

**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

**Stream 7 Reporting Officer Right of Reply of Jamie Sirl on behalf of Wellington
City Council**

Date: 30 April 2024

INTRODUCTION:

1 My full name is James (Jamie) Grant Sirl. I am employed as a Senior Planning Advisor in the District Planning Team at Wellington City Council (the Council).

2 I have prepared this Reply in respect of the matters in Hearing Stream 7 raised during the hearing, and in particular to those directed by the Panel in Minute 46.

3 I have listened to submitters in Hearing Stream 7, read and considered their evidence and tabled statements, and referenced the written submissions and further submission relevant to the Hearing Stream 7 topics.

4 The Open Spaces and Recreation 42A Report section 1.2 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.

6 Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. 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 7 held from 17 to 19 March 2024. *Minute 46: Hearing Stream 7 Follow-up* requested that the Council submit a written reply to specific matters contained in the Minute. The Minute requires this response to be supplied by 30 April 2024.

8 The Reply includes:

- Feedback on specific matters and questions in Minute 46 the Panel has sought further comment on from Council; and
- Additional matters that I would like to bring to the Panel's attention.

Open Spaces and Recreation zones

9 I respond to the further advice sought by the Panel with respect to the Open Spaces and Recreation zones as follows.

Open Space Zone

vi) In relation to the requested rezoning of 1 Upland Road to Neighbourhood Centres Zone by Panorama Property Limited (#10), can the reporting officer advise the Panel as to the recommended appropriate height control that should apply if the Panel were of a mind to accept the rezoning, either –

• If the Minister accepts the Council's recommended amendments to the surrounding residential height limits, or

• If the Minister rejects the Council's recommended amendments to the surrounding residential height limits.

10 In a broad sense, I consider that based on the notified height of the surrounding residential area of 14m, the most appropriate height limit for the 1 Upland Road should it be rezoned to Neighbourhood Centre Zone (NCZ) would be a height limit consistent with, and no higher than, the height limit of the surrounding residential zone. This is on the basis that the approach is essentially a spot zoning of a single site (or part of), and this approach is generally consistent with how the Plan has treated similar situations with respect to smaller areas of NCZ surrounded by land zoned for residential purposes.

11 Responding to the specific advice sought by the Panel, I note that the Council's amendments recommended to the Minister expressly seek a height limit of at least 22m to apply to all centres within the proposed 15-minute walking catchment (see Figure 1 for a mapped representation of this). Specific height limits aside, this approach is generally consistent with aligning enabled building height limits in the NCZ to that of the immediately adjacent residential zone.

12 With respect to a scenario where the Minister disagrees with Council's recommended zoning amendments to the area surrounding 1 Upland Road, this will require further

consideration. If this scenario eventuates, I would respectfully request permission from the Panel to address this in an addendum to this right of reply, to be lodged as soon as possible following release of the Minister’s decision.

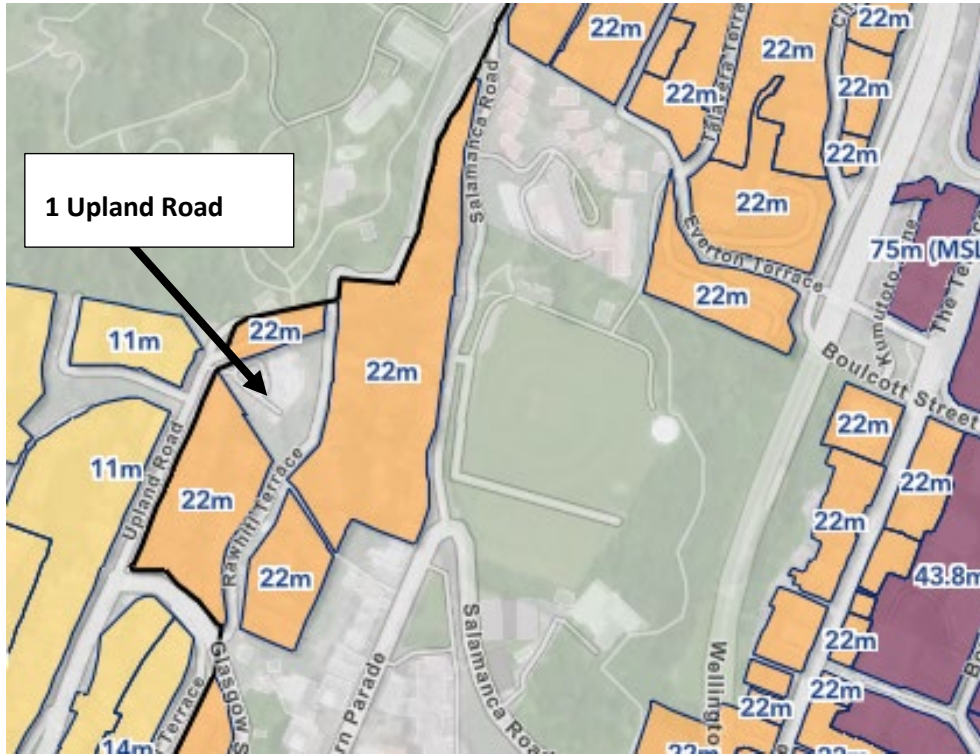


Figure 1. Council’s recommended zoning amendments for the residential area surrounding 1 Upland Road.

