

Section 32 Report
Proposed District
Plan Change 57

Provision for non-airport activities
within the Airport Precinct

SECTION 32 REPORT

PROPOSED DISTRICT PLAN CHANGE 57 - Provision for Non-airport activities within the Airport and Golf Course Recreation Precinct

1.0 Introduction

The Council is required to undertake an evaluation of the proposed plan change before the plan change can be publicly notified. This duty is conferred by section 32 of the Resource Management Act 1991 (the Act). This evaluation must examine:

- (a) the extent to which each objective is the most appropriate way to achieve the purpose of the Act; and*
- (b) whether, having regard to their efficiency and effectiveness, the policies, rules, or other methods are the most appropriate for achieving the objectives.*

An evaluation must also take into account:

- (a) the benefits and costs of policies, rules, or other methods; and*
- (b) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules or other methods.*

Benefits and costs are defined as including benefits and costs of any kind, whether monetary or non-monetary.

A report must be prepared summarising the evaluation and giving reasons for the evaluation, and must be available for public inspection at the time the proposed change is publicly notified. This report is Wellington City Council's response to this statutory requirement.

2.0 Context

The purpose of the RMA is to promote the sustainable management of natural and physical resources. Sustainable management includes managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety. The Act also contains an explicit obligation for territorial authorities to *maintain and enhance amenity values* and the *quality of the environment*.

3.0 Background

3.1 Pre District Plan approach to managing airport activities

Prior to the Resource Management Act (Act), the operations of the airport were controlled by a complex regime, including:

- a *bylaw* which sought to mitigate aircraft noise
- a *designation* held by Wellington International Airport Ltd (WIAL) which authorised the airport operation; and
- the *underlying zoning in the District Scheme* which applied to anything that was not authorised by the airport designation.

3.2 District Plan Approach to managing airport activities

When the Council notified its new District Plan in July 1994, it proposed a new precinct for the airport called the ‘Airport and Golf Course Recreation Precinct’. This Precinct contained objectives, policies and rules which replaced the former controls applying to the airport and Miramar Golf Course. The airport designation remained in place for some time, and was uplifted by WIAL once the rules were settled through the plan preparation and appeals process. The District Plan was adopted in July 2000 and this policy and rule approach was endorsed.

A similar approach was taken for the Hospital, and Massey and Victoria Universities through the provision of Institutional Precincts around these sites/campuses.

The Airport Area provisions of the Precinct enable the development of the airport as a critical part of the city and region’s transport infrastructure and economic wellbeing. A flexible rules regime enables the airport to respond to worldwide trends in developing airports as destination centres. The rules provide for the new terminal building and carpark etc, and enable a wide range of ancillary uses at the airport such as retailing in the terminal, vehicle hire and other commercial services typically associated with airports.

The rules also ensure the protection of the amenities of surrounding areas through building setbacks requirements, aircraft noise control, screening, lighting etc.

This approach is consistent with the strategic role of the airport that is reflected in the Wellington Regional Strategy and the Urban Development Strategy.

The extent of the Precinct is shown on the map over.

Airport and Golf Course Recreation Precinct



3.3 Non-airport developments

In recent times there has been increasing pressure to undertake various non-airport related activities within the Precinct. However, the operative Precinct provisions contain some ambiguities that has led to different interpretations about the activity status of non-airport activities. To date, non-airport activities undertaken within the Precinct have included billboard signs and a bulk retailing development (known as the West Side or Rongotai Retail Park).

In 2005 WIAL applied for a number of certificates of compliance to confirm that a range of non-airport activities are permitted. The proposals include a childcare centre, office complex, supermarket, gym, bar and other retailing.

There are concerns that aspects of the proposals have the potential to challenge some of the wider policies of the District Plan, and at the very least create significant public 'interest'. Issuing the COCs, would negate the Council's ability to influence the proposals through regulatory mechanisms.

At this stage, Council officers have not stated a position regarding the applications. Irrespective of the outcome on this matter, it was decided that the operative Precinct provisions were ambiguous and needed to be amended to reflect the intent of the Precinct. This resulted in Plan Change 42 (PC 42) as described in 3.4 below. PC 42 and PC 57 (as described in 5.3 below) have no bearing on the current applications for certificates of compliance.

