

**Before the Independent Hearings Panel  
at Wellington City Council**

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

**In the matter of** Hearing submissions and further submissions on the  
Proposed Wellington City District Plan – Hearing  
Stream 8 (Coastal Environment, Natural Character  
and Public Access)

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**Statement of Supplementary Planning Evidence of  
James (Jamie) Grant Sirl on behalf of Wellington City Council**

**Date: 19 April 2024**

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## INTRODUCTION

- 1 My full name is James (Jamie) Grant Sirl. I am employed as Senior Advisor in the District Planning Team at Wellington City Council (the Council).
- 2 I have read the further evidence and statements provided by submitters relevant to the Section 42A Report – Coastal Environment, Natural Character and Public Access.
- 3 I have prepared this statement of supplementary planning evidence in response to evidence submitted in response to the Section 42A Report – Coastal Environment, Natural Character and Public Access (s42A report) (dated 27 March 2024), including the associated appendices, which can be found here: [s42A report](#).
- 4 Specifically, I respond to the following submitters:

**Meridian Energy Limited** [228 and FS101]

- a. C Foster (Planning)

**KiwiRail Holdings Limited** [408 and FS72]

- a. M Brown (Corporate)

**Horokiwi Quarries Limited (Meridian)** [271]

- a. P Whitney (Planning)
- b. S Bray (Landscape)

**Wellington International Airport Limited (WIAL)** [406 and FS36]

- a. Kirsty O’Sullivan (Planning)

- 5 I have not addressed points where the submitter has agreed with the recommendations in the s42A report. Where submitter evidence speaks to

matters already addressed in this report, I rely on the recommendations and reasoning in this report and only provide additional assessment where necessary.

- 6 Where, in response to the evidence of submitters, I recommend amendments to plan provisions in addition to those contained in the s42A report, I identify these in Appendix A to this supplementary evidence.

#### **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

- 7 Section 1.2 of the s42A report sets out my qualifications and experience as an expert in planning.
- 8 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.

#### **SCOPE OF EVIDENCE**

- 9 My statement of evidence addresses:
- a. The expert evidence of the submitters listed above.
  - b. Additional matters including identified errors in my section 42A report.

#### **RESPONSES TO EXPERT EVIDENCE**

##### **Meridian Energy Limited (Meridian) [228 and FS101]**

##### Chapter Introduction

- 10 Ms Foster<sup>1</sup> seeks additional clarity through additional text in the Coastal

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<sup>1</sup> Statement of planning evidence of Christine Foster on behalf of Meridian, 12 April 2024.

Environment (CE) chapter that confirms that the rules in the CE chapter do not apply to renewable energy generation (REG) activities and that the REG chapter contains the rules that apply to REG.

11 Having considered this matter further, and having reviewed the REG s32 report, I agree further clarification would be helpful for plan users, as although the explanations contained in the PDP are technically correct, they lack detail. I note that in the case of REG (and infrastructure), it is not only the rules that are intended to be entirely contained with the REG chapter, but also the policies and objectives, as the chapter is intended to be standalone.

12 The guidance provided in the General Approach section of the Plan states the following:

*The Infrastructure, **Renewable Electricity Generation**, Subdivision and Temporary Activities chapters **generally operate as standalone chapters containing all relevant objectives, policies, rules and standards relating to those activities, unless otherwise specifically identified in those chapters.** If you are undertaking any activities relating to infrastructure, renewable electricity generation or wanting to undertake any temporary activities or subdivide your property, please start by looking at those chapters after you have looked at the planning maps to determine what zone your activity or property is in and whether any overlays, precincts, features and/or designations apply. Unless otherwise specified in the introduction or in the chapter, the rules in the Infrastructure, Renewable Electricity Generation, Temporary Activities and Subdivision chapters are the only rules that apply to the listed activities.*

13 As plan-wide matter, I suggest that there would be value in including a consistent, universal statement within relevant chapters referring plan users to the General Approach section of the Plan to assist them to understand

how the Plan works and what chapters apply when. This would reduce unnecessary duplication within each chapter of the Plan. Other matters, such as infrastructure in the Coastal Environment, where the CE chapter provisions also do not apply and the provisions of the Infrastructure chapter and Infrastructure – Coastal Environment sub-chapter address adverse effects of infrastructure, a similar amendment may be appropriate and assist with plan interpretation. However, I consider this is a matter best addressed in a comprehensive manner, possibly through the wrap-up hearing.

