

# Post-Hearing Joint Witness Statement

## **BEFORE THE HEARING COMMISSIONERS**

Notices of Requirement for Designation of Wellington Airport

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### **POST-HEARING JOINT WITNESS STATEMENT OF EXPERTS IN LANDSCAPE / URBAN DESIGN & PLANNING**

**Dated: 11 June 2021**

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## INTRODUCTION

1. The Notices of Requirement (NOR) hearing concluded on 21 May, at which point the commissioners adjourned, but did not close, the hearing. On 25 May the commissioners issued their Minute 3 directing further conferencing of the landscape / urban design experts and the planners.
2. Expert conferencing of the experts took place in person on Tuesday 1.

As directed by Minute 3, the conference was divided into two parts. The first part was attended by all of the experts, being:

- Frank Boffa – Landscape expert, for Wellington International Airport Limited (WIAL)
- Robin Simpson – Landscape and Urban Design expert, for Wellington City Council (WCC)
- John Kyle – Planning expert, for Wellington International Airport Limited (WIAL)
- Mark Ashby – Planning expert, for Wellington City Council (WCC)

The second part was attended by the planners alone (Mr Kyle and Mr Ashby). This joint witness statement (JWS) distinguishes between the two parts, reflecting the approach taken to the conferencing.

## CODE OF CONDUCT

3. We confirm that we have read the Environment Court's Code of Conduct 2014 and agree to comply with its principles. We confirm that the issues addressed in this Joint Statement are within our area of expertise.

## SCOPE OF STATEMENT

4. The scope of our statement covers the specific matters and outputs set out by sections 4 and 5 of Minute 3. For the combined Landscape / Urban Design and Planning conferencing, those matters are:
  - i. The thresholds for not supplying an Outline Plan.
  - ii. The use of design principles versus the design guide approach for the Main Site Area (MSA) as it affects the various precincts within that Site.
  - iii. The certification versus comments approach in respect to various management plans on the East Site Area (ESA).
  - iv. How to manage lighting and glare from inside buildings for both the ESA and the MSA.
  - v. Relationship of the ESA development to staging and development of the MSA as it affects the removal of the hillock.
  - vi. Rongotai Ridge Precinct – inclusion or not in the MSA designation.

- vii. Advertising Signage/billboards in the ESA – permissible or not.
  - viii. Site layout in the ESA in terms of its effect on the ability to accommodate a low impact stormwater design.
  - ix. Any changes to the thresholds for outline plan exemptions for both ESA and the MSA.
  - x. Any changes to bulk and location conditions for both the ESA and MSA.
  - xi. Any changes to the Management Plan framework and outline plan approach for the ESA.
  - xii. Any change to the compliance approach to lighting on both the ESA and the MSA.
  - xiii. Any need for an indicative layout /structure plan and staging for both the ESA and the MSA.
  - xiv. Any reduction in areas to be designated for both the ESA and MSA.
5. For the sole Planning conferencing, the scope of our statement covers the matters set out in sections 6 and 7 of Minute 3, being:
- i. The relevance of the objectives, policies and methods of the Golf Course Recreation Area within the Precinct to noise effects (including noise effects as they pertain to amenity values).
  - ii. Whether the framework of objectives and policies in the Precinct is still capable of being meaningfully intact in the event that the Designation for the ESA is confirmed; specifically, given there is approximately a 80% reduction in the physical buffer between the Airport and the residential areas in Bunker Way.
  - iii. Whether the prescribed method of providing a buffer between the Airport activities and the Outer Residential Zone to the east retains its effectiveness in giving effect to the policies and objectives or whether there are other mitigations that need to be considered along with the remaining physical buffer.
  - iv. A consideration of matters raised in paragraphs 24 to 38 Mr Weir’s written statement (tabled at the hearing), covering his understanding of the golf course as a buffer.
6. In this Joint Statement we report the outcome of our discussions in relation to these matters including points of agreement and disagreement. We have noted where each of us is relying on the opinion or advice of other experts.
7. We have considered these matters in light of the consent conditions appended to the Planning JWS dated 17 May. We have also had regard to evidence and oral / written statements produced at the hearing.
8. Revised condition sets for the MSA and ESA are attached to our joint statement. These proposed conditions use the condition sets appended to the 17 May Planning JWS. Amendments made by us in response to matters discussed in conferencing are shown in track changes. A number of the amendments made are directed at addressing the issues raised in Minute 3 and set out in paragraph 4 above. The attached condition sets

represent aspects which are agreed between the Planners. Outstanding matters of disagreement are referred to below in the main body of our joint statement.