This ambiguity over interpretation of the rules has not been conducive to the sound administration of the Plan.

3.4 Plan Change 42

Plan Change 42 (PC 42) was notified in December 2005 to give clarity to this issue. The PC 42 involved:

- clarifying that activities, and buildings/structures relating to the primary function of the airport are permitted activities (subject to meeting specified conditions);
- making all new non-airport activities and buildings a discretionary activity (unrestricted)
- clarifying that all buildings for airport related activities outside of the terminal area (and not used for aircraft maintenance purposes) is a permitted activity up to 12m in height. This is consistent with the maximum building height in Suburban Centres.

It was noted in the committee report that Plan Change 42 did not preclude the need, in due course, to review in full the Precinct chapter as part of the ongoing review of the District Plan as required under the Act. Proposed Plan Change 42 was simply to clarify the intent of the *existing* rules.

4.0 Plan Change Options

Wellington City Council has now formulated a new plan change which has involved a more comprehensive approach to providing for airport and non-airport related activities with the Precinct.

In preparing this plan change three options were considered.

5.1 Option 1 - Retain Plan Change 42

As discussed in 4.1 above, this provides for all non-airport activities as a discretionary activity (unrestricted). Any proposed development could be notified and all matters considered of relevance by Council could be used as a basis for assessing the merits of the proposal.

All airport related activities would be assessed as a permitted activity up to 25 metres in the Terminal Area and 12 metres in the rest of the Airport Area of the Precinct.

5.2 Option 2 - Allow non-airport activities as of right

This involves permitting non-airport activities such as residential, retailing, office and other commercial activities up to 12 metres in height. This would be similar to the existing Suburban Centre provisions, which is the least restrictive zone in the District Plan.

5.3 Option 3 – Plan Change 57 (DPC 57)

This would involve withdrawing Plan Change 42 and replacing it with a new plan change as described below.

Non-airport activities

DPC 57 allows for non-airport activities as a controlled activity up to 12 metres in height in the terminal area. Outside the Terminal Area (as delineated in Appendix 4 of the plan change), buildings are provided for up to 12 metres in height as a discretionary activity (restricted), and are subject to the provision of a traffic impact assessment. A centre impact assessment is required for retail developments. This requires an assessment of its impact on the vitality and viability of Kilbirnie and Miramar Town Centres.

Larger developments above 12 metres in height would be a discretionary activity (unrestricted) and require a centre impact report in relation to Kilbirnie and other town centres, including the central area.

Airport Activities

Airport related activities would continue to be permitted in the Terminal Area up to 25 metres in height as a permitted activity. Outside the Terminal Area buildings for airport activities are permitted up to 12 metres (for general buildings) and up to 15

metres for aircraft maintenance as a permitted activity. These provisions are the same as the operative and PC 42 provisions.

Signage and billboards

Large outdoor signage in the Terminal area would be a permitted activity. In the rest of the Airport Area of the Precinct large billboards would need a resource consent. No signs would be permitted on State Highway 1, Moa Point Road and Lyall Parade without a resource consent.

Non-airport related development areas (see Appendix 4 of DPC 57)

More policy and design guidance relating to identified areas (West Side (Rongotai Retail Park)), Broadway Area, Terminal Area, South Coast Area and Rongotai Ridge Area) has been provided for potential development areas within the Precinct.

In particular, two policies have been proposed for Rongotai Ridge which recognise the geomorphological significant and development constraints applying to the land. A second policy recognises that consideration a development of ‘outstanding’ architectural and urban design merit may be acceptable subject to addressing site and area constraints.

Improving Resource Management Processes

The Plan change would be supported by a memorandum of understanding between Wellington City Council and Wellington International Airport. This is to ensure a constructive dialogue occurs on any significant non-airport related developments before developments occur or resource consents are submitted.

6.0 Consultation

Wellington International Airport Limited (WIAL) has been consulted in the preparation of this plan change. All the submitters and further submitters to Plan Change 42 have also been provided with a summary of the key changes as outlined in 5.3 below, and given the opportunity to comment on them.

WIAL have also consulted with the Golf Course about an appropriate height recession plane setback for airport buildings adjacent to the joint WIAL and Golf Course boundary. This agreed position is reflected in provision ‘11.1.2.3 Height Control Adjoining the Golf Course Recreation Area’.