- 14 With respect to specific relief sought by Ms Foster, I suggest alternative wording to that suggested by Ms Foster which is more consistent with the approach used throughout the Plan:

*Renewable Electricity Generation – Provisions relating to renewable electricity generation in the Coastal Environment are located in the Renewable Electricity Generation Chapter. The rules within the Coastal Environment chapter do not apply to renewable energy generation activities.*

CE-O1, CE-P2, CE-P5

- 15 I disagree with Ms Foster that amendments to the CE objectives and policies are required to better recognise renewable energy generation as I consider that the REG chapter is the appropriate location for specific policy direction on the benefits and operational and functional requirements of REG. As an integrated plan, the REG chapter provisions in combination with other chapters ensure the Plan gives effect to direction of the NZCPS, and the NPS-REG.
- 16 For example, a proposal for small-scale renewable electricity generation activity in a high coastal natural character area under REG-R3.3 is a restricted discretionary activity, with the matters of discretion being REG-P1, REG-P2 (both generally supportive policies) and REG-P5 (with the relevant

policy limb being REG-P5.7. REG-P5.7d cross-references to CE-P5, CE-P6 and CE-P7 as matters to have regard to. I note that the necessity and appropriateness of the REG policy cross references to the CE policies is a matter for the REG topic hearing.

- 17 Returning to the amendments sought by Ms Foster, I consider that the policy support Ms Foster is seeking by way of amendments to CE-P2 and CE-P5 is already provided for by REG policies REG-P1 and REG-P2. Additionally, REG CE-P5 is not intended to be considered in isolation of wider relevant policy direction in the REG chapter. Consequently, I consider that the amendments to CE-P5 are unnecessary and inefficient. Similarly, I consider the same rationale applies to the amendments to CE-O1 and CE-P2 and I therefore disagree with the amendments sought by Ms Foster.

#### CE-P8

- 18 Having reflected further on how the CE chapter relates to the REG chapter, Infrastructure (INF) chapter and INF-CE sub-chapter, contrary to the recommended amendments contained in the s42A report with respect to CE-P8, I am now of the opinion that CE-P8 should not include a reference to 'infrastructure'. Any control of indigenous vegetation removal relating to repair, maintenance, upgrade or new REG activities or infrastructure within the Coastal Environment should be addressed in the REG chapter and the INF chapter and INF-CE sub-chapter provisions (where the CE rules and standards do not apply). I note that there is no cross-reference to CE-P8 in the INF chapter, CE-INF sub-chapter, or REG chapter. CE-P8 is only a matter of discretion for CE-R6.2. The intent of the reference to infrastructure recommended in the s42a Report was to capture the exclusions provided for in CE-S1, but I now assert that this can be appropriately provided for by referencing public accessways, and leaving REG and INF matters to those respective chapters.
- 19 For broader context, the INF-CE sub-chapter provisions do not explicitly

control indigenous vegetation removal in a high coastal natural character areas through a rule, instead the policies that act as matters of discretion (e.g. INF-CE-P21, P23, and P25) ensure adverse effects on natural character are considered, which I consider also capture adverse effects of vegetation removal. The removal of indigenous vegetation within an SNA associated with infrastructure activities (which may be located in the coastal environment) is also specifically addressed in INF-ECO.

20 Similarly, the removal of indigenous vegetation for REG activities is managed through the matters of discretion that ensure adverse effects on natural character are considered, and under REG-S1 with respect to the removal of indigenous vegetation in SNA.

