

Comments for hearing re District Plan Variation 11(DPV11) from Waterfront Watch (Inc), presented by Committee member, Mary Munro, on Monday, August 10 2009

WW submitted in opposition to DPV11.

1. The themes discussed in the submission were:
 - Public involvement
 - The assessment of new buildings as a Discretionary Activity (Restricted)
 - Public accessibility to buildings
 - Building heights
 - Design excellence
 - Public space

By far our biggest concern is the effect of DPV11 in shutting the public out of the development process:

2. We are concerned at the response to the submissions demonstrated in the Officer's Report on Proposed DVP11. The report is strongly biased away from the bulk of the submissions which opposed DPV11 (either in whole or in part) towards the developers, and once again the public voice is being ignored in the RMA process.
3. The Officer's Report says that the Waterfront Framework (2001) is "the source of proposed Variation 11", and that "Variation 11 represents the start of the stage two process".

But the Waterfront Framework states on p.5 that:

*The framework reflects the need to provide certainty for the community, but at the same time allows a level of flexibility for future years. **Part of the stage two process will be about balancing principles that may be in conflict.** Performance criteria allow for greater flexibility in this balancing process than prescriptive standards, but **there also needs to be a strong, transparent implementation process in place that provides for public input.***

4. DPV11 in no way provides for public input. It runs completely counter to the principles of participatory democracy and the desire of Wellingtonians to have a say and be involved in the development of the waterfront, the most prized bit of public land in the City.

5. The principles that are in conflict here are public vs. private interests. North Kumutoto, the area under the spotlight in DPV11, is Public Open Space and (as demonstrated during the process of Variation 17) the public needs and wants to participate in the process of deciding how it is used. To shut the public out is not “balancing principles that may be in conflict”. It is coming out heavily on the side of those with private as opposed to public interests.
6. The arguments used to justify the introduction of DPV11 are well understood to have been developed as a result of the WCC being frustrated in its desire to let the Hilton hotel proposal go ahead on the Outer T, and the limitations of the Waterfront Framework identified in the *Hilton* decision. But this frustration is a poor justification for the WCC now wanting to introduce such a significant variation to amend District Plan Change 48. In particular, WW opposes the inclusion of Rule 13.3.4A which provides for new development in identified areas on the waterfront as a non-notified Discretionary Activity (Restricted) application in accordance with building height and footprint requirements.
7. WW believes that the waterfront is a unique and special part of the city and any buildings to be erected on it, wherever they are, should be publicly notified, and affected persons informed of any applications.
8. If DPV11 goes ahead, plans to construct new buildings will not be able to be appealed to the Environment Court unless they breach Plan rules. This again blocks off a potential avenue for involvement by the public and means that council officers, rather than the public or elected officials, have the authority to decide what goes where on the waterfront and what does not.

WW believes that there is a fundamental difference between the North Kumutoto area and a block of land in the central city

9. In essence, DPV11 will replace the Waterfront Framework which is about creating a sense of space and ownership, and a document in which the public has confidence, with a Design Guide which is essentially about buildings. Buildings are only one of the things WW is concerned about.
10. The North Kumutoto area is public open space. It gives water views to drivers along the main transport corridor of Customhouse Quay and Jervois Quay. These views become rarer further south. It is sunny and open. There are many heritage buildings nearby. WW believes that the public is entitled to be involved in the decision as to whether or not offices, a hotel and/or apartments are built on this public land.

11. We think that the proposed heights limits of 17.5m, 25.5m and 30m above mean sea level are too high, and we are strongly opposed to building heights going 15% above the height limits as a Discretionary (Restricted) activity, with the presumption that this would be non-notified. The Waterfront Framework (p.40) identified “small buildings” as appropriate for this area and on p.32 said: *The character of the area will be of squares, lanes and new buildings in scale with the heritage buildings, such as Shed 21 at the northern end and the Queen’s Wharf Apartments and Sheds 11 and 13 at the other end.*”
12. It is difficult to assess the cumulative effects on sun/shade, wind and views of three potential buildings, knowing nothing of their size, form and orientation. This is an additional reason for site by site full discretionary consents.
13. WW believes that applications to build on any one of the three potential building sites should continue to be considered on a case by case basis and assessed as full discretionary consents.

In summary:

WW maintains that there is no need for any variation to amend District Plan Change 48 (Central Area Review). Any development proposals for the Waterfront can be adequately catered for using the existing provisions.

14. The net effect of the Variation is to block off public participation in future building development on the waterfront, initially in the North Kumutoto area but also in the Waitangi Park area where there are still undeveloped building sites.
15. This runs completely counter to the espoused aims of the Waterfront Framework and all but one of the 49 submissions received initially when DPV11 was publicly notified. For these reasons alone it should be rejected.
16. DPV11 is an initiative to avoid legal action on new buildings on the waterfront and will make it easier for developers than going through the resource consent process.
17. The removal of DPV11 would obviate the need for any Design Guide and put everything back on the table. The public would continue to be involved and the continuation of the “zero height rule” would ensure that all proposed new buildings triggered resource consent. It is our belief that any developer should be prepared to go through a robust process to build on this very special piece of land.

APPENDIX 1

Appendix 1 was the Waterfront Policy + “What the public wants for the Waterfront” ie the history section

APPENDIX 2

Extracts from a speech by Sir Geoffrey Palmer to a Public Meeting to consider Variation 17, Wellington Town Hall February 1 2000

Re V17 ... “WCC wants fast track approval for a massive conceptual change to the District Plan. The details are not settled, and when they are, they will not be subjected to public scrutiny.

It is my opinion that the WCC approach turns the RMA on its head. Far from protecting the public interests in the environment, it is a reasonable interpretation of events that the WCC is involved virtually as a developer in its own right, with a clearly articulated pecuniary interest in the outcome.

The most worrying matter for me is the process. In a democratic society, process protects rights. The processes under the RMA were designed to be open and transparent. V17 is a carefully contrived attack on those principles.

V17 would significantly limit public process

The Council should think again. What it has produced is procedurally flawed.