

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

SUMMARY EVIDENCE BY KIRSTY O'SULLIVAN

ON BEHALF OF WELLINGTON INTERNATIONAL AIRPORT LIMITED

HEARING STREAM 7

21 MARCH 2024

QUALIFICATIONS AND EXPERIENCE

- 1 My name is Kirsty O’Sullivan.
- 2 I set out my qualifications and experiences as an expert planning witness in paragraph 11 of my statement of evidence dated 5 March 2024. I do not repeat that here.

CODE OF CONDUCT STATEMENT

- 3 While this is not an Environment Court hearing, I nonetheless confirm that I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023.

OVERVIEW

- 4 Since filing my evidence in chief, I have read and reviewed the rebuttal evidence prepared by Mr Patterson and Mr Sirl. Both section 42A officers have taken on board many of the matters raised in my statement of evidence and have made a range of amendments to the Signs and Natural Open Space Zone chapters respectively to try and resolve those matters.
- 5 While I support the general trajectory of their amendments, there are still a few discrete areas where I disagree with the recommendations set out by the respective section 42A reporting officers. My summary will therefore focus on these outstanding matters.

SIGNS

- 6 With respect to SIGNS-S14, Mr Patterson has made a number of amendments to the provisions in light of my evidence. The only outstanding point of difference relates to the assessment criteria for this standard.
- 7 For the reasons set out in paragraphs 49(c), 49(e) and 50 of my statement of evidence, I maintain that my recommended amendments to the following assessment criteria in SIGNS-S14 is appropriate:

4. *Traffic and pedestrian safety*

5. *Residential amenity*
6. *Position and dimensions: relevant for other signs*
7. *Visibility from road reserve or adjacent land:*
8. *The nature of moving images, text or light*
9. *Nature of signage, when attached to a building over 12m above ground level.*

- 8 With respect to SIGNS-R4, Mr Patterson has made a number of amendments to the provisions, such that the only outstanding point of difference relates to the activity status for Third Party Signs within the Miramar South Precinct.
- 9 As set out in paragraph 66 of my statement of evidence, a third-party sign within the Miramar South Precinct should be subject to the same scrutiny as any other third-party sign in other zones (including residential zones) and have to navigate the relevant sign rules as per any other signage proposal. In this respect, it appears that third-party signage within the Miramar South Precinct that does not meet the relevant standards is still being treated on an uneven footing to other signs. That is, if the sign is located opposite or adjacent to a residential zone, the sign is non-complying. I note that third party signs located in residential zones (and therefore opposite or adjacent to a residential zone) are a discretionary activity (refer to SIGNS-R4(3)). The non-complying status within the Miramar South Precinct is therefore unduly onerous and has not been adequately justified in terms of section 32 of the Resource Management Act 1991.
- 10 I therefore maintain the position expressed in paragraph 66 of my statement of evidence that third party signage within the Miramar South Precinct that does not meet the relevant standard (SIGNS-S14(2)) should be discretionary.
- 11 I also note that it appears an amendment is required to SIGNS-R4(2)(a) as the exclusion in that rule refers to a clause in SIGNS-S14 that no longer exists (i.e. SIGNS-S14(7)). While it is not abundantly clear to me, I suspect this should be a reference to SIGNS-S14(2) (relating to the Miramar South Precinct).

- 12 The amendments required to address the above matters are included as **Attachment 1**.

NATURAL OPEN SPACE ZONE

- 13 Through our respective statements of evidence, Ms Lester and I have provided some reasonably detailed information regarding Wellington International Airport Ltd's ("WIAL") seawall renewal project. While WIAL has yet to confirm which option it intends to pursue, both options will require a reasonable level of maintenance or upgrade to the existing seawalls between Lyall Bay and Moa Point Road.
- 14 Since filing my statement of evidence, Mr Sirl has recognised the importance of this work and recommended in his rebuttal evidence the inclusion of a new objective and policy as well as some further amendments to NOSZ-R4. While these go some way to addressing the concerns set out in my evidence, I consider further amendments are still required.
- 15 While I support Mr Sirl's proposed new NOSZ-O4 and NOSZ-P8,¹ I maintain the view that a second policy is required that provides guidance around the management response for those seawall activities that are not otherwise permitted.
- 16 Based on Mr Sirl's most current version of the Natural Open Space Zone provisions, any future (discretionary) resource consent application will require consideration against NOSZ-P4 (for the activities associated with the seawall) and NOSZ-P6 (for the activities associated with the actual seawall structures). These policies, due to the purpose of the zone and structure of the District Plan provisions, primarily focus on ensuring activities, buildings and structures are compatible with the character and amenity values of the zone. As set out in my statement of evidence, the seawalls² are not consistent with the purpose of the zone, therefore making it difficult for any

¹ Subject to a minor change to the heading of NOSZ-P8 to ensure consistency in the language use in the policy and heading.

² Both in terms of the land use activities associated with their maintenance, repair and upgrade and as structures.

application to achieve the underlying policy directives set out NOSZ-P4 and P6.

