOSZ and the need for the area to either be rezoned to a more appropriate land use zone or for an appropriate planning framework to be provided which provides for their ongoing maintenance, repair and upgrade.

- 26 More specifically, the submission sought:

- a. The land between Lyall Bay and Moa Point Road (between the coast and the road) be rezoned to a more appropriate land use zoning, such as an Airport Zone;³ or,
- b. A new objective that recognises that the area between Lyall Bay and Moa Point contains significant hard engineering structures and that these structures require ongoing maintenance, repair and upgrade to protect regionally significant infrastructure;⁴ and,
- c. Two new policies⁵ which enable the ongoing maintenance, repair and upgrade of the seawalls while appropriately managing environmental effects; and,
- d. Two new rules⁶ to create a clear pathway for the maintenance, repair and upgrade of seawalls, as well as for additions and alterations to them; and,

³ Submission Point 406.498.

⁴ Submission Point 406.500.

⁵ Submission Point 406.501 – 502.

⁶ Submission Point 406.503 – 504.

- e. A new standard to complement the proposed new rules, along with bespoke assessment criteria.⁷
- 27 In the absence of the above, WIAL’s submission generally opposed a range of objectives and policies insofar that amendments are required to enable the maintenance, repair, and upgrade of the existing seawalls.⁸
- 28 The section 42A reporting officer acknowledges the importance of ensuring a consenting pathway is available for the maintenance and upgrade of the seawalls. The section 42A reporting officer has generally recommended rejecting WIAL’s submission points however, citing that there are more efficient and effective options available to address the matters raised throughout the submission (such as the Hearing Stream 5 relief recommended by the section 42A reporting officer with respect to the Coastal Environment Natural Hazards section of the Proposed Plan).⁹
- 29 The section 42A reporting officer has acknowledged, however, that a new permitted / discretionary rule is required within NOSZ-R14 due to the activity status for activities within the separate, but related Coastal Environment chapter being dependent on the underlying zone rules.

Natural Open Space Zoning

- 30 When considering the appropriateness or otherwise of the proposed NOSZ between Lyall Bay and Moa Point, it is important in my view to reflect on the purpose of the zone. This is outlined within the introduction of the Chapter and Objective NOSZ-O1 Purpose which state (my emphasis added):

Introduction

The purpose of the Natural Open Space Zone is to recognise and provide for open spaces that contain high natural, ecological, landscape and historic heritage values.

.....

Objective NOSZ-O1 Purpose

⁷ Submission Point 406.505.

⁸ Submission Points 406.506 – 406.523.

⁹ Refer to Hearing Stream 5 Panel Recommendation, CE-P27 and CE-P28 and CE-R24.

Natural open space areas are predominately used by the public for informal recreation activities, within undeveloped natural areas, in such a way that protects, and where possible enhances, the predominant character and amenity values of the Natural Open Space Zone which include:

1. *Large undeveloped open areas;*
2. *High natural, ecological, landscape and historic heritage values;*
3. *A low level of built form and scale, with buildings, structures and roads principally ancillary to informal recreation activities or conservation activities; and*
4. *A general absence of urban infrastructure.*

- 31 The existing seawalls are almost entirely inconsistent with this introduction and purpose statement, given that the area surrounding the seawalls is highly modified, unnatural, is sparingly used for informal recreation activities¹⁰ and does not protect or enhance the predominant character or amenity values of the zone, which are described in NOSZ-O1(1) to (4) above.
- 32 In this context, I do not consider that the NOSZ is appropriate or a good fit for this land located between Lyall Bay and Moa Point. I acknowledge, however, that the area is identified as a Local Purpose Esplanade Reserve under the Reserves Act 1977 and the management of this area is generally subject to the South Coast Management Plan 2002. The land is also currently zoned for Open Space purposes in the Operative District Plan. The inconsistency between the actual use activities occurring within the area and the zoning is therefore a continuation of an existing situation.
- 33 I understand that the area between Lyall Bay and Moa Point Road is owned by Wellington City Council. I also understand that Wellington City Council is intending to review the South Coast Management Plan 2002. While an opportunity may exist now to review the appropriateness of the NOSZ provisions, there are underlying matters around the reserves classification and purpose that need to be resolved in my view before advancing the any potential rezoning of this land.

¹⁰ WIAL is aware that informal fishing activities occur off the breakwater and that the seawalls are sometimes used for surf access. For health and safety reasons, such access is not encouraged by WIAL.

