

## Memorandum

To: Chairman, Independent Hearings Panel

From: Mitchell Daysh Limited

Date: 17 September 2024

Re: **WELLINGTON INTERNATIONAL AIRPORT LIMITED – WRAP UP HEARING**

---

The following memorandum responds to *Minute 57 Wrap Up Hearing Arrangements* for the Proposed Wellington City District Plan (dated 9 September 2024) which states:

8. *To enable the wrap-up Reporting Officer to prepare their Section 42A Report, we consider that WIAL needs to provide more detail as to the nature of the bespoke framework it has in mind, and the area over which it would apply.*
9. *We therefore direct that by close of Wednesday, 18 September, WIAL provide:*
  - (a) *The wording of the provisions that WIAL seeks in order to give effect to its relief;*
  - (b) *A map of the area that would be subjected to the proposed bespoke framework;*
  - (c) *A Section 32AA evaluation of its relief; and*
  - (d) *(If required) an evaluation under Section 77J of the Act.*

### 1. OVERVIEW

Wellington International Airport Limited's (WIAL) primary submission<sup>1</sup> regarding the Proposed District Plan states:

#### **Other land uses near airports**

4.71 *The Civil Aviation Authority of New Zealand (“CAA”) produces guidance on land use activities at or near aerodromes.<sup>2</sup> The following activities are of particular concern to Airport Operators where located within close proximity to an airport due to their potential bird attracting properties:*

4.71.1 *Refuse dumps and landfills;*

4.71.2 *Sewage Treatment and Disposal (outdoor);*

4.71.3 *Certain agricultural activities (cattle feed lots, pig farming);*

---

<sup>1</sup> Submission #406.11

<sup>2</sup> [https://www.aviation.govt.nz/assets/airspace-and-aerodromes/guidance\\_material\\_land-use-aerodromes.pdf](https://www.aviation.govt.nz/assets/airspace-and-aerodromes/guidance_material_land-use-aerodromes.pdf)

4.71.4 *Fish Processing;*

4.71.5 *Artificial and natural lakes/waterbodies; and*

4.71.6 *Abattoirs and freezing works.*

*General relief sought*

4.72 *In order to protect the safety of aircraft and their passengers, WIAL submits that a bespoke framework should be established for the above activities where located within a fixed distance of the Airport to ensure a consenting pathway is available that requires appropriate consideration of potential increase in bird strike risk posed by the aforementioned activities. This could be achieved by a narrowly framed restricted discretionary activity that restricts discretion to the potential effects of aircraft safety, including the potential risk of bird strike.*

The Independent Hearing Panel for the Proposed Wellington City District Plan directed, in Minute 57, that by the close of Wednesday, 18<sup>th</sup> September 2024 WIAL provide:

- (a) The wording of the provisions that WIAL seeks in order to give effect to its relief;
- (b) A map of the area that would be subjected to the proposed bespoke framework;
- (c) A section 32AA evaluation of its relief; and
- (d) (if required) an evaluation under section 77J of the Resource Management Act 1991.

This memorandum responds to the directions of the Independent Hearing Panel.

## **2. RESPONSE TO PANEL DIRECTIONS**

### **(a) The wording of the provisions that WIAL seeks in order to give effect to its relief;**

In response to WIAL's submission, a new definition and rule are proposed to be included in the Interpretation and Infrastructure sections of the Proposed Plan (respectively) to ensure the safe and efficient operation of Wellington International Airport is protected.

The proposed new definition reads as follows:

*Bird Strike Risk Activity means a new or extension to an existing:*

- a. permanent artificial water body resulting in a surface area exceeding 1000 m<sup>2</sup>;*
- b. marine food processing activity with external food storage or waste areas accessible to birds;*
- c. sewage treatment and disposal facility;*
- d. abattoir or freezing works;*
- e. landfill, waste management facility or composting facility.*



The proposed new rule reads as follows:

