

**Hearing Stream 11 – Indigenous Biodiversity
Wellington City Council**

In the matter of

Proposed District Plan review incorporating the
Intensification Streamlined Planning Process
(ISPP), and the first schedule of the Resource
Management Act.

Hearing 11 – Indigenous Biodiversity

**Expert Evidence of Cameron de Leijer on behalf of Boston Real Estate
Limited**

Date: 27/08/2024

Next Event Date: 9th September 2024

Hearing Chair: Trevor Robinson

Hearing Pannel: Liz Burge, Lindsay Daysh, Miria Pomare.

Introduction

- 1 My full name is Cameron Peter de Leijer. I am a Senior Surveyor and Planner at Spencer Holmes Ltd. I specialise in Cadastral Surveying, Resource Management, and Land development.
- 2 I am giving evidence on behalf of Boston Real Estate Limited.
- 3 I am authorised to provide this evidence on their behalf.
- 4 This evidence has been reviewed and accepted by David Gibson, Spencer Holmes Planning Associate, who will also provide comments at the hearing.

QUALIFICATIONS

- 5 My qualifications and experience are as follows:
 - 5.1 I have a Bachelor of Surveying from the University of Otago and Bachelor of Science from the University of Canterbury.
 - 5.2 I have 6 years post graduate experience as a surveyor in private practice at Spencer Holmes Limited. During that time, I have worked on a variety of survey projects. I now work closely in the land planning field which includes the preparation of resource consent applications, as well as developing land use strategies for clients.
 - 5.3 In October 2021 I achieved the requirements to be a Licensed Cadastral Surveyor under the Cadastral Survey Act 2002, which is a rigorous set of exams that require knowledge in the law surrounding Cadastral Surveying. Upon obtaining my license to undertake cadastral surveys, I became full member of the surveying professional body, Survey and Spatial New Zealand.

5.4 I previously sat on the Board for the Survey and Spatial Wellington Branch executive team. I currently have a position on the Board of the Positioning and Measurement Stream for Survey and Spatial New Zealand, which is the one of the governing streams of the survey profession.

6 My involvement in these proceedings (via Boston Real Estate Ltd) has been to prepare the original submission and to provide this evidence for the heritage hearing.

CODE OF CONDUCT

7 I have read the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023. Whilst this is a Council hearing, I have complied with the Code of Conduct in preparing my evidence and will continue to comply with it while giving oral evidence before the commissioners. My qualifications as an expert are set out above. Except where I state I rely on the evidence of another person, I confirm that the issues addressed in this statement of evidence are within my area of expertise, and I have not omitted to consider material facts known to me that might alter or detract from my expressed opinions.

ORIGINAL SUBMISSION

8 The original submissions seeks to zone the proposed Natural Open Space area of 62 Kaiwharawhara to Medium Density Residential Zone, and remove the Significant Natural Area Overlay from the site.

BACKGROUND

9 Under the ODP 62 Kaiwharawhara is split into two zones. The area that is fronts Kaiwharawhara Road is Business 1 Zone, while the vast majority is zoned Outer Residential, shown below. It is also noted that the Boundary Transmission Line is located on this site.