Providing a Policy Framework

- 34 Given the existing environment surrounding the seawalls and their significant role and function in protecting and supporting the adjacent road, 3 Waters and Airport infrastructure, in my view it is imperative to ensure the planning framework provides for the ongoing maintenance, repair and upgrade of the seawalls. It is also imperative that the management and consenting requirements are proportionate to the nature and scale of the maintenance, repair and upgrades being proposed at the time.
- 35 With respect to WIAL's submissions on the NOSZ, the reporting officer considers that specific exemptions within the NOSZ chapter for the seawalls is unnecessary, as the combination of policies located within the Coastal Environment chapter as well as the explicit maintenance rules within the NOSZ chapter provides a sufficient consenting pathway for works to the seawalls.¹¹
- 36 As noted above however, the section 42A reporting officer has acknowledged that a new permitted rule is required within NOSZ-R14 due to the activity status for activities within the separate, but related Coastal Environment chapter being dependent on the underlying zone rules. The following amendments are therefore recommended by the section 42A reporting officer:

NOSZ-R14 Construction, alteration of and addition to buildings and structures

1. *Activity status: Permitted*

Where:

- a. *For alterations or additions to the Lyall Bay/Moa Point Seawall compliance with the following standard is achieved:*
 - i. *NOSZ-S7; or*
- b. *For the construction, alteration of an addition to buildings and structures (excluding Lyall Bay/Moa Point Seawall) cCompliance with the following standards is achieved:*
 - i. *NOSZ-S1;*

¹¹ Paragraph 242, Section 42A – Hearing Stream 7 – Open Space, Natural Open Space, Sports and Active, and Wellington Town Belt Zones, dated 20 February 2024.

- i. NOSZ-S2;*
- i. NOSZ-S3;*
- i. NOSZ-S4; and*
- i. NOSZ-S5.*

2. *Activity status: Discretionary*

- 37 I agree in principle with the recommendation of the reporting officer to amend NOSZ-R14 to explicitly provide for the alterations or additions to the Lyall Bay and Moa Point seawalls as a permitted activity subject to compliance with a new standard NOSZ-S7 (noting that where compliance is not met, the activity defaults to a discretionary activity).
- 38 In my view, however, these permitted and discretionary activity rules need to be broadened to accommodate the maintenance and repair as well as the upgrade of the seawalls (all of those terms being defined and used in the Coastal Environment chapter).
- 39 There also needs to be an associated and express objective as well as policies because as currently drafted it is not clear to me which objectives and/or policies of the NOSZ the section 42A reporting officer's new rule is seeking to give effect to. In my view, there appears to be a clear gap between the NOSZ objectives, policies and the proposed new method as well as the strong disconnect between the zone's purpose as discussed in paragraphs 30 and 31 above and the reality of the activities that need to take place and the actual character of the area.
- 40 In this regard, the existing seawalls are well-established and a longstanding part of the existing environment within this part of the NOSZ. It is not a pristine or unmodified natural environment and for health and safety reasons, their use for recreation purposes is generally discouraged. In my view, this warrants express recognition in the NOSZ, as the seawalls are otherwise clearly at odds with the underlying zone. Despite there being other policy recognition for seawalls within the Proposed Plan, the NOSZ will still remain a relevant consideration for any future discretionary resource consent application.

- 41 I also note that there is discrepancy between the language used in NOSZ-R14 and Coastal Environment chapter. The Coastal Environment chapter refers to “hard engineering hazard mitigation structures” and “hard engineering hazard mitigation works”. By contrast, the NOSZ refers to “structures” and “seawalls”. In my view, to create consistency between the two chapters, the relevant rule relating to the seawalls between Lyall Bay and Moa Point Road should therefore refer to the addition, alteration to the seawalls, as well as their ongoing maintenance, repair and upgrade. Without this broadening, there is no recognition that the maintenance, repair and upgrade of the seawalls may be appropriate activities within the zone.
- 42 In light of the above, I support the intent of the objective and policies sought by WIAL in its original submission and I consider it would be appropriate to include something akin to the following (as set out in WIAL’s submission) in the NOSZ:

NOSZ-O5 Protecting Regionally Significant Infrastructure – Lyall Bay to Moa Point

Recognise that the Natural Open Space Zone, between Lyall Bay and Moa Point, contains a significant hard engineering structures designed to protect regionally significant infrastructure from coastal erosion, and provide for the ongoing maintenance, repair and upgrade of such structures.