## **JOINT LANDSCAPE / URBAN DESIGN and PLANNING OUTCOMES**

### **A. Outline Plan Thresholds**

9. Subject to any exceptions set out below, we are satisfied that the thresholds for not supplying an outline plan are suitable. [*responds to Minute 3, 4(a) and 5(a)*]
10. Unlike some other activities, there are no outline plan upper limits for signage in the MSA conditions. Amendments have been made to the MSA conditions to make it clear that signage enabled by the designation is for the purposes of the requiring authority – not for third parties. Third party signage may require resource consent, subject to district plan thresholds and rules. With regard to the ESA, we note and agree that third party commercial signage is not enabled by either specific conditions or the Purpose statement of the proposed designation. Ms Simpson’s additional view is that commercial signage is not appropriate in the ESA. [*responds to Minute 3, 4(g)*]
11. Similarly, there are no upper outline plan limits in relation to development in the Rongotai Ridge precinct. Mr Kyle does not consider this to be an issue, as the need for an outline plan would be triggered by relatively minor earthworks. The Council would then have an opportunity to provide comment in the context of feedback on design outcomes under MSA Condition 4. Moreover, Mr Kyle considers the effect of the Obstacle Limitation Surface designation is such that any potential for built development to occur on Rongotai Ridge is extremely limited. Notwithstanding these facts, Ms Simpson and Mr Ashby consider there is still value in setting upper limits to landform change and building bulk / location. Ms Simpson considers management through the District Plan rather than Designation mechanism is justified by public visibility and the Ridge being a component of a larger gateway and landscape element. [*responds to Minute 3, 4(a)*]

### **B. Development Design Issues**

12. We undertook considerable discussion about whether some development should be subject to a ‘design guide’ approach, or whether a ‘design principles’ approach is more appropriate. In broad summary, we are agreed that:
  - a. In general, a ‘structure plan’ approach for future Airport development is too prescriptive in the context of a long-lasting designation and the need to flexibly respond to changing circumstances over time. An exception to this is the Integrated Design Management Plan required for the Broadway Area Precinct. [*responds in part to Minute 3, 5(e)*]
  - b. The rewording of MSA Condition 8 (attached) is supported, with respect to the overall design principles approach taken for the Terminal precinct. In particular, the

revised wording includes reference to the design principles document including a vision statement. Our agreed position is that the vision statement, with an associated explanation of how the Principles can be achieved, will anchor the Principles in ways similar to that of a design guide. Condition 8 requires Council comment on the design principles before it is finalised, which we consider is preferable to requiring certification. [*responds to Minute 3, 4(b)*]

13. The panel directed us to consider design issues in relation to the various precincts. In that regard we are in agreement that MSA Condition 4, and its design statement approach, will provide the impetus for achieving good built outcomes – especially along external boundaries. To support that intention, amendments have been made to MSA Condition 3 to better define building parameters in the West Side and South Coast precincts. If those parameters are exceeded, then an outline plan will be required and the design considerations under Condition 9 will be invoked. [*responds to Minute 3, 4(b)*]

### C. *Certification v Comments*

14. We agree that the conditions as appended to this JWS take an appropriate approach to situations where council comments are sought, as opposed to requiring certification. Our agreed approach is that certification should generally be used in situations where technical specification and assessment is required – such as the geotechnical reporting in the ESA or the development of lighting plan (if one was to be required).
15. In cases where there are no technical standards being considered, it is more appropriate to rely on council commentary via the normal outline plan process.
16. For the sake of clarity, we have agreed a new condition (ESA Condition 3) to apply in any circumstance which requires a management plan or similar document to be provided to the Council for certification. The condition provides a timeframe for the Council's response and sets out related processes – including an allowance and process for subsequent variation of the management plan.