- 13 In addition, I have further considered this matter following the discussion during the hearing with respect of the extent of 1 Upland Road that would be appropriately zoned NCZ.
- 14 With respect to any rezoning to NCZ applying to the land parcel to the North of 1 Upland Road that contains part of the area of land leased to, and building owned by, Panorama, I consider that it would be logical to apply a consistent zoning to the entire extent of the building. However, I do not consider it to be as significant a consideration as that expressed on behalf of the submitter as the parcel to the North will have a residential zoning – either MRZ or HRZ depending on the decision of the Minister on Council’s recommendations.
- 15 I have also reconsidered whether rezoning should apply only to the building footprint, leased area, or the entirety of 1 Upland Road. Zoning of the building footprint only would appear to resolve the concerns of the submitter in terms of the constraints of simply relying on existing use rights. It would also provide the requested flexibility to enable future

changes of activities within the building, whilst also providing for vertical building additions should Council as landowner and lessee be supportive of any additions. I note that this approach would be unusual.

16 I suggest the Panel consider the option of rezoning only the leased area within 1 Upland Rd, which includes the building footprint and car parking area (as illustrated in Appendix B to this reply). This approach would resolve the concerns of the submitter, noting that any intensified use of the site such as building additions or new buildings would require approval from Council as landowner as a matter unrelated to the District Plan. During the Hearing the Panel queried what Council's future aspirations are for the site. My verbal response to this was although I was not delegated to speak on behalf of Council, in my opinion the lease agreement and the existing activities undertaken on the site are the best indication of Council's use of the site, noting the lack of any specific direction within the Botanic Gardens of Wellington Management Plan 2014. However, I also note that any proposed redevelopment of the site would likely require public notification under the Reserves Act 1977 in accordance with clause 8.4(f) of the Management Plan.

17 I consider that this approach would not preclude Council in the future (following expiry of the existing lease) determining that this building and land should be used for activities directly related to the reserve status of the land and incorporation into the Botanic Gardens.

18 The recommended height limits expressed above would remain appropriate under this scenario, noting the Open Space zone that would apply to the remaining parts of the site would have a 7m height limit.

19 I consider that the current leased area of 1 Upland Road would therefore be a more appropriate area to rezone from OSZ to NCZ than the entirety of 1 Upland Road, which was previously recommended in my rebuttal evidence dated 13 March 2024. The resulting zoning is illustrated in Appendix B to this Reply. This approach would mean that new activities or buildings within the recommended NCZ portion of the site would be considered against the NCZ chapter provisions, and not the OSZ chapter provisions.

c) Natural Open Space Zone

vii) Can the reporting officer advise his final recommendations as to the management of the seawalls around Wellington International Airport within the NOSZ.

20 Firstly, I agree with Ms O'Sullivan's suggested amendment to the proposed NOSZ-P8 to ensure consistency in language between the policy title and body of the policy. I also note similar changes included in Appendix A to the recommended new standard (NOSZ-S7) to improve consistency of wording with NOSZ-P8 and NOSZ-R14.

21 However, I remain in disagreement with Ms O'Sullivan that a second additional policy is required to specifically address the management of adverse effects from the maintenance, repair and upgrade of hard engineering hazard mitigation structures (seawalls) between Lyall Bay and Moa Point. Ms O'Sullivan's primary concern is that the policy direction of NOSZ-P4 and NOSZ-P6 directs that activities, buildings and structures are to be compatible with the character and amenity values of the zone, as opposed to the character and amenity values of the specific significantly modified area of NOSZ where the seawalls are located. I consider that reference to associated activities in recommended NOSZ-P8 clearly signals that these activities are provided for, and in the context of a resource consent application for upgrades beyond those permitted under NOSZ-R14 to the seawalls, NOSZ-P4 and NOSZ-P6 would not be considered in isolation of the proposed NOSZ-P8. I also consider that the policy direction of NOSZ-P4 and NOSZ-P6 provide appropriate policy direction for future seawall upgrades where matters such as the incorporation of natural features, incorporation of indigenous vegetation, and public access should be had regard to. In my opinion, a new/replacement seawall should be able to demonstrate consistency with the policy limbs to the extent necessary to meet the overall intent of this policy, and that the proposal and site context would be taken into consideration when assessing a proposal against this policy.

