

Further Submission on The Greater Wellington Natural Resources Plan Review.

Please complete this form to make a further submission on the Proposed Natural Resources Plan for the Wellington Region (PNRP).

All sections of this form need to be completed for the submission to be accepted.

For information on making a further submission see the Ministry for the Environment website:
www.mfe.govt.nz/publications/rma/everyday-guide-rma-making-submission-about-proposed-plan-or-plan-change

Return your signed further submission to the Wellington Regional Council by post or email by 5pm Tuesday 29 March 2016 to:

By email: regionalplan@gw.govt.nz

Or Post:

Greater Wellington Regional Council
Further Submission on Proposed Natural Resources Plan
for the Wellington Region
Freepost 3156
PO Box 11646
Manners Street
Wellington 6142

DETAILS OF FURTHER SUBMITTER:

*¹ I am a person representing a relevant aspect of the public interest; or

I am a person who has an interest in the PNRP that is greater than the interest the general public has.

The grounds for saying that SPS within the category you have ticked:

The Surfbreak Protection Society is an organisation that promotes policy and plans that protect surf breaks, SPS was a successful submitter to the BOI to the NZCPS regarding surf break policy. SPS was an original submitter to the GWRC Wellington Regional Plan Review, and our 2012 committee member Michael Gunson engaged the GWRC Policy team on identifying the Wgtn's regions surf breaks that are now incorporated into The Proposed Natural Resources Plan schedule K of regionally significant surf breaks

* **Name:** Paul Shanks

Name of Organisation you represent: Surfbreak Protection Society Incorporated.
(SPS)

¹ * red indicates details that must be filled in, make your choice by checking which red box(applies to you). You can simply accept the reason; "I enjoy the sport of surfing and appreciate the benefits surfing brings to the Wellington Region" or replace that with something else. Also, please make your choice for the 3 red boxes on page 2

***Address:** P.O. Box 58846, Botany, Auckland 2163

***Phone/ Fax** 0226940898

EMAIL ADDRESS: info@surfbreak.org.nz

- ~~I do not wish to be heard in support of my further submission; or~~
- I do wish to be heard in support of my further submission; and, if so,
- I would be prepared to consider presenting this further submission in a joint case with others making a similar further submission at any hearing.

Details of the submission(s) I am commenting on :

1. Submitter 282: Wellington International Airport Limited.

Address for contact : Mitchell's Partnerships Ltd.
PO Box 489 Dunedin, 9054

Email Claire.hunter@mitchellpartnerships.co.nz

The Surfbreak Protection Society (SPS) oppose submitter 282 in regard to the following point:

WIAL Submission Page 5 Paragraph xi:

Schedule K relating to surf breaks seeks to preserve the natural character of the coastal marine area by protecting (Objective 037, Policy P51) surf breaks. However the schedule includes surf breaks that have been significantly affected by the modification of the environment in Lyall Bay and are therefore not representative of the natural character of the coastal marine area. WIAL also notes that the Proposed Plan provides little scope for the mitigation of effects on surf breaks. Furthermore, WIAL queries the reason for elevating surfing above other recreational values, when the NZCPS (Policy 6) seeks more broadly to maintain and enhance the public open space and recreation qualities and values of the coastal marine area. WIAL also notes that there is no higher level directive within the Wellington Regional Policy Statement to require the specific protection of surf breaks at a regional level, WIAL considers that the Proposed Plan inappropriately extends a level of protection to regionally significant surf breaks that would be more commensurate with the management of surf breaks of national significance, and is therefore contrary to, and does not give effect to, the NZCPS Policy 16.

SPS Response:

WIAL have failed to recognise that regional surf breaks are protected under the NZCPS.