### D. *Lighting*

17. Conditions have been amended to require a post installation check that the limits of the applicable NZ Standard are met.

### E. *The Hillock*

18. The panel asked us to address effects on the hillock – which is in the MSA – in the context of staging and development of the ESA. We agree that a condition focussed on staging of ESA development (and the consideration of hillock impacts) is not the best approach to considering and managing effects. Instead, we have agreed condition wording that requires an ECMP for earthworks which exceeds defined limits (MSA Condition 1A), and the consideration of amenity issues in an Outline Plan process via

MSA conditions 2(h) and 12. After our conferencing, WIAL provided advice that the potential need for earthworks affecting the hillock is not solely related future development of the ESA. [*responds to Minute 3, 4(e)*]

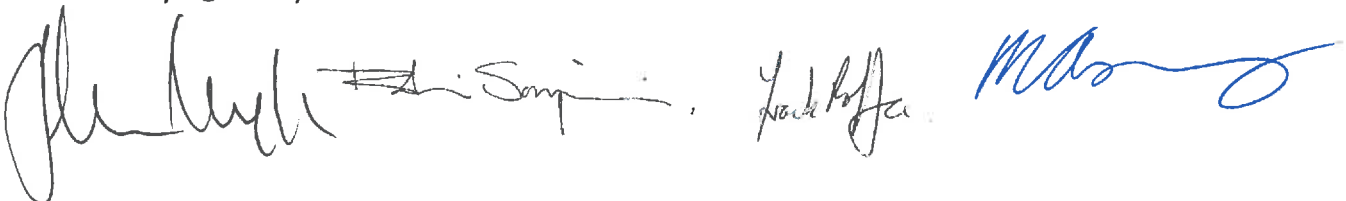
#### F. Rongotai Ridge

19. We agree that development of any nature on the upper slopes or ridgeline is subject to significant overriding control imposed by the Obstacle Limitation Surface (OLS) designation. Mr Kyle outlined his understanding that there may be a future need to erect a navigation aid on this site. Although the anticipated size of that aid is limited it would still likely require earthworks that breach the limits set in MSA Condition 1A – therefore triggering an outline plan process. Because of its value for siting the navigation aid, and because site development is significantly limited by the OLS, Mr Kyle, Dr Boffa and Mr Ashby agree that Rongotai Ridge should remain within the designation. [*responds to Minute 3, 4(f)*]
20. However, consistent with her earlier assessment, Ms Simpson reiterated her opinion that the ridgeline is an important landscape element, part of a two sided urban gateway and preferably excluded from the designation. Mr Ashby noted that there are no upper outline plan thresholds for Rongotai Ridge under the proposed conditions (see paragraph 11 above). Mr Ashby also notes that the district plan policy framework provides significant support for the landscape value of Rongotai Ridge and requires architectural and urban design excellence for proposed development.

#### G. Stormwater Management

21. We agree that good stormwater management at the Airport is an ongoing necessity, including in relation to the proposed new apron / taxiway areas that comprise the ESA. We note that WIAL is preparing a 'global' application for stormwater discharge. Against this background we consider it useful to condition ESA development to manage stormwater accumulation and release to the extent practicable. We accept that limited space means it would be impracticable to achieve the concept of 'stormwater neutrality'.