21 For example, an assessment of how a proposal for new infrastructure in a high coastal natural character area (a discretionary activity under INF-CE-R34) is consistent with relevant policy direction would involve considering the specific policies in the INF-CE sub-chapter. The Coastal Environment chapter provisions are only relevant for context. The specific INF-CE policies reconcile the various higher order direction, and the more general CE chapter policies do not directly relevant and do not override or prevail. For example, if indigenous vegetation removal was proposed under INF-CE-R34 it would be assessed in terms of INF-CE-P25 which states:

*[only allow where] 'The activity is of a scale that maintains or restores the identified values described in SCHED12 or the natural character;  
Any significant adverse effects are avoided and any other adverse effects are avoided, remedied or mitigated; and  
There is a functional or operational need for the activity to be undertaken within these areas'*

22 In this example, there is no need for the assessment of indigenous vegetation removal to consider CE-P8 which requires the removal 'maintain

the identified values' as that would act to duplicate INF-CE-P25.

- 23 Consequently, I disagree with the amendments to CE-P8 sought by Ms Foster as they simply result in unnecessary duplication and could result in further confusion on how the various chapters of the plan apply. However, as discussed above, I suggest that the 'wrap-up hearing' may provide an appropriate opportunity to examine the relationships between INF, REG and the natural environment chapters in more detail. The recommendation that CE-P8 is amended to remove the reference to 'infrastructure' is set out in Appendix A.

#### Policy CE-P10

- 24 I note Ms Foster's opinion with respect to the value of CE-P10 and note her opinion that CE-P10 provides no substantive assistance to plan users, and that deletion would not leave a gap in the policy framework. I address this matter further in response to Ms O'Sullivan's evidence on behalf of WIAL.

#### PA-O2 Adverse effects of public access

- 25 I agree with Ms Foster that as the two listed set out circumstances are separate matters, an 'or' would be more appropriate.

#### **KiwiRail Holdings Limited (KiwiRail) [408 and FS72]**

- 26 With respect to CE-P8 and reference to infrastructure as discussed above, I disagree with the addition of a reference to infrastructure 'upgrades' to CE-P8.
- 27 In response to Mr Brown's assertion<sup>2</sup> that the recommended inclusion of coastal and riparian margins in CE-P8 'expands the ambit of the policy', I note that coastal and riparian margins were always implicitly included in the

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<sup>2</sup> Statement of corporate evidence of Michael Brown on behalf of KiwiRail, 12 April 2024.



policy through the reference to the Coastal Environment in CE-P8.1. However, I agree that the amendments recommended in the s42A report result in a more restrictive policy direction for the removal of indigenous vegetation in coastal and riparian margins. I disagree that there is any internal contradiction within the policy as a result of the recommended changes included in the s42A report.

- 28 Put simply, the amendments included in the s42A report result in:
- Vegetation removal being permitted outside high coastal natural character and coastal and riparian margins;
  - Exotic vegetation removal being permitted within high coastal natural character and coastal and riparian margins; and
  - Indigenous vegetation removal being controlled within high coastal natural character and coastal and riparian margins.

29 I note that the rules that manage indigenous vegetation removal within a Significant Natural Area which is located in the Coastal Environment are located in the ECO chapter.

30 In reviewing CE-P8, I have identified that the revised policy direction of CE-P8 as recommended in the s42A report has not been adequately reflected in CE-R5 and CE-R6. I recommend that CE-R5 and CE-R6 are amended to include reference to coastal and riparian margins, with these amendments included in Appendix A.

### **Horokiwi Quarries Limited (Horokiwi) [271 and FS28]**

#### Coastal Environment Overlay

31 Ms Whitney<sup>3</sup> ultimately relies on the expert advice of Mr Bray with respect

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<sup>3</sup> Statement of planning evidence of Pauline Whitney on behalf of Horokiwi Quarries, 12 April 2024.

to the appropriate extent of the Coastal Environment Overlay. Similarly, I rely on the expert advice of Mr Anstey on this matter. Mr Anstey has provided further comment on this matter in his supplementary evidence<sup>4</sup>.

32 Ms Whitney notes that the Council's evidence did not include a specific evaluation for the Horokiwi site with respect to Policy 4 of the RPS.