NOSZ-P8 Enabling seawalls that protect regionally significant infrastructure between Lyall Bay and Moa Point

Enable the ongoing maintenance, repair and upgrade of the sea wall and associated activities between Lyall Bay and Moa Point.

NOSZ-P9 Adverse effects of seawall construction, alteration and additions

Manage the adverse effects of construction, alterations and additions to the seawalls between Lyall Bay and Moa Point, including effects on:

- 1. Natural and physical resources;*
- 2. Amenity values;*
- 3. The identified values of Overlays;*
- 4. The safe and efficient operation of other infrastructure; and*
- 5. The health, well-being and safety of people and communities.*

4. NGĀ TOHU - SIGNS

43 WIAL filed a number of submissions relating to the signs chapter. While these submissions sought the deletion of various rules, in the alternative, the submission:

- a. Sought review of the use of the conjunction “and” in Policy SIGN-P1 to ensure it does not set an unduly onerous statutory requirement for signage;¹²
- b. Opposed in part the requirement for digital and illuminated signs not be “visible” from the state highway;¹³
- c. Supported the retention of Policy SIGN-P6 as notified;¹⁴
- d. Opposed in part the SIGN-R1 and SIGN-R2 relating to official and temporary signs, primarily due to the cross reference to SIGN-S14 and the content contained therein;¹⁵
- e. Opposed in part SIGN-R3, noting no cascading rule structure for signs otherwise permitted in the Airport Zone that do not comply with the relevant standards;¹⁶
- f. Sought the inclusion of a new Airport specific signage rule under SIGN-R4 for third party signs, tailoring the rule to reflect only those standards that are relevant to the Airport;¹⁷
- g. Opposed the restricted discretionary activity status under SIGN-R5 for digital signs within the Airport Zone and instead supported a controlled activity status;¹⁸

¹² Submission 406.463 to 464.

¹³ Submission 406.464 to 467.

¹⁴ Submission 406.468.

¹⁵ Submission 406.469 to 471.

¹⁶ Submission 406.476 to 478.

¹⁷ Submission 406.479 to 481.

¹⁸ Submission 406.482 to 484.

- h. Opposed the application of SIGN-S5 relating to signs located on a building or structure from applying within the Airport Zone;¹⁹
- i. Supported the intent of SIGN-S8 relating to Digital signs, albeit with replacement of the term impact” with “effect”,²⁰
- j. Sought the inclusion of new assessment criteria for illuminated signs (SIGN-S9) requiring consideration of the effects of illuminated signs on aircraft operations;²¹ and,
- k. Various amendments to SIGN-S14 relating to Airport zones signs and billboards in the Airport Zone.²²

44 The section 42A reporting officer has recommended supporting WIAL’s submission with respect to SIGN-P6, SIGN-S8 and SIGN-S9. I therefore do not elaborate on these matters further. The remainder of this section therefore focuses on those outstanding matters where the section 42A reporting officer has not recommending accepting WIAL’s submission.

SIGNS-S14 Airport Zone Signs and Billboards

45 SIGNS-S14 is cross referenced in almost all of the rules within the Signs chapter. I therefore address the content of this standard, before moving on to the rules that cross reference back to it.

46 WIAL filed a submission opposing this standard and sought that it be deleted or amended citing that the standard:

- a. Unduly precludes all signs within the East Side Area Precinct of the Airport Zone;
- b. Inappropriately cross references a number of WIAL’s designations;

¹⁹ Submission 406.485 to 486

²⁰ Submission 406.487 to 488.

²¹ Submission 406.489 to 490.

²² Submission 406.91 to 493.

- c. Duplicates controls addressed elsewhere within the Signs chapter; and
- d. Places undue constraints on signage within the Airport Zone that are not comparable with other, more sensitive land use zones.

47 In response to WIAL's submission, the section 42A reporting officer has recommended the following amendments:²³

- a. Substantive amendments to SIGN-S14(1) as follows:

Signs are not permitted in the Airport East Side designation. Any sign within the East Side Precinct shall be limited to official signs and signs associated with instructional or directional signage.

In my view, these amendments more appropriately reflect the types of signage activities that may be reasonably established within the East Side Area Precinct.

- b. Deletion of SIGN-S14(2)(a) as follows:

Any sign which is erected in the Airport Miramar South precinct designation, and which is visible from the road reserve or immediately adjacent land:

- a. *Shall not contain moving images, moving text or moving lights; and*
- b. *Shall not be for the purpose of third party advertising.*

I address clause (b) of this standard with respect to SIGN-R4 in detail in paragraphs 60 to 69 below.