Jointly signed by:



John Kyle

Robin Simpson

Frank Boffa

Mark Ashby

## PLANNING OUTCOMES

22. As noted in 5 above, the panel asked us to address *“The relevance of the objectives, policies and methods of the Golf Course Recreation Area within the [ESA] Precinct to noise effects (including noise effects as they pertain to amenity values).”* As part of that consideration, the panel has asked us to consider *“whether the framework of objectives and policies in the Precinct is still capable of being meaningfully intact in the event that the Designation for the ESA is confirmed.”*
23. We have therefore reviewed the relevance of those provisions, including as they pertain to amenity values and whether they are able to remain “meaningfully intact” if the ESA designation is confirmed. As directed, we have also considered the matters stated by Mr Weir in his submission to the panel, notably at paras 24 to 38.
24. The panel will know that s171(1) requires that when considering a notice of requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to —  
.....  
*(iv) a plan or proposed plan*
25. We agree that in respect of the panels’ question a number of the objectives and policies within part 10.2 of the district plan are relevant to considering the effects of the requirement. In particular, Objectives 10.2.1, 10.2.2 and 10.2.5 and their related policies are the most relevant to informing a consideration of the effects of the requirement. These are set out in detail in Mr Ashby’s section 42A report and in his written summary provided at the conclusion of the hearing.
26. As an initial observation, we suggest that there is nothing within s171(1) that requires that the objectives, policies and methods of the Plan must remain “meaningfully intact”. Instead, these matters are relevant only insofar as they inform a consideration of the effects on the environment of allowing the requirement. There is no requirement for the territorial authority to be in some way satisfied that the policy framework remains intact, which is more akin to a Plan integrity type of consideration which finds no basis in s171.
27. A designation, by its very nature is a form of ‘spot zoning’ over (in this case) a site in a district plan. Subject to any conditions, this ‘spot zoning’ authorises the requiring authority’s work and activity on the site without the need for subsequent land use consent from the relevant territorial authority.
28. Our collective experience with designations suggests that in general, most designations are at odds with the provisions of the underlying zoning. Designations often provide for activities that were not anticipated at the time the Plan was promulgated, but which are reasonably necessary (and often in the public interest). The provisions of Part VIII of the Act are available to requiring authorities to enable a project or work because, more

often than not, these activities have not been anticipated prior to the district plan being developed. The Act therefore allows the insertion of a specific enabling provision (a designation) into the district plan to provide for the project or work. Therefore, by its very nature, a designation is often at odds with the provisions of the underlying zoning. The provisions of the underlying zone are rarely retained 'intact' insofar as the designated land is concerned, although they continue to apply to activities that are not within the ambit of the designated purpose of the land. Such activities require separate authorisation via a resource consent.

29. With respect to the district plan part 10.2 Objectives and Policies we think the matters should be read and considered in the round, with s171(1) firmly in mind.
30. Objective 10.2.1 seeks to promote the safe, effective and efficient operation of the airport. The associated policies are, as would be expected under such an objective, enabling in nature. In short, the policies are directed at providing for the activities that assist to achieve this objective.
31. Also under this objective, the twin policies 10.2.1.2 and 10.2.1.3 respectively identify the airport, and the golf course and recreation lands, as having a "*distinct character and uses*".
32. So, in effect, the Precinct is described as being made up of two parts. As the explanatory text under Objective 10.2.1 states:

*"Plan provisions have been designed to be consistent with the activities that occur in relation to the Airport and its ancillary uses together with the activities that occur in relation to the Golf Course and its ancillary uses. The area rules concerning the Airport recognise the influence that other statutory requirements have over the operation of the Airport.*

*The environmental results will be the ongoing operation of the Airport and the achievement of a high quality Airport area within the Precinct, together with the retention and development of the Golf Course and recreation area."*
33. Objective 10.2.1 is largely descriptive of the land use situation that currently exists, both at the airport and at the golf course. In our opinion, this objective and the associated policies 10.2.1.2 and 10.2.1.3 have limited usefulness in the s171(1) consideration. The policies are essentially descriptive rather than directed at the achievement of a specified outcome or outcomes insofar as assessing environmental effects is concerned.
34. Objective 10.2.2 seeks to "*provide for the continued use and development of the Golf Course lands for golf course and recreational purposes*". Its associated policies seek to identify and provide for the ongoing use of the golf course and recreation activities "*within the buffer of land to the east of the Airport area.*" The explanatory text associated with this objective provides some helpful interpretive context. It states that:



