

Before the Hearing Panel

Under the Resource Management Act 1991
In the matter of the Greater Wellington Proposed Natural Resources Plan – Hearing
Stream Three – Water Allocation & Natural Form and Function

Between

Greater Wellington Regional Council

Local Authority

and

CentrePort Limited

Submitter 121 and Further Submitter 40

and

CentrePort Properties Limited

Submitter 141 and Further Submitter 49

**Legal Submissions on behalf of CentrePort Limited and
CentrePort Properties Limited**

11 September 2017

BELL GULLY

BARRISTERS AND SOLICITORS

A J L BEATSON

COUNSEL FOR THE SUBMITTER

WELLINGTON LEVEL 21, 171 FEATHERSTON STREET

PO BOX 1291, WELLINGTON 6140, DX SX11164, NEW ZEALAND

TEL 64 4 915 6800 FAX 64 4 915 6810 EMAIL ANDREW.BEATSON@BELLGULLY.COM

Introduction

1. These submissions provide a brief overview of CentrePort's interests in Hearing 3, including the evidence pre-circulated on its behalf.

CentrePort's Submissions

2. CentrePort is interested in, and submitted on, the following provisions:
 - (a) Objective O19: Natural processes;
 - (b) Objective O37: Significant surf breaks;
 - (c) Policy P24: Outstanding natural character;
 - (d) Policy P25: Natural character;
 - (e) Policy P48: Protection of outstanding natural features and landscapes;
 - (f) Policy P49: Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes;
 - (g) Policy P50: Significant geological features;
 - (h) Policy P51: Significant surf breaks;
 - (i) Rule R146: Geotechnical investigation bores-permitted activity;
 - (j) Rule R147: Drilling, construction or alteration of any bore-controlled activity;
 - (k) Rule R148: Drilling, construction or alteration of any bore-discretionary activity;
 - (l) Schedule J: Significant geological features in the coastal marine area;
 - (m) Schedule K: Significant surf breaks; and
 - (n) Map 24: Significant surf breaks.

3. Mr Daysh's evidence discusses the relief sought by CentrePort in respect of the above provisions in greater detail. The following paragraphs describe the key issues of concern.

Natural Form and Function

Appropriate use and Development in the CMA

4. The Officer recommends that the majority of CentrePort's submissions on the *Natural Form and Function* topic are rejected.
5. As emphasised in Mr Daysh's evidence, CentrePort seeks a planning framework that appropriately recognises and provides for existing and future regionally significant infrastructure which has an operational requirement or functional need to be located in the Coastal Marine Area (**CMA**).
6. CentrePort is concerned that some of the Proposed Plan provisions (as drafted, or as recommended by the Officer) are too absolute in their terms or are otherwise defective, so as to potentially frustrate appropriate use and development in the CMA. These concerns are explored in detail in the evidence of Mr Daysh.
7. We perceive that the Panel appreciates CentrePort's national and regional significance, as well as some of the constraints and opportunities it faces. As these have been detailed in the evidence and submissions filed on behalf of CentrePort in previous hearing streams, we do not propose to repeat these here. However, we do wish to stress that the concerns raised by CentrePort are not insignificant, and will need to be addressed to ensure that both the present use of its regionally significant infrastructure and opportunities for positive future development are accommodated.

Trelissick Park Group's submission on Policy P25

8. CentrePort is particularly concerned about Trelissick Park Group's submission on Policy P25 which seeks to protect the Kaiwharawhara Stream and Estuary from inappropriate development to maintain the natural character that will increase over time.

9. CentrePort opposed this submission on the basis that it is inconsistent with the relief sought in its original submission on the Plan with regard to the management of the Kaiwharawhara Stream and Estuary. The Officer recommends the rejection of CentrePort's further submission.
10. The Kaiwharawhara Point was created by reclamation associated with the development of the Thorndon Container facilities and remains underutilised. As explained in Mr Daysh's evidence, the Point Area forms part of the port and has the potential to be a key operational area in the future.
11. Although CentrePort is prepared to avoid, remedy or mitigate any adverse effects when it makes use of the Point Area, there are potential practical issues with Trelissick Park Group's request. The Point Area is already highly modified and bisects fundamental components of the region's significant infrastructure. Accordingly, Mr Daysh has recommended further changes to Policy P25 in his evidence.

Water Allocation

12. In terms of the *Water Allocation* topic, Appendix F of the Officer's Report records that the Council, Wellington Water Limited and CentrePort have reached agreement that the Hutt Valley Aquifer does not extend into the Commercial Port Area so that the 5m restriction in Rule R146 of the Proposed Plan does not need to apply to this area as shown on Map 32. In order to reach this agreement, CentrePort provided significant evidence at pre-hearing meetings that the Hutt Valley Aquifer does not extend to the primary Thorndon locations of the Commercial Port Area within the CMA.
13. We understand that the Officer accepts this approach, recommending the inclusion of a new map that shows the Hutt Valley aquifer zone excluding the Commercial Port Area. Mr Daysh supports this recommendation.
14. CentrePort considers that the Officer's recommendation represents a sensible and practical approach for CentrePort in respect of its

Thorndon assets where there is evidence that deeper bores in this location will not breach the Hutt Valley Aquifer.

Legal Advice before the Panel

15. For completeness, we note that we have reviewed the legal submissions on behalf of Greater Wellington Regional Council dated 7 August 2017. We do not consider that any of the issues raised in these submissions are relevant to CentrePort's concerns with the provisions that are the subject of this hearing.



A J L Beatson
Counsel for CentrePort Limited and CentrePort Properties Limited

11 September 2017

