

Before an Independent Hearing Panel of Wellington District Council

Under the Resource Management Act 1991

In the matter of the hearing of submissions and further submissions on the Proposed Wellington City District Plan (**PDP**)

And

In the matter of Hearing Stream 7, Natural Open Space Zone and Signs

SUBMISSIONS ON BEHALF OF WELLINGTON INTERNATIONAL AIRPORT LIMITED

Hearing Stream 7 – Natural Open Space Zone and Signs

15 March 2024

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1. INTRODUCTION

1.1 These submissions are filed on behalf of Wellington International Airport Limited (**WIAL**), a submitter on the Wellington City Council (**WCC**) Proposed District Plan (**PDP**) in relation to Hearing Stream 6, and in particular the Natural Open Space Zone and Signs Chapters.

1.2 WIAL has filed evidence from:

- (a) Jo Lester, Planning Manager, WIAL;
- (b) Kirsty O’Sullivan, Associate, Mitchell Daysh Limited.

1.3 These legal submissions focus on the Natural Open Space Zone (**NOSZ**) provisions and how these to relate to/ provide for the seawall area that is within the District¹ between Lyall Bay and Moa Point. The history, importance and planning future of this area is fully set out in Ms Lester’s and Ms O’Sullivan’s evidence.

1.4 WIAL has already provided evidence about the importance of the Airport to the social and economic fabric of the District, Region and Nation in previous hearing streams and that evidence is still relied upon. However, this hearing also concerns properly providing for the protection of the Council’s own infrastructure in the form of Moa Point Road and 3 Waters Infrastructure in this location.

1.5 In my submission, it is important to bear in mind when considering this matter that the seawall structure is more than just the face of the seawall that can be seen. As Ms Lester details in her evidence, the majority of the land of concern here is part of, or integral to, the functioning of the seawalls. All of the area is reclaimed land and requires regular maintenance and/or access for maintenance activities or for emergency akmon replacement storage.

2. RESPONSE TO S42A REPORT

¹ Bearing in mind that parts of the seawall are within the jurisdiction of the Region being below MHWS

- 2.1 The Council’s s42A Report and suggested amendments to the NOSZ rule R14 and new standard S7 (**Bespoke Methods**) go some way in alleviating WIAL’s concerns which are set out in WIAL’s original submission and WIAL’s filed evidence.
- 2.2 However, as is apparent from Ms O’Sullivan’s evidence, the lack of a specific objective and policy framework for the NOSZ is still of concern and further that the Bespoke Methods do not go far enough.
- 2.3 The s42A Report author states that such a policy framework is not required on the basis that the Bespoke Methods can be introduced², the existence of policy provisions in the Coastal Environment Chapter³ and that NOSZ–P6 “*provides for adequate policy alignment for future upgrades to the Lyall Bay/Moa Point seawall.*”⁴
- 2.4 In my submission NOSZ P6 will clearly not provide “adequate policy alignment” for any future seawall upgrade/ replacement project.
- 2.5 Firstly, any structure must be compatible with the character and amenity of the Zone. This reference must refer to the “Zone” as a whole which is largely characterised by areas that contain high natural, ecological, landscape and historic heritage values (refer to Zone Introduction).
- 2.6 To the contrary, this particular portion of the Zone has little natural character as is evidenced by the photos included in Ms Lester’s evidence and in my submission the S42A report’s suggestion that the area “*retains natural characteristics*”⁵ is not borne out in reality.
- 2.7 Secondly, nor would any seawall upgrade/ replacement project likely meet many of the compatibility criteria listed in NOSZ P6. Such a project would be very unlikely to meet the current management plan for the area, support or be complementary to informal recreational activities, avoid or adequately mitigate visual amenity or

² S42A Report at para 216 noting what appears to be a para reference error and should refer to paras 261 to 263.

³ At paras 217 and 242

⁴ At para 249

⁵ At para 109

character effects given the required design and location, and public accessibility would not be encouraged given safety concerns as a result of aircraft operations at the southern end of the runway as well as the dynamic coastal environment in this locality especially the breakwater area.

- 2.8** As to the assertion that the Coastal Environment Chapter in combination with the proposed Bespoke Methods will mean that a future resource consent application will be able to demonstrate consistency with the policy direction, in my submission is misconceived.
- 2.9** This proposition must necessarily mean that the objectives and policies of the NOSZ would need to be disregarded under any statutory plan assessment which cannot be the case especially the NOSZ framework is arguably the more specific policy framework for Natural Open Space land within the Coastal Environment Overlay area.
- 2.10** Finally, I also disagree with the s42A report assertion that the proposed Bespoke Methods will appropriately provide for the management of this important infrastructure.
- 2.11** While the bespoke provisions may provide for general maintenance in my submission they do not relate back to or are justified by the NOSZ policy framework.
- 2.12** Further and more importantly the NOSZ as a whole most certainly does not appropriately provide for the consideration of projects such as the upgrade/ replacement of any or all of the seawall area.
- 2.13** As the Panel is aware, Section 75(1) clearly sets out the “cascade” required for provisions in district plans so that objectives are required for the district (that in terms of s32 must achieve the purpose of the Act), policies are required that implement the objectives and rules must implement the policies. This is further supported by section 76(1) which requires that rules must achieve the objectives and policies of a plan.

2.14 It is also essential for there to be some specificity in relation to policy provisions so that where resource consents are considered in the future there is sufficient and proper guidance within the relevant objective and policy framework.

2.15 In my submission the S42A approach in this regard relies on the proposed Bespoke Methods which do not achieve or implement the current NOSZ objectives and policies and thus they amount to the “tail seeking to wag the dog” which is not in accordance with the top down approach required by the RMA.

3. CONCLUSION

3.1 It is important that the proposed Bespoke Methods for the seawall area relate back to and are justified by the NOSZ policy framework. Furthermore that framework needs to provide an appropriate consenting pathway for future resource consent applications which will inevitably be required for the upgrade/replacement of the seawalls in the near future.

3.2 Having an appropriately worded objective and associated policies which reflect the importance of the seawall area to the social and economic fabric of the community as well as the Airport but also provide for adverse effects to be properly considered will be key in assessing consent applications in the future.

3.3 As such the s42A suggested Bespoke Methods together with the additional policy framework suggested by Ms O’Sullivan at Paragraph 42 of her evidence represent the most appropriate way to achieve the objectives of the Proposed Plan and Part 2 of the Act.

Amanda Dewar

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