*The golf course area is identified separately within the wider Airport and Golf Course Recreation Precinct, in recognition of the golfing and recreation activities occurring within this area, and the distinct open space characteristics of this area.*

*The existing Golf Course provides a buffer between the Residential Areas and the Airport operations. The intention is to retain as much open space as is practical for golf course and recreational use.*

*The environmental results will be the efficient and effective ongoing operation of the Airport within the Precinct, together with the retention and development of the Golf Course and recreation area.*

35. This text re-emphasises the importance of airport operations and recognises the existing buffer function of the open space that is currently the golf course area. The expressed intention is to retain as much of this open space area *“as is practical”*. Notably, this statement is at odds with some of the text included in the introductory part of the Chapter which states (inter alia) that it is *“... not intended that the land used for these recreational activities will be used for Airport purposes.”*
36. In our view, the Plan recognises that the golf course area functions as a buffer between the airport and the residential areas to the east. However, Objective 10.2.2 and the two policies that accompany it do not require the retention of the buffer. In fact, Policy 10.2.2.2 which is the most specific of the two seeks to *“provide for the ongoing use of the Golf Course and recreation activities within the buffer of land to the east of the Airport area”* is not directive toward retention of the buffer. Rather, it is enabling of golf course and recreation activities.
37. For the same reasons noted under paragraph 33 above, we think that this objective and its policies have limited usefulness in the s171(1) consideration.
38. In our view, Objective 10.2.5 and the four policies that follow it are more helpful in terms of the required consideration under s171(1)(a) because these matters focus on the management of adverse effects.
39. The Objective broadly seeks to protect amenities in areas surrounding and within the Precinct from adverse environmental effects. The four associated policies to achieve that objective are more focused and are directed towards;
  - Controlling airport and ancillary activities to avoid or mitigate adverse effects;
  - Ensuring reasonable protection of residential uses from Airport activities by controlling bulk and location, ensuring sufficient space for landscape design and screening, and by retaining a buffer of land of a recreational nature to the east;
  - Controlling the interrelationship of buildings and the surrounds to ensure a high level of visual amenity; and

- Managing the noise environment to maintain and where possible enhancing community health and welfare.
40. Notably this last policy is the foundation for the Noise Management Plan requirements inherent in the methods for the zone, which has in turn been the foundation for the Quieter Homes work referred to in the evidence of Mr Clarke.
  41. It seems clear to us that these policy matters usefully inform consideration of the effects enabled by the ESA designation and how they might be managed. Controls over building bulk and location, provisioning for landscaping and screening, retention of a buffer area and methods to manage the adverse effects of airport noise stand out to us as being relevant in that respect. The overarching question is – what effects are currently ‘managed’ by the buffer, and how successfully are those types of effect managed?
  42. Other questions to inform that assessment include: Are there methods available to properly manage any adverse effects arising from built form? Can landscaping or screening assist to avoid or mitigate adverse visual effects? Does the buffer provided by the golf course land need to remain in full or is a partial retention of the buffer sufficient to manage the various types of adverse effect? What tools are available to manage the increased effect of operational noise on residential property (to the east)?
  43. Our collective view is that the Plan provisions do not direct that the golf course buffer area must remain intact to properly address the effects of the requirement, so long as there are methods to achieve appropriate avoidance or mitigation of adverse effects. We accept that Mr Weir disagrees with this.
  44. We share the view that the revised conditions which are attached to this JWS, particularly as they relate to noise mitigation and mitigation of visual and the broader effects on amenity will be effective at providing sufficient mitigation, albeit that Mr Ashby has some residual concerns about the inability of mitigation to address the effects of operational noise within spaces outside of dwellings. We also hold the opinion that the landscape buffer shown in the ESA conditions serves important functions. It will retain a degree (albeit reduced) of separation between the operational areas within the ESA and the residences to the east. It will also provide for sufficient space for recreational walking and possibly cycling.

Jointly signed by:

  
John Kyle                      Mark Ashby