Policies 13 and 15 require territorial authorities to identify and protect natural character and natural features and landscapes of the coastal environment

Policy 13 NZCPS specifically identifies surf breaks as an element of coastal natural character (ref:P13(2)(c)). As specific areas and examples of coastal natural character these must be identified, preferably by mapping (ref: P13(1)(c)), and regional plans must including objectives, policies and rules to ensure preservation is achieved (ref: P13(1)(d)). In those areas identified as outstanding adverse effects of activities must be avoided (ref: P13(1)(a)). In all other areas of the coastal environment significant adverse effects must be avoided and other adverse effects avoided, remedied or mitigated (P13(1)(b)).

The regional plan must give effect to the NZCPS and the RPS. This is a strongly worded directive that must be implemented (ref: King Salmon). Both documents require preservation of natural character. The fact that the RPS is silent on surf breaks is irrelevant. They clearly fall within the ambit of natural character and must be preserved.

SPS oppose in part / support in part, WIAL Submission Annexure A, page 5, Objective 019:

PROVISION	POSITION	REASONS	RELIEF SOUGHT
			(or other such similar outcome that has the same effect as relief sought)

<p>Objective 019</p> <p>The interference from use and development on natural processes is minimised.</p>	<p>Oppose in part</p>	<p>The term "interference" is subjective and could arguably extend to a very wide range of matters. Similarly the term "minimise" is subjective and imposes a different requirement to the RMA S.5 avoid-remedy-mitigate requirements.</p> <p>Paragraph 5.1.1 of Council's "Section 32 report: Activities in the coastal marine area" discusses the need to manage "impacts" on natural processes, however does not discuss or identify what activities would constitute "interference". Similarly Policy P26 of the Proposed Plan refers to "effects" rather than "interference".</p> <p>Furthermore, the coastal environs of metropolitan Wellington are highly modified. Given this, natural processes have also been modified, or have been highly influenced by the presence of such development. Apparent natural processes may therefore have been significantly altered, and/or have adapted to the presence of this existing development. It is therefore difficult to determine the baseline upon which "natural processes" will be identified and assessed.</p> <p>WIAL therefore seeks that Objective 019 either be deleted entirely or be amended to a more specific form of drafting commensurate with the RMA.</p>	<p>Delete Objective 019 entirely or amend as follows: the interference from <u>Any adverse effects of use and development on natural processes are avoided, remedied or mitigated</u> minimised.</p>
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Objective 019 REASONS:

SPS agrees in principle with the reasons WIAL give, but oppose WIAL's suggestion to delete the objective outright. SPS are of the view that Objective 019 be either retained (as WIAL suggests) to read :

~~the interference from~~ Any adverse effects of use and development on natural processes ~~is~~ are avoided, remedied or mitigated ~~minimised~~

However, if needed SPS could consider replacing the objective with another that addresses objective 019's concerns.

WIAL Submission Annexure A, page 8, Objective 037 Significant surf breaks are protected from inappropriate use and development.

PROVISION	POSITION	REASONS	RELIEF SOUGHT (or other such similar outcome that has the same effect as relief sought)
Objective 037 Significant surf breaks are protected from inappropriate use and development.	Oppose	<p>WIAL does not consider this objective to be appropriate. The RMA and the NZCPS do not require regional surf breaks to be protected from inappropriate use and development.</p> <p>The NZCPS includes Policy 16 which seeks to protect surf breaks of national significance. And Schedule 1 which identifies such surf breaks. WIAL notes that there are no surf breaks of national significance listed for the Wellington region and particularly in Lyall Bay. Therefore, WIAL does not consider it appropriate to extend the NZCPS level of protection for nationally significant surf breaks onto those significant at a regional level only. It is also questioned why the protected status has</p>	Delete Objective 037.