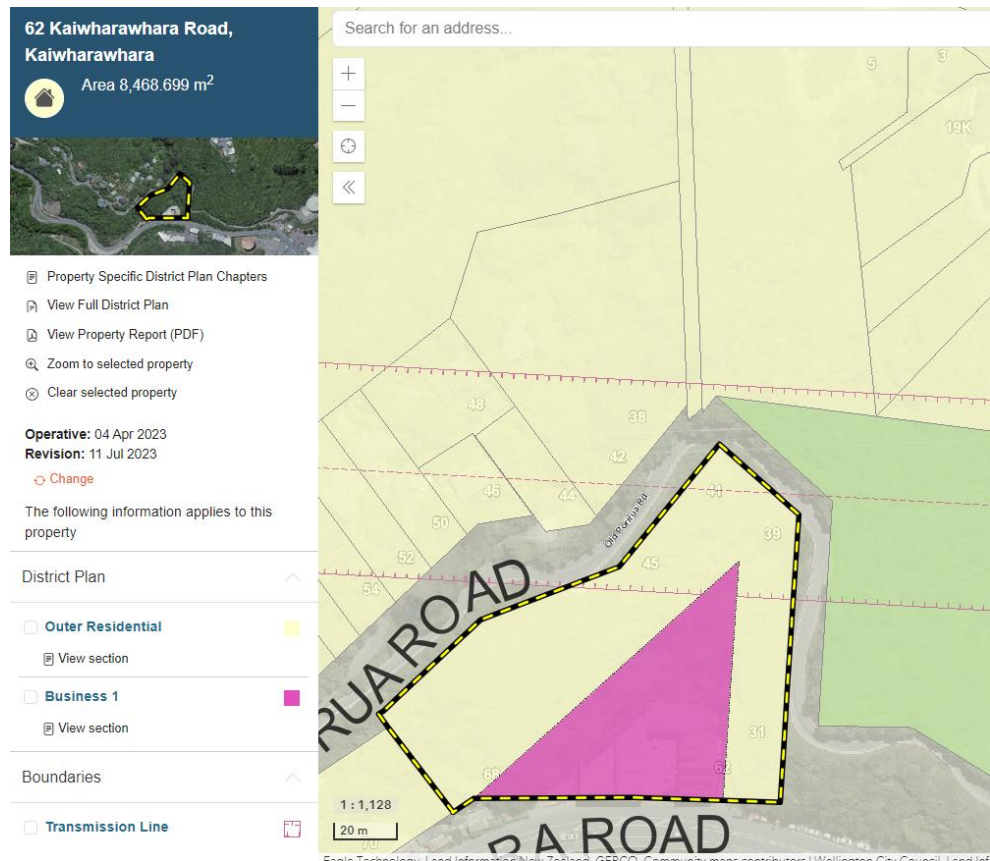


Figure 1: ODP Zones - ePlan.wellington.govt.nz

- 10 In August 2022, a 6 lot Subdivision Resource Consent was lodged with WCC, along with a request for a Certificate of Compliance with respect to vegetation clearance. Whilst the subdivision resource consent has not been issued to date, the Certificate of Compliance for the removal of vegetation was issued on 23rd of September 2022 under SR518268 (attached).
- 11 The notified Proposed District Plan sought to rezone the Outer Residential Area to Natural Open Space, and the Business Area 1 to Mixed Use Zone. The district plan also proposes to add overlays to the property namely, a SNA over the residential area and flood hazard overlays in located where the public stormwater discharges on site.



Figure 2: Proposed district plan 62 Kaiwharawhara - eplan.wellington.govt.nz

HEARING 7 – NATURAL OPEN SPACES HEARING AND S42A REPORT

- 12 Wellington City Council released the Section 42A report with respect to Hearing Stream 7 on 20th February 2024. The report was prepared by James Sirl and the submission was addressed in paragraph 133 – 137.
- 13 The section 42A report has summarised that it would be ‘inappropriate to apply a NOSZ to parts of the site, given that it has not occurred on other sites’. It was stated in the section 42A report that the zoning to MDRS is ‘a matter of plan consistency’.
- 14 At hearing 7, there were very few questions surrounding the rezoning of the land from NOSZ to MDRZ. It appears that the likely outcome of the plan change will be to keep 61 Kaiwharawhara as MDRZ, thereby maintaining a large part of its existing residential zoning from the operative district plan.

WCC PLANNING AND ENVIRONMENTAL COMMITTEE DECISION

- 15 In 27th June 2022, Wellington City Councils Planning and Environmental committee determined that SNAs would be removed from private residential area land of the PDP, and that this overlay would “only apply to public and rural land”¹.
- 16 Under the Proposed District Plan, the land fails to meet the criteria of ‘public and rural land’, as it is privately owned land that is not zoned or deemed rural land. Therefore the Overlay should have been removed from this land as part of the decision from the WCC planning and environmental committee. We note that this was likely an oversight as the vast majority of Natural and Open Space Zones are publicly owned and thus the SNA would be appropriate to place over these zones.
- 17 More concerningly, the SNA has been imposed over parts of the site that have always been zoned as ‘mixed use’. This is also held as private land, and can be used for residential use if the permitted standards are met, noting MUZ-R11 allows for residential activities as permitted activities at ground level. Therefore, at minimum, the SNA should have been removed from this zone as a result of the decision by the WCC Planning and Environmental Committee.