- 17 While I acknowledge that both NOSZ-P4 and P6 allow for regard to be given to a range of matters, when read in conjunction with the chapeau of the policy, a number of the matters remain unduly constraining to the extent that it would be practically difficult to achieve. A policy gap therefore remains, in that the chapter seeks to “enable” the ongoing maintenance, repair and upgrade of the seawalls on the one hand, but management response does not realistically allow for their construction or the associated activities that relate.
- 18 I therefore maintain that a new policy is required that provides guidance around the management response for the construction, alteration and addition to the existing seawalls between Lyall Bay and Moa Point Road. While my statement of evidence sets out that the policy should be akin to that in WIAL’s submission, I consider further drafting refinements could be made to the policy to ensure it is more efficient and effective and achieves the objectives of the zone. In this regard, I have prepared revised drafting of the policy originally sought by WIAL for the assistance of the Panel – refer to **Attachment 2**. I would be happy to conference with Mr Sirl to further refine the policy as necessary.
- 19 I also note that Mr Sirl made a comment during the Council opening around the need to make further refinements to NOSZ-R14 to ensure that there is consistency between clauses (1)(a) and (b). I am not sure of the extent of these changes, but they could have the potential to substantially change the breadth of matters considered in the permitted activity rule. I would welcome the opportunity to provide further comment on such changes if proffered by Mr Sirl and/or take part in expert witness conferencing to ensure I have opportunity to respond to such amendments, as would ordinarily have been the case if they were included in Mr Sirl’s section 42A report or rebuttal statement.
- 20 I also note that Mr Sirl identified an omission in NOSZ-R14(2)(a), specifically that the clause needs amending to ensure it captures scenarios where either NOSZ-R14(1)(a) or (b) are not met. I agree this change is necessary, as without

it, there is no default activity status for otherwise permitted activities that do not meet the standards set out in NOSZ-R14(2)(b)(i) to (vi).

Kirsty O'Sullivan

21 March 2024

Attachment A: Further recommended amendments by Kirsty O’Sullivan to the Signs Chapter. Green underlines show additions and strikeouts show deletions to Mr Patterson’s rebuttal version of the signs provisions.

SIGN-R4	Third-party signs
<p>Medium Density Residential Zone High Density Residential Zone</p> <p>General Rural Zone</p> <p>Large Lot Residential Zone</p> <p>Future Urban Zone</p> <p>Natural Open Space Zone</p> <p>Open Space Zone Sport and active recreation Zone</p> <p><u>Airport Zone (Miramar South Precinct)</u></p>	<p>3. Activity status: Discretionary</p>
<p>Airport Zone (Miramar South Precinct)</p>	<p>4. Activity status: Non-complying</p> <p>Where</p> <p>a. Compliance cannot be achieved with SIGN S14.72 (Miramar South Precinct). Notification Status: An application for resource consent made in respect of this rule must be publicly notified.</p>

SIGN-S14	Airport Zone signs and billboards	
Airport Zone	<p>1. 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.</p> <p>2. Any sign which is erected in the Airport Miramar South precinct designation, for the purpose of third party signage, and which is visible from the road reserve or immediately adjacent land:</p> <p style="padding-left: 20px;">a. Shall not contain moving images, moving text or moving lights; and</p> <p style="padding-left: 20px;">a. Shall not be located opposite or adjacent to a residential zone, for the purpose of third party advertising.</p> <p><u>Airport Main Site Designation</u></p> <p>3. Signs on buildings shall:</p> <p style="padding-left: 20px;">a. Be affixed to the underneath of a verandah and shall provide at least</p> <p style="padding-left: 40px;">2.5 metres clearance directly above the footpath or ground level.</p> <p style="padding-left: 20px;">b. Be displayed only on plain wall surfaces.</p> <p style="padding-left: 20px;">c. Not obscure windows or architectural</p>	<p>Assessment criteria where the standard is infringed:</p> <p>1. Relevant terms and conditions of Airport Zone designations;</p> <p>1. Any landscape plan, urban design principles or statement, or integrated design management plan prepared for the Airport Precinct.</p> <p>2. In the absence of documents identified in 1, the District Plan Design Guide for Signs;</p> <p>3. In the Airport Miramar South precinct, signage provisions of the Airport Miramar South Integrated Design Management Plan (IDMP);</p> <p>3. Traffic and pedestrian safety;</p> <p>4. Residential amenity;</p> <p>5. Position and dimensions;</p> <p>6. Visibility from road reserve or adjacent land;</p> <p>7. The nature of moving images, text or lights; and</p> <p>8. Nature of signage, when attached to a building over 12m above ground level.</p>

Attachment B: Minor amendments and a new policy for the Natural Open Space Chapter recommended by Kirsty O’Sullivan. Black underlines show additions by Mr Sirl from his rebuttal evidence. Green underlines show additions by Kirsty O’Sullivan.

NOSZ-P8

Maintenance , repair and upgrade of hard engineering hazard mitigation structures (seawalls) and associated activities located between Lyall Bay and Moa Point that protect regionally significant infrastructure

Enable the ongoing maintenance, repair and upgrade of the hard engineering hazard mitigation structures (seawalls) and associated activities located between Lyall Bay and Moa Point.

NOSZ-P9 Managing the effects of hard engineering hazard mitigation structures (seawalls) and associated activities located between Lyall Bay and Moa Point

Manage the maintenance, repair, and upgrade (including renewal and replacement) of the hard engineering hazard mitigation structures (seawalls) and associated activities between Lyall Bay and Moa Point to ensure:

- 1. The structures and associated activities are needed to protect regionally significant infrastructure; and*
- 2. The design is compatible with the values of the Natural Open Space Zone between Lyall Bay and Moa Point Road.*