<u>INF-R25</u>	<u>Bird strike</u>
All Zones	<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <p>Any Bird Strike Risk Activity is proposed between a 3 km and 8 km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps), a birdstrike management plan (BSMP) prepared in consultation with WIAL has been provided to the Wellington City Council Planning Manager prior to the activity establishing and accepted (within 10 days of receipt).</p> <p>An updated BSMP shall be provided to the Wellington City Council if the activity expands.</p>
All zones	<p>Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <p>1. Any Bird Strike Risk Activity is proposed within a 3km radius of the thresholds of the runways at Wellington International Airport (as shown on the planning maps); or</p> <p>2. Compliance with INF-R25(1) cannot be achieved; or</p> <p>The matters of discretion are:</p> <p>1. The extent to which the proposed activity will be designed, operated and managed to avoid attracting bird species which constitute a hazard to aircraft.</p> <p>2. The matter set out in INF-P7.</p>
All other Zones	<p>2. Activity status: <b>Discretionary</b></p> <p>Where:</p> <p>1. The Bird Strike Risk Activity is a landfill proposed within a 13km radius of the thresholds of the runways at Wellington International Airport, as shown on the planning maps.</p>

A section 32AA evaluation of the proposed new definition and rule is provided in the following section.

**(b) A map of the area that would be subjected to the proposed bespoke framework;**

The requested map is attached as Appendix A.

**(c) A section 32AA evaluation of its relief**

The Council’s Right of Reply for Hearing Stream 9 (Infrastructure) recommends the following objectives and policies be included in the Proposed Plan provisions:

***INF-O3 Adverse effects on infrastructure***

*Protect regionally significant infrastructure from incompatible subdivision, use and development, that may compromise its efficient and safe operation.*

***INF-P7 Incompatible Subdivision, Use and Development Reverse sensitivity***

*Avoid or where appropriate, manage activities that may compromise the efficient operation, maintenance, repair, replacement, upgrading, renewal or development of regionally significant infrastructure.*

Incompatible land use activities which increase the presence of birds within the airspace surrounding Wellington International Airport, particularly where aircraft are on the final stages of approach and departure, pose a threat to the ongoing safety of Wellington International Airport.

The Civil Aviation Authority (CAA) is one of the key regulatory authorities that govern the management and operation of airports around New Zealand. Under CAA Regulation (CAR) 139.7, an aerodrome operator (such as WIAL) must establish an environment management programme to minimise or eliminate any wildlife hazard that presents a hazard to aircraft operations at their aerodrome.

With respect to land use planning, the CAA has prepared the document ‘Guidance Material for Land Use at or near Aerodromes, 2008’ which provides “guidance for those persons proposing land use changes around aerodromes and identifies specific points to be taken into account.”. The CAA document notes that:<sup>3</sup>

*“The management of wildlife, especially birds, is critical for aircraft operational safety. Bird strikes put the lives of aircraft crew members and their passengers at risk. In the United States over 7,500 bird and other wildlife strikes were reported for civil aircraft in 2007. Bird and other wildlife strikes to aircraft annually are estimated to cause well over \$600 million in damage to civil and military aviation in the United States alone.”*

Within this document, CAA identifies the following types of land use activities as being potential activities that attract wildlife hazard:

1. *Refuse Dumps and landfills*
2. *Sewage Treatment and Disposal*
3. *Agricultural - cultivation of land, types of activity e.g. pig farming.*
4. *Fish processing plants*
5. *Cattle feed lots*

---

<sup>3</sup> [https://www.aviation.govt.nz/assets/airspace-and-aerodromes/aerodromes/guidance\\_material\\_land-use-aerodromes.pdf](https://www.aviation.govt.nz/assets/airspace-and-aerodromes/aerodromes/guidance_material_land-use-aerodromes.pdf).

6. *Wildlife refuges*
7. *Artificial and natural lakes*
8. *Animal farms*
9. *Abattoirs and freezing works*

Wellington International Airport is located within a largely urban setting and is surrounded by two significant waterbodies – Evans Bay to the north and Lyall Bay (and the Cook Strait) to the south. In forming its submission, WIAL refined the list of activities based on the types of land uses that are or have historically been proposed within a 13km radius of the Airport.<sup>4</sup> Additionally, nearby land use zones and the activities that they enable have also been considered.