7.0 Assessment of options

7.1 Objectives

Section 32 requires the Council to be satisfied that the objectives in the District Plan are the most appropriate means of achieving the purpose of the RMA. Proposed District Plan Change 57 proposes one new objective:

“10.2.3 To provide for non-airport activities and developments within the Airport Area of the Precinct.”

Objective 10.2.3 identifies the key ‘policy’ change from the operative provisions and DPC 42. The objective and associated policies and rules provide the means by which non-airport activities and developments can be provided for without compromising the primary purpose of the Airport Area of the Airport and Golf Course Recreation Precinct which is to provide for the ongoing and future use and development of the airport.

Some provision was made for non-airport activities as a discretionary activity (unrestricted) in DPC 42, although this category of consent and lack of associated objectives and policies does not provide a clear indication of how non-airport activities might be provided for and assessed as part of a resource consent application.

DPC 57 requires that all non-airport buildings up to 12 metres in height be assessed as a discretionary activity (restricted). Larger developments in excess of 12 metres in height will be carefully assessed to ensure they do not result in development which would adversely impact on retailing, existing infrastructure and community investment in Kilbirnie Town Centre, other nearby town centres, and the central area.

Objective 10.2.3 recognises that certain complementary activities can add to the attractiveness and vitality of the airport as a destination and departure point, as well as providing uses which benefit local communities. Other objectives and policies contained in the Operative plan are retained as they ensure that provision for non-airport activities are carefully weighed against the strategic importance of safeguarding the ongoing operation of the Airport, as well as maintaining the character and amenity of adjacent land uses.

In summary, this objective is the most appropriate means of providing for non-airport activities within the Airport Area of the Precinct, and is consistent with the sustainable management approach in the Resource Management Act. It allows for the appropriate management of non-airport activities that will add to the social and economic wellbeing of the locality and the wider city, whilst not compromising the present and ongoing use of the airport.

Some minor wording changes and re-numbering have been proposed which affect the existing objectives in the Plan. These changes do not alter the intent or effect of the objectives. No further evaluation of the objectives is therefore necessary.

7.2 Policies, rules and other methods

Section 32 requires the Council to consider whether the policies, rules and other methods used in the District Plan are the most appropriate method of achieving the Plan’s objectives. In terms of managing the effects of activities in the Airport Area, the District Plan has adopted a rule based regime, based on provision for a full range of activities. This approach has been thoroughly considered though the plan preparation, submission and hearing process when the District Plan was originally notified. For this reason it is not proposed to reconsider the merits of this approach in this report.

The three options above are evaluated in terms of their benefits and costs, having regard to the effectiveness and efficiency of each option in achieving the Plan’s objectives.

Table 1: Benefits and costs of options one, two and three

	Option 1 – Retain Plan Change 42	Option 2 – Allow non-airport activities as of right	Option 3 - Require a resource consent for non-airport activities
Benefits	Administrative clarity and efficiency		
	<ul style="list-style-type: none"> Provides clarity that non-airport activities are a discretionary activity (unrestricted) 	<ul style="list-style-type: none"> Rules can be written to make it clear that non-airport activities are permitted 	<ul style="list-style-type: none"> Provides clarity that non-airport activities are a discretionary activity (restricted) The memorandum of understanding between WIAL and WCC will help to address development issues prior to the formal statutory process, and will assist in ensuring better environmental outcomes
	Policy and rule clarity		
	<ul style="list-style-type: none"> No new objective and policies have been provided to guide applicants and decision makers on managing non-airport activities No assessment criteria are provided in the Rule 11.4.2 (discretionary activity (unrestricted)) to guide applicants and decision makers 	<ul style="list-style-type: none"> Objectives and Policies could be written to make it clear that non-airport activities are permitted Would be similar to Suburban Centre zoning and difficult to justify given the need to protect airport activities. 	<ul style="list-style-type: none"> Objectives and policies provided to guide applicants and decision makers, particularly in 5 key development areas (Rongotai Ridge, West Side (Retail Park), Broadway Area, Terminal Area and South Coast Area). Standards and terms and assessment criteria provided in Rules 11.3.2, 11.3.3 and 11.4.2 in relation to (among other things) the impact of retail development on town centres
	Maintaining the strategic importance of airport activities		
<ul style="list-style-type: none"> Allows full consideration of the effects of all non-airport activities on airport activities 	<ul style="list-style-type: none"> Commercial imperatives could compromise the primary purpose of the Precinct for airport purposes 	<ul style="list-style-type: none"> Provides a balance between allowing non-airport activities and ensuring they do not compromise airport activities within the Precinct 	