22 In addition, as verbally expressed in the hearing, I recommend that further refinement to NOSZ-R14 is required to ensure wording consistency between clauses 1.a. and b. Also, NOSZ-R14.2.a needs to reference NOSZ-R14.1.b to ensure that there is a default activity status for otherwise permitted activities that do not meet the standards set out in NOSZ-R14.2.b.i to vi. These changes are outlined in Appendix A.

viii) Can the reporting officer provide information on the extent of seawalls and other structures within and adjoining the Coastal Marine Area elsewhere in the NOSZ and whether the Zone provisions appropriately recognise and provide for the management of such structures.

- 23 An analysis of Council's asset data on council-owned seawalls identifies that seawalls are located across various zones (WFZ, MRZ, MUZ, GIZ, NOSZ and OSZ) and are not concentrated within the NOSZ.
- 24 However, in a general sense I consider that seawalls and other hazard mitigation structures located in the NOSZ, along with their future maintenance and repair, are permitted under NOSZ-R13. The construction, alteration of, and addition to a seawall is addressed under NOSZ-R14.1.b. However, it is anticipated that there will be necessary works to existing seawalls that do not comply with one or more of the relevant standards NOSZ-S1 – NOSZ-S6 – most likely NOSZ-S2 which requires that each individual structure must not exceed a maximum gross floor area of 30m². However, I consider there to be no scope in submissions to address this matter more generally as it relates to open space zones.
- 25 Noting that for the avoidance of doubt with respect to seawalls, the addition of a note consistent with that accompanying NOSZ-R13 is recommended (as discussed in paragraph of 110 of the s42A report) to clarify that NOSZ-R14.2 applies to seawalls with the exception of those located between Lyall Bay and Moa Point.
- 26 I also wish to clarify that the recommended standard NOSZ-S7 that provides for a 1m vertical increase of a seawall was primarily informed by specific relief sought by WIAL [406.505], supported by consistency with a similar Natural Resources Plan provision relating to seawalls.
- 27 With respect to structures that are not seawalls, I consider that the notified NOSZ provisions, subject to any recommended amendments included in the s42A report, supplementary evidence and this Reply, are appropriate.

d) Wellington Town Belt Zone

ix) Can the reporting officer please advise whether there is any site within the WTBZ where the maximum building coverage of 5% under Standard WTBZ-S4 is likely to be exceeded by additional buildings or structures.

28 Council's record of buildings (both Council and non-Council owned) within the WTBZ is not in a format that allows for an easy or time efficient assessment of building coverage for each 'site' within the zone. However, a cursory exercise has been undertaken to inform a response to the Panel's query.

29 Importantly, I note that the Plan's definition of 'site' with respect to the WTB results in the WTB being treated quite differently. On this basis, and with respect to the maximum 5% building coverage standard:

- very large sites of over 10 ha (e.g. Newtown Park, WCC depot and Wellington Zoo; Hataitai Velodrome area; National Hockey area) are highly unlikely to exceed the maximum 5% building coverage standard;
- large to medium sites of between 1 to 10ha are also highly unlikely to ever exceed the maximum 5% building coverage standard, although a minority of which likely already do or would as a result of additional buildings (e.g. Te Whaea building/turf area; and Chest Hospital); and
- very small sites (less than 1ha) where parcels have been created around existing buildings with very little land included within them, in which case most if not all of these will exceed the maximum 5% building coverage standard.