It is against this backdrop that WIAL is seeking to include new provisions into the Proposed Plan. WIAL will present expert evidence at the forthcoming Wrap Up hearing regarding WIAL’s wildlife management obligations, the risks posed by bird strike, the avifaunal composition that exists around the airport and how these factors can be considered through the integration of regulatory planning controls in the Proposed Plan.

In the interim, the appropriateness of the proposed new provisions in achieving the objectives of the Proposed Plan, as required by section 32AA of the Resource Management Act 1991, is provided below.

<b>Efficiency and Effectiveness</b>		
<b>Economic</b>	<b>Costs</b>	<ul style="list-style-type: none"> <li>• Additional costs associated with site design and management of bird strike risk activities in such a way that minimises potential risks.</li> <li>• Additional consenting costs, noting, however, that many of the activities would likely already necessitate resource consent under the Proposed Plan or the Natural Resources Plan, given the nature and context of the surrounding land use activities.</li> </ul>
	<b>Benefits</b>	<ul style="list-style-type: none"> <li>• Safeguarding operations at Wellington International Airport, which comprises regionally significant infrastructure and is both a generator and facilitator of economic activity. This will ensure the economic benefits of the Airport can continue to be realised.<sup>5</sup></li> <li>• Proactive management of potential indirect costs (including fuel dumping, accommodating stranded passengers, flight replacements, and operational downtime) as well as ancillary</li> </ul>

<sup>4</sup> Particularly, waste water treatment facilities, landfills and marine (fish) processing land use activities.

<sup>5</sup> Statement of Evidence of Jenna Raeburn, Hearing Stream 1, dated 16 February 2023.

		costs (e.g., airport closures, emergency response expenses) identified by CAA Circular 139. <sup>6</sup>
<b>Environmental</b>	<b>Costs</b>	No environmental costs have been identified as likely to arise as a result of adopting the recommended rule change to the proposal.
	<b>Benefits</b>	The recommended provisions will reduce harm to avifauna and support the Act's purpose in terms of supporting the health and safety and wellbeing of the community. They give effect to the Wellington RPS and other policy documents which seek to avoid the adverse reverse effects arising from incompatible activities.
<b>Social</b>	<b>Costs</b>	<ul style="list-style-type: none"> <li>While there may be additional consenting, site design and management costs, and in some instances, opportunity cost (if the consent is not granted), which may affect employment opportunities from new or expansion of activities, such costs are warranted to ensure the health and safety and wellbeing of the community is maintained.</li> </ul>
	<b>Benefits</b>	<ul style="list-style-type: none"> <li>An effect includes any potential effect of low probability which has a high potential impact. While the relative probability of a bird strike event is low, WIAL has obligations to ensure that the probability of such effects remains as small as reasonably practicable (given the environmental setting of the Airport), as the consequences of a bird strike can be catastrophic. It is appropriate that the RMA context is appropriately aligned in this regard regarding suitable controls on land use activities surrounding the airport.</li> <li>The proposed new provisions seek to manage any potential increase in bird strike risk and therefore minimise potentially significant adverse effects on health and safety and the wellbeing of the community.</li> </ul>
<b>Cultural</b>	<b>Costs</b>	No specific cultural costs have been identified as arising from inclusion of the recommended changes to the proposal.
	<b>Benefits</b>	No specific cultural benefits have been identified as arising from inclusion of the recommended changes to the proposal.
<b>Risk of acting or not acting</b>		It is imperative that WIAL has the ability to proactively manage bird strike risk. While such risks are currently managed through education, this does not preclude new or expansions to existing bird strike risk activities from establishing and increasing the risk profile of the Airport. The risk this poses to the health and safety