- c. Deletion of SIGN-S14(3) as follows:

Airport Main Site Designation
3.—Signs on buildings shall:

²³ Note the section 42A reporting officer recommendations are shown as red underline for additions and ~~strikeout~~ of deletions. My subsequent recommended amendments are shown as green underline for additions and ~~strikeouts~~ for deletions.

- ~~a.—Be affixed to the underneath of a verandah and shall provide at least 2.5 metres clearance directly above the footpath or ground level.~~
- ~~b.—Be displayed only on plain wall surfaces.~~
- ~~c.—Not obscure windows or architectural features.~~
- ~~d.—Not project above the parapet level, or the highest part of that part of the building/structure to which it is attached (including above verandah).~~

I support this recommendation and note that the matters addressed in this standard are captured by the standards contained in SIGN-S5(1) to (3) and SIGN-S6.

- d. Deletion of the SIGN-S14(4) and (5) as follows:

- ~~4.—Signs on buildings, where the sign projects more than 12 metres in height above ground shall:
 - ~~a.—Bear only the name and/or logo of the building owner or occupier, or the building on which the sign is located.~~
 - ~~b.—Not flash.~~~~
- ~~5.—Any illuminated sign (excluding signs below verandah level) within 50 metres and visible from any Residential zone shall not flash.~~

- e. I support these recommendations, noting that equivalent provisions do not apply to signs in other zones within the Proposed Plan. Furthermore, the suite of standards will generally manage amenity effects to what is otherwise considered an “acceptable” level.

- f. Deletion of SIGN-S14(3)(c) to (e) as follows:

For any free-standing sign or sign located on a structure within any part of the Airport Zone area, except the (Airport Main Site) Terminal Precinct:

- ~~a. the maximum area of a single sign is 8m².~~
- ~~b. the maximum height of a single sign is 4m.~~
- ~~c.—any illuminated sign must not flash.~~
- ~~d.—any sign that is visible from Residential zoned land must be~~

~~located a minimum of 50 metres from that area.~~

~~e. no sign shall front onto State Highway 1, Moa Point Road, or Lyall Parade.~~

I support the deletion of these limbs, again noting that such matters are appropriately addressed by other standards in the Signs chapter. I note however, that for drafting consistency, limbs (a) and (b) of this rule should refer to “a single sign” as per equivalent provisions in other standards in this chapter. Reference to the “Airport Main Site” also needs to be removed as this area is not defined anywhere in the Airport Zone.

g. Deletion of SIGN-S14(4) and the addition of a new SIGN-S14(4) as follows:

1. *In relation to requiring authority signage in the (Airport Main Site) Terminal precinct, any free-standing sign or sign located on a structure shall not exceed a maximum height of 9 metres (above ground level).*
2. *For any free-standing sign or sign located on a structure within the Terminal Precinct, the maximum area of a single sign must not exceed 20m².*

I support the recommended new SIGN-S14(4) and note this generally consistent with the Operative Plan. I note however, that due to the recommended deletion of SIGN-S14(4) above, there is no maximum height for signs within the Terminal Precinct of the Airport Zone. I therefore recommend that the height constraint be reinstated and combined with SIGN-S14(4) to ensure consistency in the drafting approach used in this standard (i.e. SIGN-S14(3)):

For any free-standing sign or sign located on a structure within the Terminal Precinct,:

- a. the maximum area of a single sign must not exceed 20m²; and*
- b. the maximum height of a single sign must not exceed 9m.*

48 I also note that it appears that the assessment criteria have not been revisited by the section 42A reporting officer as a number of these no longer appear relevant in light of the changes to SIGN-S14.

49 With respect to each assessment criteria (which apply if a standard is not met) and in particular:

1. *Relevant terms and conditions of Airport Zone designations*

a. In my view, it is inappropriate to cross reference designation conditions in the standards and rules. They are separate planning mechanisms and conflating these will give rise to potential approval issues, as previously discussed in my Hearing Stream 5 and 6 evidence.²⁴ Assessment criteria 1 should therefore be deleted.