		<p>been applied to all of the surf breaks identified in the Wellington region, given the varying consistency, accessibility, and degree of difficulty of the breaks (described in the associated "eCoast Marine Consulting and Research" technical report.</p> <p>It is presumed that the key reason as to why the surf breaks that have been identified as significant in the Plan have attracted such a status is largely due to their recreational use and value (i.e. surfing). Given this, WIAL consider that the management of surf breaks and recreational opportunities at the regional level should be aligned with the RMA requirement to avoid, remedy or mitigate adverse effects and Objective 4 of the NZCPS. Objective 4 of the NZCPS seeks that public open space qualities and recreational opportunities are maintained and enhanced. This would also ensure that other recreational pursuits (i.e. fishing, diving) are also recognised and appropriately provided for.</p> <p>It is noted that the Regional Policy Statement for the Wellington Region (RPS) does not require the</p>	
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		protection of regional surf breaks. Rather, the RPS (Policy 35) refers more broadly to "opportunities for recreation and the enjoyment of the coast'. WIAL questions the appropriateness of Objective 037 in light of the fact that the RPS does not specifically require that regional surf breaks be accorded a level of protection greater than that provided for other opportunities for recreation.	
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SPS oppose Wial's decision sought deletion of Objective 037

Reason:

Again SPS reiterate Policy 13 NZCPS specifically identifies surf breaks as an element of coastal natural character (ref:P13(2)(c)). As specific areas and examples of coastal natural character these must be identified, preferably by mapping (ref: P13(1)(c)), and regional plans must include objectives, policies and rules to ensure preservation is achieved (ref: P13(1)(d)). In those areas identified as outstanding adverse effects of activities must be avoided (ref: P13(1)(a)). In all other areas of the coastal environment significant adverse effects must be avoided and other adverse effects avoided, remedied or mitigated (P13(1)(b)).

Decision Sought by SPS: that Objective 037 is kept in the PNRP.

WIAL Submission Annexure A, page 13, Policy P4

Policies			
PROVISION	POSITION	REASON	RELIEF SOUGHT (or other such similar outcome that has the same effect as relief sought)
Policy P4: Minimising adverse effects Where	Oppose	WIAL considers that the inclusion of the term	Delete Policy P4. WIAL notes that as a

<p>minimisation of adverse effects is required</p> <p>by policies in the Plan, minimisation means</p> <p>reducing adverse effects of the activity to the</p> <p>smallest amount practicable and shall include:</p> <p><i>(Note: remainder of Policy P4 not shown below)</i></p>		<p>"minimise" as a performance method in the Proposed Plan is generally inappropriate and seeks that references to "minimise" throughout the entirety of the Proposed Plan are deleted and replaced with the term "avoid, remedy or mitigate" as appropriate.</p> <p>The term "minimise" conflicts with the avoid-remedy-mitigate requirements specified as the proper manner by which to manage effects by Section 5 of the RMA. It is noted that the term</p> <p>"minimise" is not used consistently, as the terms "avoid", "remedy" and "mitigate" are also utilised within the Proposed Plan.</p>	<p>consequential amendment references to</p> <p>"minimise" throughout the Proposed Plan will need to be re-considered and</p> <p>amended as required.</p>
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Policy P4: Decision Sought by SPS: SPS support WIAL in seeking the Deletion of Policy P4 for the same reasons given

WIAL Submission Annexure A, page 25: Policy P51 Significant Surf breaks

PROVISION	POSITION	REASON	RELIEF SOUGHT (or other such similar outcome that has the same effect as relief sought)
<p>Policy P51: Significant surf breaks</p> <p>Use and development In and adjacent to the</p> <p>significant surf breaks identified in Schedule K (surf breaks) shall be managed by</p>	<p>Oppose</p>	<p>WIAL opposes the extension of a level of protection to regionally significant surf breaks that is more appropriately reserved for surf breaks of national significance.</p> <p>WIAL Is concerned that Policy P51 does not contemplate</p>	<p>Delete Policy P51.</p>