33 I note Ms Whitney's assessment identifies the relevant NZCPS and RPS policies and concludes that following Mr Bray's evidence, the proposed amendments to the landward extent of the Coastal Environment Overlay as it relates to the Horokiwi Quarry site would still give effect to the RPS objectives and policies. I agree with Ms Whitney on this point, but consider that the issue simply comes down to the consistent application of a robust methodology for identification of the coastal environment. The crux of the difference in opinion between experts appears to be the level of granularity, and the relevance of natural character values as opposed to coastal influences, that is appropriate when identifying the extent of Coastal Environment consistent with Policy 1 of the NZCPS and Policy 4 of the RPS. I hold the same opinion as Mr Anstey - if a finer-grained site-specific assessment of natural character value informed the extent of the Coastal Environment Overlay, then a number of highly modified areas such as the City Centre, Port, and Airport would potentially fall outside of the notified Coastal Environment Overlay.

34 Ms Whitney outlines a consideration of costs and benefits of the notified Coastal Environment Overlay as it relates to the Horokiwi Quarry site and states:

*'From a Section 32 perspective, the benefits of the Coastal Environment Line as notified means the area is in effect 'protected' through the strong avoidance policies in the NZCPS (particularly*

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<sup>4</sup> Statement of supplementary evidence of Clive Anstey, 19 April 2024.

*where overlays exist). The costs are essentially the restrictions on the use of land which is a) already in part used for quarrying activities, b) in part zoned in the PDP for quarrying activities, and c) has been extensively modified over the past 90 years with the Coastal Environment line as notified traversing through the middle of the highly modified working quarry floor.'*

35 Notably, I disagree with Ms Whitney's assertion that the extent of the Coastal Environment Overlay overly restricts use of the land currently used for quarrying purposes, as the Special Purpose Quarry Zone and the CE chapter provisions (specifically CE-P9 and CE-R10) provide for the extension of existing quarrying activities within the Coastal Environment.

36 Ms Whitney has a further concern relating to the identification of the coastal environment and how the RPS/NRP manages activities within the coastal environment. In my opinion this is a matter best resolved through processes relating to RPS/NRP provisions as opposed to extent of the CE overlay in the District Plan.

37 Consequently, I rely on the evidence of Mr Anstey and recommend that the extent of the Coastal Environment Overlay is retained as notified.

**Wellington International Airport Limited (WIAL) [406 and FS36]**

Introduction

38 Having considered Ms O'Sullivan's evidence<sup>5</sup> with respect to how the PDP gives effect to the NZCPS (and following similar concerns raised by Ms Foster), I agree that additional clarity is needed in the Coastal Environment chapter that makes it clear to plan users how the plan gives effects to the NZCPS and how the various plan chapters apply with respect to activities in

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<sup>5</sup> Statement of planning evidence of Kirsty O'Sullivan on behalf of WIAL, 12 April 2024.

the coastal environment. For the most part I agree with the amendments to the CE chapter introduction proposed by Ms O’Sullivan as outlined in Appendix A to this Reply.

CE-O1, CE-O3, CE-P2 and CE-P3

39 I disagree with Ms O’Sullivan’s proposed amendment to the title of CE-O1 as I consider that the identification of the Coastal Environment has a wider application than the identification of natural character. I also disagree with Ms O’Sullivan’s proposed amendment to the title of CE-O3 as I consider that this objective and associated policies and rules apply beyond natural character protection, specifically through contributing to achieving the direction of Policy 11 of the NZCPS.

40 However, I agree with the changes to CE-P2 and CE-P3 as I agree that these policies are principally related to natural character outcomes.

CE- P10

41 I agree with Ms O’Sullivan that the recommended amendments to CE-P2 outlined in the s42A report result in providing additional general policy direction with respect to the appropriateness of activities in the coastal environment.

42 I remain of the opinion that there is a need for an ‘avoidance’ policy to provide the policy support for the associated non-complying rule (CE-R11), but take onboard Ms O’Sullivan’s advice that CE-P10 could be amended to be specific to the activities that the plan seeks to avoid i.e. new quarrying and mining activities and new plantation forestry. Consequently, I recommend amendments to CE-P10, and a consequential amendment to remove CE-P10 as a matter of discretion for CE-R7, as outlined in Appendix A.