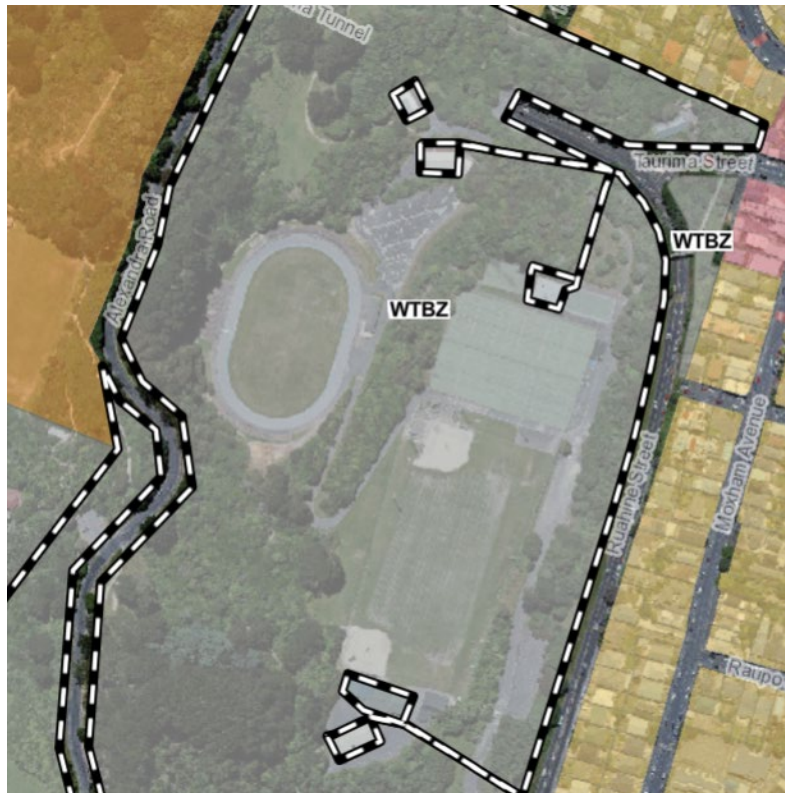


Figure. 2 section of the WTBZ – Hataitai Velodrome area

30 As illustrated in figure 2, there are large parcels within the WTBZ but also separate small parcels around existing buildings which would be treated as separate sites. The result being that although the maximum building coverage standard will ultimately be irrelevant for much of the WTBZ, it conversely could result in small scale building additions on small sites within the WTBZ being treated as discretionary activities.

31 I note that NOSZ has a similar standard (NOSZ-S3) that sets a maximum building coverage of 5%. However, the starting point for construction of a building that complies with the relevant standards in NOSZ is permitted, which then elevates to a Discretionary Activity status if any of the relevant standards are not complied with. This differs to the WTBZ where any new building requires resource consent as a Restricted Discretionary activity, elevating to a Discretionary Activity status if any of the relevant standards are not complied with. I highlight this to illustrate that the building coverage standard is not as necessary in my opinion in the WTBZ due to the Restricted Discretionary starting point.

32 I also note that an issue with WTBZ-R11.1 has been identified with respect to the first listed matter of discretion. To be considered under WTBZ-R11.1 a proposal is required to comply with the relevant standards. I recommend that this oversight can be resolved by simply replacing the word 'infringed' and with a reference to 'WTBZ-S1 to S4'. In my opinion, this amendment would achieve the intended approach which is that these matters of discretion should apply to WTBZ-11.1.

33 In addition, with respect to paths, car parking and associated vehicle access, Wellington Civic Trust are seeking that maintenance of existing footpaths and tracks is permitted, but that any new footpath or track should be a discretionary activity. In my opinion, a new path or new alteration or addition to a car park or vehicle access may or may not have effects that trigger a resource consent requirement, such as area of hard surface or lighting. As land use activities, it is reasonable that the PDP has identified that paths, carparks and vehicle access are consistent with uses (i.e. recreational uses) that may be expected in the WTBZ. I also note that in addition to the District Plan, any proposed activities must be assessed under the Wellington Town Belt Management Plan.

In relation to policy WTBZ-P3, the reporting officer was to consider whether the inclusion of the words "for the benefit of all" is appropriate both in terms of the focus of the policy which is on providing for Mana whenua partnership with respect to the use and management of the Wellington Town Belt, and in terms of giving effect to the objective WTBZ-O3.

34 I have considered this matter and suggest that this qualifier 'for the benefit of all' included within WTBZ-P6 is inappropriate and unnecessary. I consider that generally the exercising of kaitiakitanga will result in positive environmental and cultural outcomes, but may not necessarily be considered to be for the benefit of all. I also note that the associated rule, WTBZ-R4 that permits customary activities, is by definition about recognising and providing for the special relationship between tangata whenua and places of customary importance. I note similar policies OSZ-P6, SARZ-P6, and NOSZ-P7, but highlight to the Panel the lack of scope within submissions to amend these provisions to remove 'for the benefit of all' and suggest instead that this would be best achieved through a future plan change.

Advise whether the replacement of the term “cannot be achieved” with “is not achieved” in the rules has been fully captured, in line with changes made to rules in previous hearings

- 35 Final versions of the Opens Space and Recreation zones chapters that include planning officer recommended amendments that incorporate this change are provided as Appendix A to this Reply.

Appendix A – Tracked Changes to Open Space Zone, Natural Open Space Zone, Sport and Active Recreation Zone and Wellington Town Belt Zone chapters

Note: **Red underline** and **strike-out**: show final consolidated recommended additions and deletions to the notified Open Space Zone, Natural Open Space Zone, Sport and Active Recreation Zone and Wellington Town Belt Zone chapters, as recommended in the section 42A report dated 20 February 2024, and updated by the Statement of Supplementary Planning Evidence of Jamie Sirl dated 13 March 2024, and Right of Reply of Jamie Sirl dated 30 April 2024.

Appendix B – Recommended zoning for 1 Upland Road, Kelburn