<p>minimising the adverse effects on:</p> <p>a) natural processes, currents, seabed morphology and swan corridors that contribute to significant surf breaks, and</p> <p>b) access to significant surf breaks within the coastal marine area, on a permanent or ongoing basis.</p>		<p>circumstances where the adverse effects of use and development on surf breaks cannot be avoided however on a merits assessment may be acceptable having regard to methods of remediation or mitigation.</p> <p>WIAL further notes that the scheduled surf breaks in Lyall Bay have been influenced by the historic construction of the airport. For example, without the runway break wall The Corner surf break would not exist in its current form and it is noted that further modification or removal of this wall could alter the current wave dynamics in this area.</p> <p>WIAL questions how Policy PS1 would work in regard to these scheduled surf spots which have been enhanced by human-induced modification. If it is intended to only protect naturally occurring surf breaks, the schedule would have to be revised to reflect this.</p> <p>WIAL is also concerned that Schedule K in the Proposed Plan identifies all of the surf breaks within the Wellington Region as being significant. Given this broad application of significance, WIAL is concerned that there has been no robust analysis to support the inclusion of the surf breaks that are identified in Schedule K.</p> <p>In light of these issues, WIAL seeks the deletion of Policy P51</p>	
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Policy P51

SPS support in part Policy p51

SPS oppose WIAL's decision sought to delete Policy P51

Reason

WIAL assert that the Corner surf break is not a natural feature, as without the airport, the Corner surf break would not exist in its current form.

The Corner Surf break is a natural reaction to the airport. A number of senior surfers note that there was a surfbreak in the part of Lyall Bay that has been reclaimed for the airport, a right hander. Evidence of this can be viewed at the Alexander Turnbull Library:
<https://natlib.govt.nz/records/23046068?search%5Bpath%5D=items&search%5Btext%5D=Llyall+Bay+1938>

“WIAL questions how Policy P51 would work in regard to these scheduled surf spots which have been enhanced by human-induced modification. If it is intended to only protect naturally occurring surf breaks, the schedule would have to be revised to reflect this.”

It should be pointed out that from case law the precedence is with respect to environmental impacts that they are assessed on, what is there today, not what it used to be like.

For example, replacing an old causeway with a bridge, you must consider the impacts on the environment as it is with the causeway, not as it is without the old causeway before it was constructed; the same with replacing a coastal protection structure for a new one; it's not about how the new structure would impact on the environment before the old structure was there, it is the impact on the existing environment.

In this case, it would mean that WIAL cannot argue that because the historic human-induced changes to Lyall Bay resulted in a high-quality surfing break, it does not have to consider it or that it has no value because it's not 'natural'. Furthermore, and most importantly, the reclamation may be manmade (i.e. not natural), The Corner Surf break is a natural reaction to the airport but it is a product of nature. It formed naturally due to coastal processes the surf break is comprised of swell, currents, water levels, seabed morphology and wind, as per Schedule 1 of the NZCPS. If the airport was not there these processes would still occur and a wave would still break. The fact that the bay and the surf break is not pristine does not mean it is non-natural and that the break is not formed by a natural process and an example of coastal natural character.

SPS oppose in part Policy P51: Significant surf breaks

Generally SPS approve of policy P51 in principle to protect surf breaks as listed in Schedule K however as mentioned in our point regarding objective 019 and Policy P4 the word minimising is

inconsistent with the NZCPS policies 13 and 15

Use and development in and adjacent to the significant surf breaks identified in Schedule K (surf breaks) shall be managed by **minimising** the adverse effects on:

(a) natural processes, currents, seabed morphology and swell corridors that contribute to significant surf breaks, and

(b) access to significant surf breaks within the coastal marine area, on a permanent or ongoing basis.

Reason

Policy P51 is inconsistent with The New Zealand Coastal Policy Statement and other policies in PNRP that refer to Natural Features.

Both Policy 13 and 15 note that adverse effects must be avoided, remedied, or mitigated. Policy 13 describes the range of natural features that these policies recognise:

Policy 13 Preservation of natural character

2 (c) natural landforms such as headlands, peninsulas, cliffs, dunes, wetlands, reefs, freshwater springs and surf breaks;

Policy P51 of the GWRC PNRP uses the word **minimising** which lends far less weight than avoid remedy or mitigate.