CE-P6, CE-P7, and matters of discretion for CE-R8, CE-R12, CE-R14 and CE-R15

- 43 I note that Ms O’Sullivan supports the recommended amendments to CE-P6 and CE-P7 that provide an exclusion for the area of Natural Open Space Zone (NOSZ) between Lyall Bay and Moa Point, but disagrees with the recommended introduction of CE-P7.1 and CE-P7.2 as matters of discretion for CE-R8, CE-R12 (noting that CE-P7 was not recommended in the s42A report as an additional matter of discretion for CE-R12), CE-R14 and CE-R15 (noting that CE-P7 was included as matters of discretion for CE-R15.2 as notified) on the basis that it retains the challenging aspects of CE-P7 that the NOSZ exclusion was intended to remove, particularly with respect to the provisions of public access and consideration of incorporating natural features to enhance natural character. I understand Ms O’Sullivan’s concerns and agree in part.
- 44 Firstly, the NOSZ exclusion in CE-P6 and CE-P7 provides the policy support for the amendment (i.e. that provides the exclusion for the area of NOSZ located between Lyall Bay and Moa Point) to CE-R7.1 (which I agree should have also been carried through to CE-R15.1 and 15.2). This results in a permitted activity status for activities not listed, and new buildings or structures (subject to compliance with NOSZ rules) in the area of NOSZ located between Lyall Bay and Moa Point as opposed to the discretionary activity status that would apply under the notified provisions.
- 45 Having given further consideration to matters of discretion in response to Ms O’Sullivan’s concerns, I consider that the inclusion of CE-P7 as a matter of discretion of for CE-R15.2 is the most substantive matter as it manages new buildings. I agree with Ms O’Sullivan that CE-R8 and CE-R14 do not need to include CE-P7 as a matter of discretion, but I disagree with removing CE-P7 as a matter of discretion from CE-R15. However, regarding CE-R15, if the

Panel were of a mind to agree that CE-P7 is removed as a matter of discretion, I recommend the Panel consider retention of the notified matters of discretion PA-P1, PA-P2 and PA-P3 which adequately address public access, along with an additional matter of discretion specific to natural character for the area of Natural Open Space Zone located between Lyall Bay and Moa Point only:

*x. Where practicable, the incorporation of restoration measures, including, where appropriate planting of indigenous vegetation to improve natural character.*

46 I disagree with Ms O’Sullivan that EW-P13, EW-P14 and CE-P28 can be relied upon to ensure that future large-scale upgrades or new seawall structures at least consider the incorporation of natural design elements to enhance the natural character of the coastal margin. EW-P13, EW-P14 act to direct reinstatement, but do not require that to be in the form of vegetation planting. CE-P28 requires that it can be demonstrated that green infrastructure measures are not a practicable option, but I consider that this differs from encouraging natural elements into the design of seawall projects (not necessarily the structure itself,) which is what the intended additional matter of discretion now proposed, and included in Appendix A to this evidence, is seeking to achieve.

47 I agree with the amendment to CE-R15 as outlined in Appendix A to Ms O’Sullivan’s evidence to include the area of NOSZ located between Lyall Bay and Moa Point.

#### **ADDITIONAL MATTERS**

48 The following recommended amendments have been identified following review of the s42a Report and associated Appendix A:

a. I recommend a consequent amendment for plan consistency that references to indigenous ‘species’ in CE-P3 and CE-P7 is replaced with indigenous ‘vegetation’

- consistent with the recommended amendment to CE-P5.2f;
- b. CE-R15.2b should refer to 'buildings or structures', not 'addition or alteration' to correct this error in the s42A report and associated Appendix A; and
  - c. Replacement of the term "cannot be achieved" with "is not achieved" in the rules of the Coastal Environment chapter (with the exception of the Coastal Hazard rules that are not within scope of this hearing) and Natural Character chapter rules, consistent with changes made to rules in previous hearings.

**Jamie Sirl**  
**Senior Planning Advisor**  
**Wellington City Council**

## **Appendix A: Tracked Changes to the Coastal Environment chapter.**

Note: **Red underline and strike-out**: show additions and deletions to the notified Coastal Environment, Natural Character and Public Access chapters, as recommended by in the section 42A report dated 12 March 2024.

**Blue underline and strike-out**: show further additions and deletions to the section 42A report version of Coastal Environment, Natural Character and Public Access chapters, as recommended by Jamie Sirl, Statement of Supplementary Planning Evidence dated 19 April 2024.