	Option 1 – Retain Plan Change 42	Option 2 – Allow non-airport activities as of right	Option 3 - Require a resource consent for non-airport activities
			<ul style="list-style-type: none"> • Large scale developments (above 12 metres in height) could be notified
	Manage the effects of activities		
	<ul style="list-style-type: none"> • Given lack of policy and rule guidance it is not clear what effects are being managed • Could lead to inconsistent interpretation and inconsistent decision making • Allows consideration of third party rights • Activities managed at the Precinct boundary 	<ul style="list-style-type: none"> • Non-airport activities could have significant adverse effects on immediate and wider environment as evidenced by the large billboard sign adjacent to the Cobham Dr roundabout • No third party rights for permitted activities means that developments could have effects on residential properties adjacent to the airport and to the wider environment. 	<ul style="list-style-type: none"> • Provides clear guidance on the type of environmental effects being managed. • Activities managed at the Precinct boundary • Third party rights able to be taken into account for large developments
Costs	Compliance and administrative costs		
	<ul style="list-style-type: none"> • Time and compliance costs for WIAL associated with applying for resource consents • Additional compliance costs for WIAL if applications are notified • Administrative costs (eg staff resources) for WCC of processing applications (even though this is mostly cost recoverable) • Uncertainty for WIAL that applications will be approved • Costs of preparing and processing the plan change are met by WCC 	<ul style="list-style-type: none"> • No (or little) compliance and district plan administration costs for WIAL and WCC • Certainty for WIAL that all complying development is able to proceed • Costs of preparing and processing the plan change are met by WCC 	<ul style="list-style-type: none"> • Same as for Option 1, except that these costs are likely to be reduced given the likelihood that most applications would be non-notified
Summary	<p>Option 3 provides a balance between allowing non airport activities and being able to assess any effects on the environment. It also provides WIAL and the community with a degree of certainty about how development will be assessed. Taking into account the above costs and the benefits, it is considered that Option 3 is the most appropriate option for giving effect to the policies, rules and other methods contained in Plan Change 57.</p>		

7.3 The risk of acting or not acting

The operative district plan provisions do not contain objective and policy guidance for applicants and decision makers on managing non-airport activities. Neither does Plan Change 42, and there is also no assessment criteria provided in Rule 11.4.2 (discretionary activity (unrestricted)) to guide applicants and decision makers. Given this lack of policy and rule guidance it is not clear what environmental effects are being managed. There is a risk that this lack of guidance could lead to inconsistent interpretation and inconsistent decision making.

Proposed Plan Change 57 (Option 3) provides the required policy and rule guidance to assess the impact of proposed developments on the environment, and to ensure the consistent administration of the District Plan. It is proposed that Plan Change 42 will be withdrawn once Plan Change 57 is notified.

8.0 Conclusion

Rules are the most effective means of managing future development of the airport. The Airport and Golf Course Recreation Precinct zoning was previously preferred over a designation for airport purposes and had been operative for six years, until new Plan Change 42 was promulgated. This was to address ambiguities in the rules applying to non-airport activities which have generated uncertainty and lead to additional costs.

Plan Change 57 has now been notified to address a number of short comings in Plan Change 42 relating to a lack of policy and rule guidance on how resource consent applications non-airport activities would be assessed. A more comprehensive approach has been taken to providing for airport and non-airport related activities with the Precinct. In particular, non-airport activities are now provided as discretionary activities (restricted) up to twelve metres in height subject to a resource consent. Policy guidance, standards and terms, and assessment criteria, which were absent from Plan Change 42, now allow a full consideration of the likely effects of development on the environment.

This plan change is the most appropriate way of achieving the Plan's objectives. The proposed amendments are effective and efficient and will provide for better administration of the District Plan. This is consistent with the sustainable management principles contained in section 5 of the Resource Management Act 1991.