I note that other policies in the PNRP that relate to natural features (such as 4.6.5 Natural features and landscapes and special amenity landscapes (b))refer to avoid, remedy, or mitigate.

I question why out of all natural features, surf breaks are singled out for lessor protection?

SPS seek to Dismiss Wial's decision sought to delete P51 of the PNRP

SPS Decision Sought: Change Policy P51 to read as:

Policy P51: Significant surf breaks

Use and development in and adjacent to the significant surf breaks identified in Schedule K (surf breaks) shall be managed by ~~minimising~~ **avoiding remedying, or mitigating** the adverse effects on:

(a) natural processes, currents, seabed morphology and swell corridors that contribute to significant surf breaks, and

(b) access to significant surf breaks within the coastal marine area, on a permanent or ongoing basis.

Note:

The deletion I seek is indicated by strikethrough, the addition I seek is indicated by bold and underline

PROVISION	POSITION	REASON	RELIEF SOUGHT (or other such similar outcome that has the same effect as relief sought)
Schedule K & Map 24	Oppose in part	<p>WIAL notes that with regards to regionally significant surf breaks, proposed Objective 037 replicates the use of the term "protect" present in Policy 16 of the NZCPS.</p> <p>WIAL opposes this misapplication of the NZCPS requirement to "protect" surf breaks of regional significance. This requirement is specifically reserved for surf breaks of <u>national</u> significance. In particular, it is inappropriate to extend the requirement to "protect" surf breaks that are not listed in Schedule 1 of the NZCPS and that have been formed as a direct result of human modification of the coastal marine area. It is unclear why the recreational opportunities associated with surfing have been elevated above other recreational values in the Proposed Plan.</p> <p>WIAL considers that it would be more appropriate and effective (given the number of recreational values associated with the coastal marine area precludes individual provision for each within the Plan) for the Proposed Plan to more broadly address</p>	Delete Schedule K and Map 24 and associated Proposed Plan Objectives, Policies and Rules to give effect to the relief sought opposite.

		<p>recreational values. By focussing on the</p> <p>avoidance, remediation or mitigation of significant adverse effects on recreational values, the</p> <p>Proposed Plan would better align with the provisions of the RMA, NZCPS, and RPS.</p> <p>WIAL also questions the underpinning assumptions that have resulted in the inclusion of 57 regional surf breaks in proposed Schedule K and Map 24. It is not clear that all of these surf breaks can be properly described as comprising a component of the natural character of the coastal marine area, given the human modification of the coastal environment that in some cases has influenced the surf breaks. This being the case, it is unclear that the Lyall Bay surf breaks warrant a similar level of regard as is required to be had to the surf breaks of national significance identified in the NZCPS.</p> <p>Furthermore, the blanket application of regional significance status to all of the regional surf breaks listed in the <i>New Zealand Surf Guide</i>, regardless of location, consistency, degree of difficulty or quality is subjective (as recognised in section 2.2.1 of the supporting <i>eCoast Marine Consulting and Research</i> report) and not considered to be appropriate. There is no evidence that there has been any consistent or robust methodology used</p>	
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		in order to test the validity of the significance status of each surf break.	
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SPS seek to Dismiss Wial's decision sought to revise Schedule K of the PNRP with intent to remove the Corner surf break. SPS seeks that the retention of Schedule K in the Proposed Natural Resources Plan

SIGNED: Paul Shanks

*Signature of person making further or person authorised to sign on behalf of person making further submission. **A signature is not required if you make your submission by electronic means.***

Please note:

All information included in a further submission under the Resource Management Act 1991 becomes public information. All further submissions will be put on the GWRC website and will include all personal details included in the further submission.

PLEASE CC THIS EMAIL TO WIAL, AN OBLIGATION OF THE FURTHER SUBMISSION PROCESS:

Claire.hunter@mitchellpartnerships.co.nz

or by Post:

Wellington International Airport Ltd
c/o Mitchell Partnerships Ltd
P.O. Box 489
Dunedin 9054