2. *District Plan Design Guide for Signs*

3. *In the Airport Miramar South precinct, signage provisions of the Airport Miramar South Integrated Design Management Plan (IDMP)*

b. A number of design guides have been or are in the process of being developed for the Airport as per the requirements of WIAL's designations.²⁵ These design guides include consideration of signage. In my view it would be more appropriate to cross reference the airport specific design guidelines in a similar manner to that expressed in AIRPZ-P4(3) of the Airport Zone and remove reference to the Miramar South Integrated Design Management Plan, as follows:

2. *Any landscape plan, urban design principles or statement, or integrated design management plan prepared for the Airport precinct.*

3. *In the absence of the documents identified in 2, the District Plan Design Guide for Signs;*

4. *Traffic and pedestrian safety*

7. *Visibility from road reserve or adjacent land:*

²⁴ Statement of evidence of Kirsty O'Sullivan on behalf of Wellington International Airport Limited, Hearing Stream 5, 18 July 2023, paragraphs 2.1 – 2.4.

²⁵ Refer to the evidence of Ms Lester regarding Hearing Stream 6 for detail.

c. Such matters are already considered under SIGN-S7 and any non-compliance addressed through the assessment criteria applying to that standard. These references can therefore be deleted.

8. *The nature of moving images, text or light*

d. Signs with such design elements are considered under SIGNS-S7 to S9 and therefore do not need repeating here.

5. *Residential amenity*

6. *Position and dimensions: relevant for other signs*

9. *Nature of signage, when attached to a building over 12m above ground level.*

e. The above matters have all been transposed from the Operative Plan. No equivalent assessment matters apply to signs within other zones in the Proposed Plan. In my view, signs within the Airport Zone should be treated proportionately with signs in zones with similar characteristics or sensitivities. I therefore question their appropriateness for retaining these matters, as consider they could be deleted.

50 In addressing the above, it is my view that WIAL's submission with respect to SIGN-R1 and R2 is addressed.

Policy SIGN-P1 Appropriate signs

51 WIAL filed a submission seeking refinement of the use of the conjunction "and" within Policy SIGN-P1. The section 42A reporting officer has recommended rejecting the submission, citing that it is not necessary for all points within SIGN-P1 to be satisfied for a sign to be allowed/enabled.

52 In my experience, the conjunction "and" means each clause joined by the "and" must be met. I, therefore, disagree with the section 42A reporting officer and consider that as drafted, every limb of Policy SIGN-P1 must be met for a sign to be allowed or enabled. This is clearly not the intent, as the subsequent methods do not apply this "and" approach.

53 I therefore consider that a careful review of Policy SIGN-P1 is required to ensure that the correct use of “or” or “and” is used throughout the policy. While WIAL’s submission sought to do this, it is not clear from the section 32 evaluation which limbs are intended to be mutually exclusive and which are not. I would be happy to conference with the section 42A reporting officer to assist with this review.

Policy Signs-P2 Digital and illuminated signs

54 WIAL filed a submission seeking to delete or refine Policy SIGN-P2 (5) to clarify that digital and illuminated signs should not be directed at users of the state highway. I understand this amendment was sought to recognise that a sign may be visible from the state highway, but not intended to be read by users of the state highway.

55 The section 42A reporting officer has recommended rejecting this submission, citing that WIAL’s submission would result in the policy being open to interpretation.

56 I note that the section 42A reporting officer has adopted language within SIGN-S5 (relating to signs on buildings or structures) and SIGN-S7 (relating to traffic safety) which results in the standard being engaged when a sign is “orientated to be read from” a road. In my view, it would create a strong policy connection to the methods if SIGN-P2 were to be drafted similarly. It would also address WIAL’s concerns about a sign being “visible’ but not intended to be read by users of the state highway.

SIGN-R3 On-site signs

57 WIAL filed a reasonably discrete submission regarding SIGN-R3 seeking that the cascade of the restricted discretionary rule appropriately captures signs within the Airport Zone. The section 42A officer has recommended rejecting the rule citing that it appropriately addresses on site signs within the Airport Zone.

58 In my interpretation of Rule SIGN-R3, there still appears to be a gap in how the rule's cascade works. That is, if an on-site sign within the Airport Zone does not meet the standards set out in SIGN-S14, it is not captured by the

restricted discretionary rule in SIGN-R3(3). Rather, the default catch-all discretionary rule in SIGN-R8 would apply. On reading of the matters of discretion in SIGN-R3(3), I do not think this was the intent of the original author of the chapter as the matters include reference to SIGN-P6 Airport Zone signage.

- 59 I therefore support WIAL's submission and consider it appropriate for SIGN-R3 to be updated to ensure that on-site signage that does not meet the permitted activity requirements should be a restricted discretionary activity.

