

**In the Matter of the Resource Management Act 1991  
AND**

**In the Matter of Hearings into the Provisions of the  
Proposed Wellington Natural Resources Plan.**

**Hearing Stream 3: Natural Form and Function &  
Water Allocation**

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**SUPPLEMENTARY STATEMENT OF EVIDENCE OF LINDSAY DAYSH FOR CENTREPORT  
LIMITED AND CENTREPORT PROPERTIES LTD.**

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**Introduction**

1. My name is Lindsay John Daysh. My qualifications and experience are outlined in my evidence in chief for Hearing Stream 1 on behalf of CentrePort Limited (**CentrePort**) and CentrePort Properties Ltd (**CPPL**) dated 5 May 2017.
2. I reiterate that I have read and am familiar with the Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014), have complied with it, and will follow the Code when presenting evidence.

**Background**

3. When I presented my evidence to the Hearing Panel on Monday 11 September 2017, I was asked whether I had viewed the amendments proposed by the Natural Form and Function s42A author to some of the Objectives and Policies. I had not, but I gave some verbal answers to questions around the proposed changes.
4. Of those matters that were subject to submissions from CPL/CPPL, the changes the report author proposed are to :-
  - Objective 19: Natural Processes; and
  - Policy 25: Natural Character.

**Objective 19**

5. Ms Legarth, the s42A author, has outlined the problems being encountered with the use of the word 'minimise' in Objective 19 and has proposed alternative wording. At an Objective level, the objective needs to be an outcome statement in this case for natural processes. I

have already outlined my concerns about leaving discretion when there are two potentially conflicting objectives, particularly when there is wording used that is unclear, and subject to interpretation.

6. Ms Legarth recommends that the objective be rewritten to read.

*Use and development does not adversely impact on the integrity and functioning of natural processes*

7. I reiterate my concerns in my evidence in relation to this revised objective. I still consider that this alternative wording has practical problems when it comes to assessing what may be otherwise be appropriate use and development, particularly when it comes to regionally significant infrastructure.
8. The objective uses the words “*Natural processes*”, and the adverse effects on the “*the integrity and functioning of natural processes*”.
9. In essence, I do not agree with the Officer. If you do not retain both natural processes and the integrity of those natural processes, a proposal would not meet this objective. The possible outcome is that an otherwise appropriate proposal may suffer from a policy “knockout” if there are adverse effects of whatever scale. I explained in my evidence about how the objective would be considered in relation to the Kaiwharawhara Stream Estuary in my evidence in chief.
10. Ms Legarth’s rephrased objective means that any proposal that has an impact that is adverse on the integrity and functioning of a natural process would not meet this objective. This objective is too restrictive and may lead to perverse outcomes, particularly in relation to Regionally Significant Infrastructure.
11. My recommended wording based on the submission of CPL remains:

The ~~interference~~ adverse effects from use and development on natural processes are ~~is minimised~~ avoided, remedied or mitigated.

## **Policy 25**

12. Similarly, in relation to Policy 25, Ms Legarth has recommended the insertion of three clauses within the policy. The first, (d), deals with alternative locations, designs or forms of development that have less adverse effects. I accept that alternative designs and methods should be part of the consideration.

13. Clause (e) makes a useful reference to the functional need and operational requirement of an activity to be considered against this policy. This is an improvement on the original drafting and I agree, as I did in my evidence in chief, that the policy as proposed to be amended is acceptable.
14. Clause (f) concerns the ecosystems natural flow characteristics and hydrodynamics. This is a relevant consideration at policy level.

#### **Further Matter**

15. The Panel also asked me whether each objective and the related policy should stand alone or can be read together. In most cases, they can be read together. However, I would caution against absolute objectives and policies that on their own may trump another objective or policy which is not written in such an absolute manner.
16. I consider that the key tension is between the enabling objectives for Regionally Significant Infrastructure and those objectives and policies that have a values protection based ethos. In this case, the more protectionist policies should be written in such a manner that allows, in some circumstances, for a proposal to proceed if the case is well made and adverse effects are appropriately avoided, remedied or mitigated.
17. I am of the view that as objectives and policies are worked through by the Panel, attention should be given to duplication, but also to ensuring that valid and appropriate developments are enabled by the Plan.



**Lindsay Daysh**

**Incite**

**14 September 2017**