OUTCOMES OF HEARING 7 AND S42A REPORT

- 18 The decision regarding the outcome of hearing 7 has not been released, so it is not certain that the site that is NOSZ will be rezoned as MDRZ.
- 19 The S42A Report has not recommended removing the SNA from 62 Kaiwharawhara as the Council Officer recommends rejecting the submission.
- 20 Therefore the outcome of the decisions of hearing 7 and 11 could result in the following two scenarios:

¹ <https://wellington.govt.nz/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/whats-in-the-proposed-district-plan/significant-natural-areas>

1. The site is zoned a mix of MDRZ and MUZ with an SNA overlay held in private ownership.
2. The remains a mix of NOSZ and MUZ with an SNA overlay held in private ownership.

- 21 If the site is rezoned as MDRZ and MUZ, then the vast majority of site would be held as privately owned residential zoned land. The author of the S42A has recommended that SNAs are not applied to residential land. The reasoning has been discussed in sections 200 – 215 of the S42A report and highlighted specifically in section 70.
- 22 Furthermore, if the land is rezoned MDRZ and the SNA overlay is not removed, it creates an inconsistency within the plan. It will also serve to question to why there is an SNA over residential land for any future owners of the development.
- 23 We note that the report states that “land use zoning is not intended, nor should be, a determining or relevant factor in the assessment or identification of a SNA in a district plan”. However S215c of the report states “Submissions opposed to identifying SNAs on private land generally are accepted in part, on the basis that these will still apply to private rural land (as discussed below)²”. The land at 62 Kawharawhara falls into the non-rural private land with an SNA overlay. Therefore, exclusive of the zoning, the SNA overlay should be removed. This is consistent with the findings of the WCC Planning and Environmental Committee decision and the justification in the S42A report.
- 24 Secondly WCC has issued a Certificate of Compliance for Vegetation Removal for 62 Kaiwharawhara Road. The applicant has 5 years to undertake these works under the Certificate and is planning to do this. This will also significantly change the ecological value of the land, and therefore will not accurately reflect the findings in any desktop or

² <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/files/hearing-streams/11/council-reports-and-evidence/council-report-and-evidence/42a-report/sectin-42a-report---eco-and-inf-eco.pdf>

ecological reports. Therefore, it will not be appropriate to implement this overlay on land which is soon to have a reduced ecological value.

25 Furthermore, as part of the project 'Backyard Taonga' modifications and removals of the imposed SNA areas were done the basis of certificates of compliances being issued for the specific sites³. In essence the same criteria/ assessment is being made here. The site has a certificate of compliance to remove vegetation from the site which is still valid under SR 518268. Therefore applying the same methods and reasoning behind the 'Backyard Taonga' project, the SNA should be removed from the site.

RELIEF SOUGHT

26 The relief sought it to remove of the SNA overlay from the land on 62 Kaiwharawhara.

CONCLUSION

27 The land will remain as privately owned non rural land, therefore should not have an SNA overlay applied.

28 Parts of the land can be used for residential purposes as a permitted activity, therefore the SNA overlay should not have been applied to the MUZ.

29 The land is likely to be rezoned as MDRZ, and thus to avoid inconsistencies in the plan, the SNA should not be applied to the site as whole.

³ S55- <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/proposed-district-plan/files/hearing-streams/11/council-reports-and-evidence/council-report-and-evidence/42a-report/sectin-42a-report---eco-and-inf-eco.pdf>

- 30 The site is subject to the certificate of compliance for vegetation removal which was one of the determining factors for altering or removing SNAs from sites.
- 31 We reinforce that the SNA should not have been applied to the site as it did not meet the requirements outlined by the Planning and Environment Committee and should be removed as a result of the information provided.

Date: 27/08/2024

A handwritten signature in blue ink, appearing to be 'DM', is centered on the page.

Review and Agreed by: David Gibson.