SIGN-R4 Third Party Signs

- 60 WIAL filed a submission seeking the inclusion of a new rule for Third Party Signs within the Airport Zone. WIAL also sought deletion of the non-complying activity status for Third Party Signs where located within the Miramar South Precinct.

- 61 The section 42A reporting officer has recommended rejecting WIAL's submission, citing that the non-complying activity status is appropriate to align with the Miramar South Designation. The section 42A officer has also noted that this matter can be picked up at the designation hearing.

- 62 I do not agree with the section 42A reporting officer's recommendations.

- 63 In my experience, a designation allows a requiring authority to undertake an activity consistent with the purpose of its designation through an outline plan of works process under section 176A of the RMA. This alternative process is generally in recognition of the importance of activities undertaken by a requiring authority and is generally more (or at least not generally less) enabling than the District Plan provisions.

- 64 Should the requiring authority propose an activity inconsistent with its designation purpose or the conditions imposed on the designation, the activity has to be considered under the relevant district plan provisions. The activity then ceases to have any elevated importance or similar and should be treated the same way as other similar activities in the District Plan.

65 WIAL's Miramar South Designation does not provide for third party signs because practically, it cannot. A third party not acting as an agent for the airport does not fall within the scope of a requiring authority and thus cannot utilise the designation.

66 A third-party sign within the Miramar South Precinct should, therefore, be subject to the same scrutiny as any other third-party sign and have to navigate the relevant sign rules as per any other signage proposal. In that respect I note that:

- a. Third party signs within the Airport and Neighbourhood Centre Zone (both which front the Miramar South Precinct to the south and south west) are permitted, subject to compliance with the relevant standards.
- b. Third party signage within the Medium Density Residential Zone are discretionary.

67 The proposed non-complying activity status is, therefore, unduly onerous in my view and not consistent with the approach applied to the adjacent zones.

68 In acknowledgement of the surrounding residential zones, I have recommended below some alternative and consequential relief to that sought by WIAL with respect to the Miramar South Precinct. Specifically, I have recommended the inclusion of a revised SIGN-S14(2) that restricts third party signage within the Miramar South Precinct where located opposite a residential zone. Failure to comply with that standard will then result in a restricted discretionary activity status, for which a range of effects on the residential areas can be considered.

Any sign which is erected in the Airport Miramar South ~~precinct for the purpose of third party signage designation, and which is visible from the road reserve or immediately adjacent land:~~

- a. ~~Shall not contain moving images, moving text or moving lights; and~~
- a. ~~—Sshall not be located opposite a residential zone for the purpose of third party advertising.~~

69 In my view, this is a more efficient, effective and appropriate approach for managing such signage within this precinct.

5. CONCLUSION

70 Wellington Airport comprises regionally and nationally significant infrastructure which plays a critical role in providing for the economic and social wellbeing of the Wellington Region.

71 With respect to the seawalls located between Lyall Bay and Moa Point Road, there appears to be agreement that the Proposed Plan needs to provide for the maintenance, repair and upgrade of the seawalls. The section 42A reporting officer and I do not agree with how this should be achieved.

72 While I acknowledge, that there may be other mechanisms for ensuring the seawalls are afforded appropriate recognition in the Proposed Plan, any discretionary or non-complying resource consent application for the maintenance, repair or upgrade of the seawalls will require consideration of the broad suite of objectives and policies throughout the Proposed Plan. This includes consideration of the NOSZ. While other chapters may assist and provide some direction for such applications, there is a clear disconnect between the seawalls and the NOSZ provisions, despite them being a longstanding part of the existing environment. It is therefore appropriate in my view that the NOSZ recognises the seawalls and that not all parts of the zone are necessarily pristine or natural in character, and that there are instances where infrastructure will need to co-exist.

73 With respect to signage, while I have made a number of recommendations regarding the signs chapter, many of these seek to ensure clarity and consistency in the management approach of signage throughout the chapter.

74 In my opinion, my suggested amendments are the most appropriate way to achieve the objectives of the Proposed plan compared to the notified provisions. I consider that:

- a. Further amendments to the NOSZ will more appropriately achieve the purpose of the Act and will provide for the efficient use and development of the existing seawalls, as significant physical resources that support regionally significant infrastructure;
- b. The recommended amendments to the signage provisions will ensure the Proposed Plan provides for signage in an efficient and consistent manner.

Kirsty O’Sullivan

5 March 2024