<sup>6</sup> Civil Aviation Authority of New Zealand Advisory Circular AC139-16 Wildlife Hazard Management at Aerodromes Page 5-6

	of the community and their wellbeing (be it directly or indirectly) is significant.
<b>Effectiveness and Efficiency</b>	
<p>The proposed new provisions are the most efficient and effective means of achieving the objectives of the Proposed Plan for the following reasons:</p> <ul style="list-style-type: none"> <li>The provisions focus on those specific bird strike risk activities that are more likely to establish within a 3km, 8km and 13km radius of Wellington International Airport.</li> <li>The tiered management response to different bird strike risk activities is an efficient and effective means of differentiating between those activities that are more incompatible with Airport and difficult (though not impossible) to reconcile, with those that are only incompatible if not appropriately managed. This “case by case” approach is consistent with the Greater Wellington Regional Policy Statement, which notes in the explanation to Policy 8 that: <p style="margin-left: 40px;"><i>Protecting regionally significant infrastructure does not mean that all land uses or activities under, over, or adjacent are prevented. The Wellington Regional Council and city and district councils will need to ensure that activities provided for in a district or regional plan are compatible with the efficient operation, maintenance, and upgrading (where effects are the same or similar in character, intensity, and scale) of the infrastructure and any effects that may be associated with that infrastructure. Competing considerations need to be weighed on a case by case basis to determine what is appropriate in the circumstances.</i></p> </li> <li>The specific bird strike risk rule is effective at ensuring appropriate consideration is given to bird strike risk management within the Proposed Plan. Without express reference to such matters, such matters may be inadvertently overlooked when consenting activities that would otherwise increase the potential risk of bird strike.</li> <li>The provisions are therefore both effective and efficient means of achieving INF-O3, as well as Objective 10<sup>7</sup> and Policy 8<sup>8</sup> of the Greater Wellington Regional Policy Statement.</li> <li>Assisting with protecting and maintaining the efficient and effective operation of regionally significant infrastructure that provides economic, social, cultural and environmental benefits to the region, as required by Objective 10 of the Regional Policy Statement for the Wellington Region.</li> </ul>	
<b>Alternatives Assessment</b>	
1. Do not include bird strike provisions in the Proposed Plan.	Maintaining “status quo” and not including bird strike risk management provisions in the Proposed Plan is an alternative management option.

<sup>7</sup> Objective 10 of the Greater Wellington Regional Policy Statement states: The social, economic, cultural and environmental benefits of regionally significant infrastructure are recognised and protected.

<sup>8</sup> Policy 8 of the Greater Wellington Regional Policy Statement states: District and regional plans shall include policies and rules that protect regionally significant infrastructure from incompatible new subdivision, use and development occurring under, over, or adjacent to the infrastructure.

	<p>While reflective of the current situation, this approach is much more reactionary and does not require land uses to manage bird strike risk should they decide not to.</p> <p>While in many instances, the activities listed would require resource consent if established within a 13km radius of the Airport, it is possible that bird strike management would be overlooked during the consenting process as it is not currently a specific district plan consideration.</p>
<p>2. Adopt a reduced radius</p>	<p>Alternative distances from the Airport have been considered by WIAL including:</p> <ul style="list-style-type: none"> <li>• Managing bird strike within a 3km radius only; and,</li> <li>• Managing bird strike within an 8km radius only; and,</li> <li>• Managing bird strike within a 13km radius only.</li> </ul> <p>The tiered approach was considered the most appropriate as it achieves the health and safety requirements for the airport, while also providing a clear pathway for bird strike risk activities establishing within the various areas.</p>

**(d) (if required) an evaluation under section 77J of the Resource Management Act 1991.**

Section 77J is not relevant to the proposed provisions as it does not pose any restrictions on medium density residential activity.



**Appendix A: Map of Bird Strike Risk Management Areas**



**Legend**

Wellington Airport Property

Bird Strike Risk Activity Zones

3km Buffer

8km buffer

13km buffer

Proposed Bird Strike Risk Activity Zones  
(Wellington International Airport Limited)

17/09/2024 Map:MA

Scale @ A3: 100000

**Bioresearches**

A Babbage Company

COPYRIGHT BABBAGE CONSULTANTS LIMITED  
UNAUTHORISED COPYING PROHIBITED  
DISCLAIMER: This map is illustrative only and  
all information should be independently verified.

